REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

JUNE 4, 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. Silent Invocation
2. Pledge of Allegiance
3. Roll Call

B. DISCUSSION

4. Update on School Safety

C. CONSENT AGENDA

5. Public Comments on Consent Agenda Items Only
6. Agenda Approval
7. Approval of Minutes
   a. May 21, 2024 - Regular City Council Meeting
8. Bid Awards and Contract Items
   a. Approval to Waive Formal Bidding Requirements and approve Professional Services Agreement with Pittman Law Group
   b. Approval to Award a Contract for Services to ACF Standby Systems, LLC for Generator Maintenance
9. Approval of Change Order No. 5 to Task Authorization No. 9 with Stanley Consultants, Inc. for Environmental Permitting and Time Extension - SUN Trail
10. Resolution No. 24-13 - Approval of Florida Department of Transportation (FDOT) State-Funded Grant Supplemental Agreement to Contract G1X103 for Environmental Permitting and Time Extension No. 3

11. Resolution No. 24-14 - Approval of Florida Department of Transportation (FDOT) Supplemental Agreement for Additional Design Services 449770-2 Dunlawton Turn Lanes Bundle Project (#PNC200)
12. Resolution No. 24-20 - Approving a revised ballot summary in order to supplement Ordinance No. 2024-07

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

E. COUNCIL COMMENTS

13. Comments/Concerns from Council Members

F. SPECIAL REPORTS

14. Report from KemperSports on the Cypress Head Golf

G. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

15. Golf Advisory Board Report

H. PUBLIC HEARING

16. Second Reading - Ordinance No. 2024-08 - Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development and Master Development Agreement (CASE NO. PRZA-24-0001)
17. Resolution No. 24-15 - Approval of the Palmer Chiropractic College Bond Reissuance

I. REGULAR AGENDA

18. FY 2024 - 2025 Budget Discussions (Preliminary Capital Improvements Plan, Capital Outlay and Fleet Replacement)

J. ADDITIONAL ITEMS

19. City Attorney
20. City Manager

K. COUNCIL COMMITTEE REPORTS

21. City Council Committee Reports
    a. River to Sea TPO - Councilman Reed Foley

L. ADJOURNMENT

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

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

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

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

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

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

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MAY 21, 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 Chaplain A. Ray Campbell of Florida Hospital at New Smyrna

Pledge of Allegiance

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

CONSENT AGENDA

4. Public Comments on Consent Agenda Items Only

There were none.

5. Agenda Approval

Mayor Don Burnette removed Item #9 from the Consent Agenda.

> Motion to approve the agenda as amended was made by Vice Mayor Scott Stiltner and seconded by Councilman Tracy Grubbs. Motion carried unanimously by voice vote.

6. Approval of Minutes
   a. May 7, 2024 - Regular City Council Meeting
7. Bid Awards and Contract Items
   a. Approval of Task Authorization No. 4 with Zev Cohen & Associates, Inc. under the Master Contract for Engineering and Environmental Services as it relates to the City Center Ball Field Rehabilitation
   b. Ratification of Task Authorization No. 4 to Meeks Plumbing for Emergency Sewer Hauling Services rendered in November 2023
   c. Approval of the Intent to Award ITB #24-06 for Parks Office Building to Paul Culver Construction, Inc.

d. Approval to Award ITB #24-08 for Police Department HVAC Renovation to Paul Culver Construction, Inc.

e. Approval of Change Order No. 1 to Construction Agreement for the Water Treatment Plant Generator Replacement Project with Chinchor Electric, Inc.

f. Approval of the Lease Agreement between City of Port Orange and Florida Department of Transportation (FDOT) for the Causeway/Down Under Area

8. Approval to Remove a Residential Historic Tree at 1110 Silver Creek Run
9. Retirement of K-9 Nico and Transfer of Ownership to Officer Jarrad Alevisatos

Motion to approve the Consent Agenda Items #6-8 was made by Vice Mayor Scott Stiltner and seconded by Councilman Tracy Grubbs. Motion carried unanimously by roll call vote.

Item #9 - Retirement of K-9 Nico and Transfer of Ownership to Officer Jarrad Alevisatos

Motion to approve Item #9 was made by Vice Mayor Scott Stiltner and seconded by Councilman Drew Bastian.

Police Chief, Manny Marino, spoke about Nico's career with the Port Orange Police Department, but due to his health declining, ownership will be transferred to his handler, Officer Alevisatos. Officer Alevisatos pointed out Nico's achievements and specialties as a K-9 officer.

Mayor and Council congratulated both Nico and Officer Alevisatos for a wonderful job well done.

Motion carried unanimously by voice vote.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Jordan Snipes, founder of the nonprofit organization Tomorrow Needs You, spoke to raise awareness for the 3rd Annual 22 mile walk for veterans and first responders.

COUNCIL COMMENTS

10. Comments/Concerns from Council Members

Councilman Tracy Grubbs highlighted projects the City has done including lift stations, paving, public safety, etc. and thanked staff.

Mayor Don Burnette encouraged residents to attend the Memorial Day ceremony with the VFW and Knights of Columbus. He also thanked Debbie Phillips from Congressman Cory Mills' office for attending the Council meeting.

BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

11. Citizen Advisory Committee for TPO

Bobby Ball, CAC for the TPO, provided details from their recent meeting and upcoming maintenance projects.

PUBLIC HEARING

12. Second Reading - Ordinance No. 2024-04 - Adoption of the City of Port Orange Comprehensive Plan 2022-2045

Mayor Don Burnette read Ordinance No. 2024-04.

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY OF PORT ORANGE COMPREHENSIVE PLAN IN ITS ENTIRETY PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE CITY OF PORT ORANGE COMPREHENSIVE PLAN 2022-2045, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT; THE PUBLIC FACILITIES ELEMENT, THE PUBLIC SCHOOL FACILITIES ELEMENT, THE RECREATION AND OPEN SPACE ELEMENT, THE COASTAL ZONE MANAGEMENT ELEMENT, THE CONSERVATION ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, THE CAPITAL IMPROVEMENTS ELEMENT, AND THE PROPERTY RIGHTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; PROVIDING FOR THE REPEAL OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO REVIEWING AGENCIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2024-04 was made by Vice Mayor Scott Stiltner and seconded by Councilman Tracy Grubbs. Motion carried unanimously by roll call vote.

13. Second Reading - Ordinance No. 2024-05 - Amendment of the Code of Ordinances Chapter 14, Article II, Section 14-27 Amendments to the International Property Maintenance Code (IPMC)

Mayor Don Burnette read Ordinance No. 2024-05.

ORDINANCE NO. 2024-05

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE CITY OF PORT ORANGE CODE OF ORDINANCES CHAPTER 14, ARTICLE II, SECTION 14-27, TO MODIFY THE CURRENTLY ADOPTED INTERNATIONAL PROPERTY MAINTENANCE CODE AS FURTHER PROVIDED HEREIN WITH GENERAL AND TECHNICAL AMENDMENTS, DELETIONS AND REVISIONS; PROVIDING FOR PROTECTION OF COPYRIGHT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2024-05 was made by Vice Mayor Scott Stiltner and seconded by Councilman Reed Foley. Motion carried unanimously by roll call vote.

14. Second Reading - Ordinance No. 2024-07 - Parks & Recreation Bond

Mayor Don Burnette read Ordinance No. 2024-07.

ORDINANCE NO. 2024-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, FLORIDA AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF PORT ORANGE, FLORIDA, IN THE AGGREGATE AMOUNT NOT TO EXCEED $30,000,000 FOR THE PURPOSE OF FINANCING THE DESIGN, CONSTRUCTION, RENOVATION, EXPANSION, AND IMPROVEMENT OF PUBLIC PARKS AND RECREATION FACILITIES AND RELATED INFRASTRUCTURE LOCATED IN THE CITY OF PORT ORANGE, SUBJECT TO APPROVAL AT A REFERENDUM HEREIN CALLED; PROVIDING FOR AND CALLING A BOND ELECTION OF THE QUALIFIED ELECTORS RESIDING IN THE CITY TO BE HELD ON AUGUST 20, 2024 ON THE QUESTION OF THE ISSUANCE OF SUCH GENERAL OBLIGATION BONDS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE

Motion to adopt Ordinance No. 2024-07 was made by Vice Mayor Scott Stiltner and seconded by Councilman Reed Foley.

Councilman Tracy Grubbs commented on the costs and how the Parks and Recreation Department has a calculator on their website for residents to see how much they will pay. Susan Lovallo, Parks and Recreation Director, answered questions from Council regarding the need for the bond based on increasing numbers of sports participants, limited field space, anticipated recreation on the west side of the city and the bond costs versus regular upkeep and costs of maintenance.

Barry Pitek, resident, commented that the City needs to be very resourceful on promoting and advertising the bond and how the increase will benefit the residents.

Bobby Ball, resident, expressed his excitement for the bond to be approved for the future residents and their kids.

Motion carried unanimously by roll call vote.

15. First Reading - Ordinance No. 2024-08 - Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development and Master Development Agreement (CASE NO. PRZA-24-0001)

Mayor Don Burnette read Ordinance No. 2024-08.

ORDINANCE NO. 2024-08

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERICAL DEVELOPMENT MASTER AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2024-08 was made by Vice Mayor Scott Stiltner and seconded by Councilman Tracy Grubbs.

Penelope Cruz, Planning Manager, provided details of the Amendment for the bed and breakfast concept and answered questions from Council.

Motion carried unanimously by roll call vote.

16. First Reading - Ordinance 2024-09 - Tenth Amendment to the Master Development Agreement for the Crystal Lake Planned Unit Development (Case No. PRZA-24-0002)

Mayor Don Burnette read Ordinance No. 2024-09.

ORDINANCE NO. 2024-09

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FOURTH AMENDMENT TO TENTH AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT FOR THE CRYSTAL LAKE PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2024-09 was made by Vice Mayor Scott Stiltner and seconded by Councilman Drew Bastian.

Tim Burman, Community Development Director, explained that the City acquired this property but will be marketed for sale and outlined the allowed uses and zoning.

Robert Reinhagen, resident, commented that the City should turn the property into affordable housing.

Motion carried unanimously by roll call vote.

ADDITIONAL ITEMS

17. City Manager Evaluation

Mayor and Council made positive comments on Wayne Clark's managerial style, the re-organization of internal and external assistant managers, and boosting morale.
Mr. Clark responded to the Council's feedback, thanked them and staff.
Mayor and Council discussed options to increase Mr. Clark's salary and his defined contribution retirement plan percentage.

Motion to approve an annual wage increase to $195,000 and increase retirement contribution by 2% effective October 1, 2024, was made by Vice

Mayor Scott Stiltner and seconded by Councilman Reed Foley. Motion carried unanimously by roll call vote.

18. City Attorney Evaluation

Mayor and Council made positive comments on Matt Jones' responsiveness and mindfulness of the City's budget. Many felt his compensation needed to be increased to a specific dollar amount rather than a percentage increase to be competitive with the market.

Motion to approve the City Attorney's salary to $180,000 and increase retirement contribution by 2%, effective October 1, 2024, was made by Councilman Reed Foley and seconded by Councilman Drew Bastian. Motion carried unanimously by roll call vote.

Attorney Jones thanked Council and his staff.

COUNCIL COMMITTEE REPORTS

19. City Council Committee Reports

a. Fire Pension Board - Councilman Reed Foley provided details from their recent meeting.

b. Police Pension Board - Councilman Drew Bastian provided details from their recent meeting.

c. Arthaus - Councilman Tracy Grubbs missed the last meeting but mentioned some upcoming projects.

d. First Step Shelter - Mayor Don Burnette provided details from their recent meeting.

e. Port Orange/South Daytona Chamber of Commerce - Mayor Don Burnette provided details from their recent meeting and upcoming events.

f. Roundtable of Elected Officials - Mayor Don Burnette provided details from their recent meeting.

Mr. Clark introduced the new Human Resources Director, Michelle Olk.

ADJOURNMENT – 8:20 p.m.

_____
Mayor Donald O. Burnette

Attest:

_____
Robin Fenwick, MMC, City Clerk

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (C8a) Approval to Waive Formal Bidding Requirements and approve Professional Services Agreement with Pittman Law Group

DEPARTMENT: City Manager

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve the waiver of formal bidding procedures and approve the Professional Services Agreement with Pittman Law Group, for an amount not to exceed $39,999.96 for the legislative years 2024-2025 and 2025-2026; and authorize the Mayor and the City Clerk to execute all required contract documents.

SUMMARY: The Pittman Law Group has submitted the attached proposed agreement for continued professional services to lobby the legislature on behalf of the City for the 2024-2025 and the 2025-2026 legislative sessions. Issues for which they might lobby include grant funding for utilities and flood control projects, land acquisition for preservation, water quality projects, transportation infrastructure, and parks and recreation (among others). In addition, Pittman Law Group would work on any other issues the Council and Manager have identified in their legislative priorities for the upcoming year. Over the last several years, the City has received over $5M through legislative appropriations for flooding mitigation and stormwater quality improvements. In 2023, $3.5M was approved through a legislative appropriation for the sewer force main river crossing project, as well as the water main improvement project on the east side of the city.

The proposed agreement does not have a change in service level or any increase in cost for the next two years. The City pays $3,333.33 per month for these services.

Ordinance No. 2020-25 removed the procurement of lobbyist services from the list of professional services listed under the exempt purchases provision because the City Council determined that the procurement of lobbyist services should be approved by the City Council rather than the City Manager.

PRESENTER: Robin Fenwick

ATTACHMENTS:

1.	Pittman Law Group, P.L. Professional Services	Pittman Law Group, P.L. Professional Services Agreement and COPO Addendum No. 1 for

	Agreement 2024-2026	2024-2026.pdf
2.	Pittman Law Group 2024 Addendum No 1	Pittman Law Group 2024 Addendum No 1.pdf
3.	Pittman Law Group Agreement 2022-2024	Pittman Law Group Agreement 2022-2024.pdf

Robin Fenwick	Created/Initiated - 5/16/2024
John McKinney	Approved - 5/21/2024
Matthew Jones	Approved - 5/21/2024
Wayne Clark	Approved - 5/29/2024
Tracee Cody	Final Approval - 5/29/2024

PITTMAN
Law Group

May 8, 2024

Mr. Wayne Clark, City Manager
The City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

RE: Professional Services Agreement

Dear Mr. Clark,

Thank you for the opportunity to continue our work with the City of Port Orange during the 2024 Legislative Session. We take pride in our representation of clients before the Florida Legislature and other tribunals and are prepared to work on your behalf for the upcoming legislative sessions as well. Please know that we will always work aggressively and diligently to pursue all the goals and priorities that you set for us to follow.

We consider it our responsibility to perform all traditional Legal and Governmental Relations activities at the Legislative and Executive Branch levels. This includes working with staff in the Legislature and the Governor's Office, and/or any agencies of the Executive Branch; it requires us to keep you informed of any developments and/or decisions that may have impact.

Pittman Law Group would like to extend the current agreement for representation of the City of Port Orange, beginning July 1, 2024 through June 30, 2026. It is understood that this contract is cancelable with thirty days (30) notice; however, it cannot be cancelled during any year where a Legislative Session has concluded, as the fee is then considered fully earned. This must be the case because under Florida law contingency fee arrangements are prohibited.

Our deliverables are as follows:

- We will consult and assist on all matters relating to the Florida Legislature and the Executive Office of the Governor and/or Agencies; and

- we will consult and assist your efforts to draft and finalize your legislative priorities; and

- our team will lobby the Issues approved by the City of Port Orange Mayor, City Council and City Manager; and

- we will build political support on issues originated and/or supported by the City of Port Orange.

I want to thank you again for your interest in our firm and for the confidence you have shown in our ability to help your organization. I look forward to many successes on your behalf. Please know that we will maintain every confidence you have placed with and in us.

With kind regards,

Sean Pittman

SIGNED: See Page 8 of Addendum No. 1
Wayne Clark
The City of Port Orange

ADDENDUM NO. 1
to Pittman Law Group, P.L. Professional Services Agreement dated May 8, 2024

This Addendum No. 1 is entered into on the day and year set forth hereinafter 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 **PITTMAN LAW GROUP, P.L.** ("Consultant"), a Florida limited liability corporation, whose principal address is 1028 East Park Avenue, Tallahassee, Florida 32301 (collectively "the Parties"). The Parties have agreed as follows:

1. This Addendum No. 1 supplements the terms provided in the letter dated May 8, 2024 from Pittman Law Group, P.L. to the City of Port Orange, Florida.

2. *Citv Obligations*. In return for the services identified above, the City agrees to compensate the Consultant $3,333.33 per month, beginning on July 1, 2024 and ending on June 30, 2026, subject to a limit up to but not to exceed Thirty-Nine Thousand Nine Hundred Ninety-Nine and 96/100 Dollars ($39,999.96) per year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended

3. *Contract Administration*. The City Manager, Wayne Clark, shall perform contract administration of this Contract. The City may change the contract administration, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

4. *Insurance*. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractorshall 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 AffidavitForm 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 ratingof "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 Cityno later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall containprovisions 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**
☒	Workers' Compensation 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 waiverof 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.	Contract Amount Limits Up to $10 million Statutory/$500,000 $10 - $20 million Statutory/$1,000,000 Contracts over $20 million To Be Determinedby 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	Limits: Combined Single Limit Bodily Injury and Property damage $1,000,000 occurrence $1,000,000 aggregate	☐When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: $1,000,000 each occurrence $1,000,000 aggregate	
		Additional Insurance Requirements	
☐	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☒	Professional Liability/Errors and Omissions	Limits: Coverage - $1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - $ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - $1,000,000	
☐	Umbrella Policy	Limits: Coverage – $ To be determined.	
☐ ☐ ☐	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.		

5. *Examination of Records*

(a) The Consultant 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 Consultant involving transactions related to this Contract.

(b) The Consultant 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 Consultant 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.

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

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

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

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term.

(d) Upon completion of the Contract, Consultant shall transfer to the City, at no cost, all public records in possession of the Consultant and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to theCity in a format that is compatible withtheinformation technology systems of the City.

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

CONSULTANT QUESTIONS RELATING TO CONSULTANT'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.

7. *Non-discrimination*. During the performance of this Contract, Consultant agrees as follows:

(a} Consultant 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 Consultant. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Consultant agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Consultant shall state in all solicitations or advertisements for employees placed by or on behalf of Consultant that Consultant 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. Consultant 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.

8. *Disputes.* The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Consultant, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within thirty-(30) days from the date of such decision,

Consultant mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Consultant shall proceed diligently with the performance of this Contract in accordance with that decision.

9. *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.

10. *Controlling Law*. **THIS CONRACT CONTAINS IMPORT ANT 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.**

11. *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: Wayne Clark, City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Consultant: Pittman Law Group, P.L.
Attention: Sean Pittman, CEO
1028 East Park Avenue
Tallahassee, Florida 32301
(850) 216-1002 - Telephone
(850) 224-7477 - Facsimile

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.

12. *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 Consultant and the City until the City signs this Agreement.

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

[remainder of page intentionally left blank]

Witnesses:

_____
Printed Name:_____

_____
Printed Name:_____

PITTMAN LAW GROUP, P.L.

By: _____
Sean Pittman, CEO

Date:_____

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date:_____

Attest:

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

Date:_____

PITTMAN
Law Group

April 14, 2022

Mr. Wayne Clark, City Manager
The City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

RE: **Professional Services Agreement**

Dear Mr. Clark,

Thank you for the opportunity to work with your organization during the 2022 Legislative Session. We take pride in our representation of clients before the Florida Legislature and other tribunals and are prepared to work on your behalf for the 2023 year as well. Please know that we will always work aggressively and diligently to pursue all the goals and priorities that you set for us to follow.

We consider it our responsibility to perform all traditional Legal and Governmental Relations activities at the Legislative and Executive Branch levels. This includes working with staff in the Legislature and the Governor's Office, and/or any agencies of the Executive Branch; it requires us to keep you informed of any developments and/or decisions that may have impact.

Pittman Law Group would like to extend the current agreement for representation of the City of Port Orange, beginning July 1, 2022 through June 30, 2024. It is understood that this contract is cancelable with thirty days (30) notice; however, it cannot be cancelled during any year where a Legislative Session has concluded, as the fee is then considered fully earned. This must be the case because under Florida law contingency fee arrangements are prohibited.

Our deliverables are as follows:

- We will consult and assist on all matters relating to the Florida Legislature and the Executive Office of the Governor and/or Agencies; and

- we will consult and assist your efforts to draft and finalize your legislative priorities; and

- our team will lobby the Issues approved by the City of Port Orange Mayor, City Council and City Manager; and

- we will build political support on issues originated and/or supported by the City of Port Orange.

I want to thank you again for your interest in our firm and for the confidence you have shown in our ability to help your organization. I look forward to many successes on your behalf. Please know that we will maintain every confidence you have placed with and in us.

With kind regards,

Sean Pittman

SIGNED: See Page 11 of Amendment No. 1
Wayne Clark
The City of Port Orange

ADDENDUM NO. 1
to Pittman Law Group, P.L. Professional Services Agreement dated April 14, 2022

This Addendum No. 1 is entered into on the day and year set forth hereinafter 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 **PITTMAN LAW GROUP, P.L.** ("Consultant"), a Florida limited liability corporation, whose principal address is 1028 East Park Avenue, Tallahassee, Florida 32301 (collectively "the Parties"). The Parties have agreed as follows:

1. This Addendum No. 1 supplements the terms provided in the letter dated April 14, 2022 from Pittman Law Group, P.L. to the City of Port Orange, Florida.

2. *City Obligations*. In return for the services identified above, the City agrees to compensate the Consultant $3,333.33per month, beginning on July 1, 2022 and ending on June 30, 2024, subject to a limit up to but not to exceed Thirty-Nine Thousand Nine Hundred Ninety-Nine and 96/100 Dollars ($39,999.96) per year. The City's obligation to pay Consultant under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended

3. *Contract Administration*. The City Manager, Wayne Clark, shall perform contract administration of this Contract. The City may change the contract administration, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

4. *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**
☒	Workers' Compensation 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 waiverof 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.	Contract Amount Up to $10 million $10 - $20 million Contracts over $20 million To Be Determinedby the City.	Limits Statutory/$500,000 Statutory/$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of $500,000 required.

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability	Limits: Combined Single Limit Bodily Injury and Property damage $1,000,000 occurrence $1,000,000 aggregate	☐When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: $1,000,000 each occurrence $1,000,000 aggregate	
		Additional Insurance Requirements	
☐	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☒	Professional Liability/Errors and Omissions	Limits: Coverage - $1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - $ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - $1,000,000	
☐	Umbrella Policy	Limits: Coverage – $ To be determined.	
☐ ☐	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	**City Manager waives Payment and Performance Bond for work under $100,000.00.**		
	Unless otherwise required by law, City Manager waives Insurance for FOB goods.		

5. *Examination of Records*

(a) The Consultant 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 Consultant involving transactions related to this Contract.

(b) The Consultant 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 Consultant 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.

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

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

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

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term.

(d) Upon completion of the Contract, Consultant shall transfer to the City, at no cost, all public records in possession of the Consultant and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to theCity in a format that is compatible withtheinformation technology systems of the City.

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

CONSULTANT QUESTIONS RELATING TO CONSULTANT'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.

7. *Non-discrimination*. During the performance of this Contract, Consultant agrees as follows:

(a} Consultant 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 Consultant. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Consultant agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Consultant shall state in all solicitations or advertisements for employees placed by or on behalf of Consultant that Consultant 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. Consultant 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.

8. *Disputes.* The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Consultant, shall decide disputes with respect to this Contract in the first instance.

The decision shall be final and binding unless, within thirty-(30) days from the date of such decision, Consultant mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Consultant shall proceed diligently with the performance of this Contract in accordance with that decision.

9. *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.

10. *Controlling Law*. **THIS CONRACT CONTAINS IMPORT ANT 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.**

11. *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: Wayne Clark, City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Consultant:
Pittman Law Group, P.L.
Attention: Sean Pittman, CEO
1028 East Park Avenue
Tallahassee, Florida 32301
(850) 216-1002 - Telephone
(850) 224-7477 - Facsimile

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.

12. *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 Consultant and the City until the City signs this Agreement.

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

[remainder of page intentionally left blank]

Witnesses:

Printed Name: Sharmin Hibbert

Printed Name: Evan Steinberg

PITTMAN LAW GROUP, P.L.

By: _____
Sean Pittman, CEO

Date: 06-07-2022

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of X physical presence or ____online notarization this 7th day of June, 2022, by Sean Pittman, as CEO of Pittman Law Group, P.L., a Florida limited liability corporation, and who:

[Notary: Please select one]
☑ is personally known to me; or
☐ has produced _____ as identification.

DANA DUDLEY
Commission # HH 020088
Expires August 10, 2024
Bonded Thru Troy Fain Insurance 800-385-7019

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

Witnesses:

Printed Name: Tracee Cody

Printed Name: Geri Petraglia

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date: 6/23/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ✓ physical presence or ____online notarization this 23 day of June, 2022, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who:

[Notary: Please select one]
☑ is personally known to me; or
☐ has produced _____ as identification.

GERI PETRAGLIA
Commission # HH 213884
Expires January 5, 2026

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

CITY OF PORT ORANGE 1867 FLORIDA

Witnesses:

Printed Name: Tracee Cody

Printed Name: Geri Petraglia

Attest:

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

Date: 6/23/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ✓ physical presence or _online notarization this 23 day of June, 2022, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who:

[Notary: Please select one]
☑ is personally known to me; or
☐ has produced _____ as identification.

GERI PETRAGLIA
Commission # HH 213884
Expires January 5, 2026

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

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (C8b) Approval to Award a Contract for Services to ACF Standby Systems, LLC for Generator Maintenance

DEPARTMENT: Public Works

GOAL: 1 - Public Safety, 2 - Infrastructure

RECOMMENDED MOTION: Move to approve the award of generator maintenance to ACF Standby Systems, LLC and authorize Mayor and City Clerk to sign all necessary documents.

SUMMARY: The Public Works Department issued a Request For Quote (RFQ) for Generator Maintenance in April 2024 to replace an expired contract. Quotes were requested from the prior contract holder, Genset, as well as other vendors including ACF Standby Systems, Zabatt, Florida Detroit Diesel, Ringpower, and Cummins. The RFQ included ongoing maintenance plus emergency services as an alternate.

On May 7, staff received quotes for the ongoing service work from ACF Standby Systems, Cummins, and Florida Detroit Diesel with values ranging from $72,058.00 to $150,945.00 for monthly, quarterly and annual services and testing, as detailed in the scope. No valid quotes were received for emergency services so Staff will continue to follow the standard process of obtaining quotes from three vendors for emergency services when needed.

The cost to maintain the city's thirty-one generators is divided between Public Utilities and Public Works based on their function. Cost of maintenance is paid for from the annual appropriated budget.

Staff recommends ACF Standby Services, LLC, as the lowest responsible quote, be awarded the Contract for Services in the amount of $72,058.00.

PRESENTER: Tom DiEulio

ATTACHMENTS:

1.	ACF Standby Systems, LLC Standard Contract for Services - RFQ-PW24BLD02 Generator Maintenance and Repair	ACF Standby Systems, LLC Standard Contract for Services - RFQ-PW24BLD02 Generator Maintenance and Repair.pdf

2.	RFQ with Email, Scope and SOUP	RFQ with Email, Scope and SOUP.pdf
3.	Addendum 1	Addendum 1.pdf
4.	Quote 1 - ACF Standby Systems	Quote 1 - ACF Standby Systems .pdf
5.	Quote 2 - Florida Detroit Diesel	Quote 2 - Florida Detroit Diesel.pdf
6.	Quote 3 - Cummins	Quote 3 - Cummins .pdf
7.	ACF Signatory Contact, Corp Report, COI and EVerify	ACF Signatory Contact, Corp Report, COI and EVerify.pdf

Denyce Frey	Created/Initiated - 5/15/2024
Tom DiEulio	Approved - 5/15/2024
John McKinney	Approved - 5/16/2024
Matthew Jones	Approved - 5/23/2024
Wayne Clark	Approved - 5/29/2024
Tracee Cody	Final Approval - 5/29/2024

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 **ACF STANDBY SERVICES, LLC** ("Contractor"), a Florida company whose principal address is 9311 Solar Drive, Tampa, Florida 33619. The City and Contractor are collectively referred to herein as the "Parties."

1. *Provision of Services*

   (a) The Contractor hereby agrees to provide service and performance evaluations/testing, and as more specifically described in RFQ-PW24BLD02 Generator Maintenance & Repair for LOT #1 ("RFQ-PW24BLD02"), RFQ Addendum No. 1, and Contractor's Unit Pricing, attached hereto as Exhibit "1," all of which are made a part hereof by reference and shall constitute the formal written Contract between the City and the Contractor. Complete copies of RFQ-PW24BLD02 and Contractor's submittal is available in the Office of the City Clerk.

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

   Term: The term of this Contract shall become effective on the last date the Contract is signed by the City, and shall continue for a period of two (2) years ("Term").

   Renewals: This Contract may be renewed for up to three (3) one-year periods, upon mutual written agreement of the Parties, City Manager approval, and budget appropriation.

   Manner and Place: The work shall be performed in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

   Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

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

2. *City Obligations*. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in the "Schedule of Unit Pricing" of Exhibit "1" for LOT #1 of RFQ-PW24BLD02, in an amount not to exceed Seventy-Two Thousand Fifty-Eight and 00/100 Dollars ($72,058.00) annually. 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 Works Director, Thomas DiEullio, 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**
☒	Workers' Compensation 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.	Contract Amount — Limits Up to $10 million — Statutory/$500,000 $10 - $20 million — Statutory/$1,000,000 Contracts over $20 million To Be Determined by the City.	☐If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐If vessels involved, Jones Act coverage with limits of $500,000 required.
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability	Limits: Combined Single Limit Bodily Injury and Property damage $1,000,000 occurrence $1,000,000 aggregate	☐When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: $1,000,000 each occurrence $1,000,000 aggregate	
Additional Insurance Requirements			

☐	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	Limits: Coverage - $1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - $ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - $1,000,000	
☐	Errors and Omissions	Limits: Coverage - $1,000,000	
☐	Umbrella Policy	Limits: Coverage – $ To be determined.	
☐	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.**		

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.

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. *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, CMC. 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.

25. *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.

26. *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.

27. *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. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

28. *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.

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

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Thomas DiEullio, Public Works Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5752

Contractor: ACF Standby Services, LLC
Attention: Andrew J. Young, President
9311 Solar Drive
Tampa, Florida 33619
(813) 621-9671 Ext. 102 – Telephone
a.young@acfpower.com – E-Mail

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

30. *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.

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

Remainder of Page Intentionally Left Blank

Witnesses:

ACF STANDBY SYSTEMS, LLC

_____

Printed Name:_____

By:_____

Andrew J. Young, President

If this Contract is signed by an individual not identified as an Officer of the Entity 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 Entity.

_____

Printed Name:_____

Date:_____

At this time the City <u>does not</u> accept electronic/digital signatures. A wet signature is required for this document.

CITY OF PORT ORANGE

By:_____
Donald O. Burnette, Mayor

Date:_____

ATTEST:

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

Date:_____

EXHIBIT "1"

RFQ-PW2BLD02 - Generator Maintenance & Repair

Contractor's Unit Pricing and Scope of Services

Consisting of 9 Pages

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote
Complete all fields shaded in green.

NAME	ACF Standby Systems, LLC
CO	Nick Affolter
E	n.affolter@acfpower.com
AUTHORIZED SIGNATURE	

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor KOLC275-4AJ John Deere 6090HF484	$ 199 EACH	$595.00	$750.00	$1,945.00
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QTS30-G5	$ 199 EACH	$1,299.00	$1,200.00	$3,096.00
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$ 199 EACH	$549.00	$750.00	$1,898.00
4	Pavilion	1999 City Center Circle	2006	250	Detroit Diesel 6063HK35	$ 199 EACH	$599.00	$750.00	$1,946.00
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 8063TK35 400 DSE	$ 199 EACH	$699.00	$1,000.00	$2,296.00
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TX35 275REOZD	$ 199 EACH	$599.00	$750.00	$1,946.00
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$ 199 EACH	$599.00	$750.00	$1,746.00
8	Fire Station 72	6027 Central Park Blvd	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$699.00	$750.00	$1,946.00
9	Fire Station 73	1090 City Center Blvd	2020	150	CAT D150 C7 1	$ 199 EACH	$499.00	$750.00	$1,846.00
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176 7D1BHP5Y3	$ 199 EACH	$499.00	$750.00	$1,846.00
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
14	Public Works	407 Virginia Avenue	2003	175	Cummins 6CTA8 3 DGFB5588551	$ 199 EACH	$499.00	$750.00	$1,846.00
15	Public Works Backup/portable	407 Virginia Avenue	2006	400	Detroit 6063HK35 400 DSE	$ 199 EACH	$799.00	$1,000.00	$2,396.00
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$ 199 EACH	$399.00	$750.00	$1,746.00
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$ 199 EACH	$499.00	$750.00	$1,846.00
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$ 199 EACH	$349.00	$750.00	$1,646.00
19	Punce Inlet Master Lift Station	4468 S Peninsula Dr	1984	100	CAT 3116DI 36JG34606	$ 199 EACH	$399.00	$750.00	$1,746.00
20	Reclaimed Plant South (Portable)	817 Oak Street	2021	910	CAT C32 6CPX132 OESK	$ 199 EACH	$1,799.00	$1,500.00	$3,898.00
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R16STY 36900DSE4	$ 199 EACH	$1,799.00	$1,500.00	$3,898.00
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$ 199 EACH	$349.00	$750.00	$1,698.00
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$ 199 EACH	$599.00	$750.00	$1,946.00
24	Artesian Way Well 17	2775 Artesian Way	1990	215	Detroit Diesel 3063-7305 432RSL4015BH 175 W	$ 199 EACH	$599.00	$750.00	$1,946.00
25	Cypress Head	6262 S Williamson Blvd	1993	200	Detroit Diesel 3063 7405 432RSL4511BH	$ 199 EACH	$599.00	$750.00	$1,946.00
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 30637305 432RSL4015	$ 199 EACH	$599.00	$750.00	$1,946.00
27	Garnsey Water Plant	4400 Wellfield Road	2000	1750	Detroit Diesel T123 7K36 1250DS4	$ 199 EACH	$2,599.00	$1,700.00	$4,898.00
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC6DT3	$ 199 EACH	$499.00	$750.00	$1,846.00
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC6DT3	$ 199 EACH	$499.00	$750.00	$1,846.00
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
					LOT #1	$6,567	$23,617.00	$28,650.00	$71,058.00

LOT #2 - REPAIR & EMERGENCY SERVICES

MTU

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE [illegible] Percentage (Item #)	EXTENDED PRICE
1	REGULAR SERVICE RATE	[illegible]	[illegible]	$	$
2	AFTER-HOURS SERVICE RATE	[illegible]	hour	$	$
3	WEEKEND/HOLIDAY SERVICE RATE	[illegible]	hour	$	$
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed [illegible])	$18,200.00	%		$
				TOTAL:	

Detroit Diesel

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$	$
2	AFTER-HOURS SERVICE RATE	60	hour	$	$
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$	$
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$15,700.00	%		$
				TOTAL:	

Cummins

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$	$
2	AFTER-HOURS SERVICE RATE	40	hour	$	$
3	WEEKEND/HOLIDAY SERVICE RATE		hour	$	$
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,500.00	%		$
				TOTAL:	

Caterpillar

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40		$	$
2	AFTER-HOURS SERVICE RATE	40	hour	$	$
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$	$
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,900.00	%		$
				TOTAL:	$

Generac

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	20	hour	[illegible]	[illegible]
2	AFTER-HOURS SERVICE RATE	20	hour	[illegible]	[illegible]
3	WEEKEND/HOLIDAY SERVICE RATE	20	hour	[illegible]	[illegible]
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$4,100.00	%	12	[illegible]
				TOTAL:	[illegible]

REQUEST FOR QUOTE
GENERATOR MAINTENANCE & REPAIR

SCOPE OF WORK

The City of Port Orange is seeking qualified contractors to perform required maintenance and inspection, load bank testing, routine and emergency repair services on the Emergency Generators listed on the Schedule of Unit Pricing attached.

The Contractor is required to perform all work in accordance with the manufacturer's recommendation and in compliance with all applicable laws and standards of service, for each unit serviced.

Generator Contractors will be awarded a contract based on the Lots below. Contractors are not required to quote on both lots.

Lot #1 will be awarded to the responsive and responsible Contractor with the lowest Annual total for Line Items #1-33.

Lot #2 will be awarded by brand of generator to the responsive and responsible Contractor with the lowest total for each respective brand. Contractors can quote on any brand they represent as an Original Equipment Manufacturer (OEM) facility.

The contractor(s) awarded work as a result of this Request for Quote will not be permitted to use sub-contractors to perform any of the work outlined in the Scope of Work or Schedule of Unit Pricing unless the sub-contractor is pre-approved by the City's representative. The work will include but is not limited to the following tasks:

LOT #1
ANNUAL SERVICE AND PERFORMANCE EVALUATION

The City's generators that require quarterly and annual service are listed on the attached Schedule of Unit Pricing.
Wherever testing, analysis or reporting is required, contractor to provide to owner's representative in writing at completion of service. Tasks for each inspection, service and load bank testing are outlined below.

TERM
The Standard Contract for Services for Lot #1 will have an initial term of two (2) years with three (3) one (1) year renewal options, as agreed upon by both parties.

PRICING

Pricing to include cost of all labor, supplies, overhead and profit for all tasks outlined below and on the Schedule of Unit Pricing. Contractors can quote on Lot #1 but are not obligated to. Contractors quoting on Lot #1 shall complete the Schedule of Unit Pricing for Lot #1 in its entirety, completing all fields in green. The last column (Annual Total) must be the total of the Quarterly Inspection, Annual PM Service and Load Bank Test columns.

AWARD

Lot #1 will be awarded to the responsive and responsible contractor that provides the lowest total quote for Lot #1.

HOURS OF PERFORMANCE

The Contractor shall maintain regular work schedules. The schedules shall take into consideration the hours that the staff can effectively perform their services without placing a burden on the personnel of the Facility. The Contractor shall deliver standard services between the hours of 8:00am and 5:00pm Monday through Friday.

ANNUAL SERVICE

- Change all lube oil and fuel filters. Perform analysis of engine lube oil.
- Dispose of used oil, filters, fluids, and other items.
- Provide all filters and fluids.
- Test the coolant solution, report results to owner's representative in writing.
- Service battery(s), replenish as needed.
- Verify specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections, coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate.
- Inspect and lubricate generator bearings.
- Inspect and lubricate airflow louvers.
- Check hoses, belts, etc. for wear. Apply conditioner as recommended by the manufacturer
- Clean dirt and dust from the unit.
- Perform 4-hour full load bank test on the generator. Check temperatures, fluids, voltage, etc. to ensure proper operation.
- Perform thermal heat scan of engine, generator, radiator, and switchgear.

ANNUAL SERVICE VISUAL CHECKS

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Replace air cleaner assemblies.
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts, replace if necessary.
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings.
- Clean and inspect rectifier bridge.

ANNUAL PERFORMANCE EVALUATION

- Check operation of the starter motor to include cranking ability and voltage drop on start.
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators for proper operation, condition.
- Check and record battery charge rate from unit mounted alternator, if applicable.
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Perform a thermal test of generator and transfer switch during operation.
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).

QUARTERLY SERVICE

- Verify the proper oil level in the sump, bring to proper operating level.
- Test coolant solution for proper freeze protection and corrosion inhibitors and provide written results to owner's representative.
- Service battery(s) check battery set(s) for proper electrolyte levels and replenish as needed.
- Verify specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate, provide written results to owner's representative.
- Clean dirt and dust from the unit.

QUARTERLY VISUAL CHECKS

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspect air cleaner assemblies, replace if necessary.
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts, replace as needed.
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings.
- Clean and inspect rectifier bridge.

AWARD

Lot #2 may be awarded to multiple contractors to ensure adequate coverage for all types of generators. Each brand of generator will be awarded to the lowest responsive and responsible contractor for each respective brand. Contractors can be awarded multiple brands.

HOURS OF PERFORMANCE

Standard hours of operation are 8am to 5pm Monday through Friday are billable at the quoted rate. Afterhours hours of operation are 5:01 PM to 7:59 AM and are billable for approved work at the quoted rate. Weekends and City approved Holidays for approved work are billable at the quoted rate.

INSURANCE REQUIREMENTS:

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

IMPORTANT: The City does not accept Workers' Compensation Exemptions. Bidder may use leased employees if the bidder 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 bidder 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. Bidder 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, non-renewal, 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 of prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages. Bidder 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 bidder is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the bidder to ensure the subcontractors maintain the required coverage, shall not relieve the bidder of any contractual responsibility, obligation, or liability. The City reserves the right to increase the insurance coverage requirement as determined for higher risk contracts. The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with and does not waive the insurance required by this. Should at any time the bidder 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 bidder

QUARTERLY PERFORMANCE EVALUATION

- Check operation of the starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition, and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch

The Contractor shall provide a formal, written report after each service which will document the findings including pictures and/or video and provide recommendations with cost estimates.

LOT #2
REPAIR AND EMERGENCY SERVICES

Lot #2 is broken out by generator brands. Contractors may quote any/all generator brands they represent as an OEM repair facility.

The Contractor will provide emergency troubleshooting/repair service response within three (3) hours of being contacted by the owner's representative. Contractor's closest repair shop must stock standard consumable parts and supplies and be within three (3) hours travel time to the City limits.

TERM

The Standard Contract for Services for Lot #2 will have an initial term of two (2) years with three (3) one (1) year renewal options, as agreed upon by both parties.

PRICING

Pricing for hourly rates must include travel time, administrative costs, profit and overhead. Contractor must include their markup percentage on the Schedule of Unit Pricing (Item #4) for materials and supplies needed for repairs. Markup percentage shall not to exceed 15%. Contractors must provide their markup percentage in the Unit Price column of the Schedule of Unit Pricing (for each brand they are quoting) and multiply the percentage by the Estimated Quantity to calculate the Extended Price.

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.

E-VERIFY:

All Contractors 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 bidder during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract. Contractors shall complete the attached E-Verify Affidavit and include it in the returned bid package along with the first few pages of their 'My Company Profile' from their E-Verify account. Failure to include the affidavit may result in rejection of the bid.

End of Scope-of-Work

Frey, Denyce

From:	Frey, Denyce
Sent:	Tuesday, April 23, 2024 3:49 PM
To:	'bszuba@gensetservices.com'; 'Jose@gensetservices.com'; 'a.tickle@acfpower.com'; 'Sales@zabatt.com'; 'm.seaman@kirbycorp.com'; Sean.simmons@ringpower.com; 'Jon.Wilson@ringpower.com'; Christopher.Mueller@Cummins.com; John.D.Foster@Cummins.com
Cc:	Poolman, Jill; Misurale, Lia
Subject:	RFQ - PW24BLD02- Generator Service and Repair
Attachments:	WATERMARKED DRAFT - Standard Contract for Services without Bond (021323).pdf; Leased Employee Affidavit.pdf; Insurance requirements .docx; E Verify Form for quotes.docx; RFQ2 - Generator Maintenance - Section 3- Scope of Work (005).docx; Master Generator RFQ-PW24BLDG02 - Schedule of Unit Pricing.pdf

Good afternoon,

The City of Port Orange, Public Works Department, is requesting quotes from qualified contractors for the Generator Maintenance contract. I have attached the Section 3 – Scope of Work and the Schedule of Unit Pricing with the Make/Model of the generators currently in use at the specified locations. All questions and quotes should be returned to this email address by the dates and times specified below.

The contract terms will be 2 years with 3 one-year optional renewals. The question period will open on April 26th, 2024 and end on May 1st, at 2pm. Quotes will be due on May 7th, 2024 at 2pm with the results to be posted no later than the May 8th at 5pm.

All quotes must be received with verification from the E-Verify website (www.e-verify.gov) and the attached affidavit, as well as provide a Certificate of Insurance to the City of Port Orange, and the Leased Employee Affidavit fully executed, additional information is also detailed in the Scope of Work, attached here. Sample contract is attached as an example only. There will be no bond requirement.

I look forward to hearing from you all!

Thank you,

Denyce Frey
Administrative Supervisor
City of Port Orange

REQUEST FOR QUOTE
GENERATOR MAINTENANCE & REPAIR

SCOPE OF WORK

The City of Port Orange is seeking qualified contractors to perform required maintenance and inspection, load bank testing, routine and emergency repair services on the Emergency Generators listed on the Schedule of Unit Pricing attached.

The Contractor is required to perform all work in accordance with the manufacturer's recommendation and in compliance with all applicable laws and standards of service, for each unit serviced.

Generator Contractors will be awarded a contract based on the Lots below. Contractors are not required to quote on both lots.

Lot #1 will be awarded to the responsive and responsible Contractor with the lowest Annual total for Line Items #1-33.

Lot #2 will be awarded by brand of generator to the responsive and responsible Contractor with the lowest total for each respective brand. Contractors can quote on any brand they represent as an Original Equipment Manufacturer (OEM) facility.

The contractor(s) awarded work as a result of this Request for Quote will not be permitted to use sub-contractors to perform any of the work outlined in the Scope of Work or Schedule of Unit Pricing unless the sub-contractor is pre-approved by the City's representative. The work will include but is not limited to the following tasks:

LOT #1
ANNUAL SERVICE AND PERFORMANCE EVALUATION

The City's generators that require quarterly and annual service are listed on the attached Schedule of Unit Pricing.
Wherever testing, analysis or reporting is required, contractor to provide to owner's representative in writing at completion of service. Tasks for each inspection, service and load bank testing are outlined below.

TERM
The Standard Contract for Services for Lot #1 will have an initial term of two (2) years with three (3) one (1) year renewal options, as agreed upon by both parties.

PRICING

Pricing to include cost of all labor, supplies, overhead and profit for all tasks outlined below and on the Schedule of Unit Pricing. Contractors can quote on Lot #1 but are not obligated to. Contractors quoting on Lot #1 shall complete the Schedule of Unit Pricing for Lot #1 in its entirety, completing all fields in green. The last column (Annual Total) must be the total of the Quarterly Inspection, Annual PM Service and Load Bank Test columns.

AWARD

Lot #1 will be awarded to the responsive and responsible contractor that provides the lowest total quote for Lot #1.

HOURS OF PERFORMANCE

The Contractor shall maintain regular work schedules. The schedules shall take into consideration the hours that the staff can effectively perform their services without placing a burden on the personnel of the Facility. The Contractor shall deliver standard services between the hours of 8:00am and 5:00pm Monday through Friday.

ANNUAL SERVICE

- Change all lube oil and fuel filters. Perform analysis of engine lube oil.
- Dispose of used oil, filters, fluids, and other items.
- Provide all filters and fluids.
- Test the coolant solution, report results to owner's representative in writing.
- Service battery(s), replenish as needed.
- Verify specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections, coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate.
- Inspect and lubricate generator bearings.
- Inspect and lubricate airflow louvers.
- Check hoses, belts, etc. for wear. Apply conditioner as recommended by the manufacturer.
- Clean dirt and dust from the unit.
- Perform 4-hour full load bank test on the generator. Check temperatures, fluids, voltage, etc. to ensure proper operation.
- Perform thermal heat scan of engine, generator, radiator, and switchgear.

ANNUAL SERVICE VISUAL CHECKS

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Replace air cleaner assemblies.
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts, replace if necessary.
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings.
- Clean and inspect rectifier bridge.

ANNUAL PERFORMANCE EVALUATION

- Check operation of the starter motor to include cranking ability and voltage drop on start.
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators for proper operation, condition.
- Check and record battery charge rate from unit mounted alternator, if applicable.
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Perform a thermal test of generator and transfer switch during operation.
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).

QUARTERLY SERVICE

- Verify the proper oil level in the sump, bring to proper operating level.
- Test coolant solution for proper freeze protection and corrosion inhibitors and provide written results to owner's representative.
- Service battery(s) check battery set(s) for proper electrolyte levels and replenish as needed.
- Verify specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate, provide written results to owner's representative.
- Clean dirt and dust from the unit.

QUARTERLY VISUAL CHECKS

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspect air cleaner assemblies, replace if necessary.
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts, replace as needed.
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings.
- Clean and inspect rectifier bridge.

QUARTERLY PERFORMANCE EVALUATION

- Check operation of the starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition, and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch

The Contractor shall provide a formal, written report after each service which will document the findings including pictures and/or video and provide recommendations with cost estimates.

LOT #2
REPAIR AND EMERGENCY SERVICES

Lot #2 is broken out by generator brands. Contractors may quote any/all generator brands they represent as an OEM repair facility.

The Contractor will provide emergency troubleshooting/repair service response within three (3) hours of being contacted by the owner's representative. Contractor's closest repair shop must stock standard consumable parts and supplies and be within three (3) hours travel time to the City limits.

TERM

The Standard Contract for Services for Lot #2 will have an initial term of two (2) years with three (3) one (1) year renewal options, as agreed upon by both parties.

PRICING

Pricing for hourly rates must include travel time, administrative costs, profit and overhead. Contractor must include their markup percentage on the Schedule of Unit Pricing (Item #4) for materials and supplies needed for repairs. Markup percentage shall not to exceed 15%. Contractors must provide their markup percentage in the Unit Price column of the Schedule of Unit Pricing (for each brand they are quoting) and multiply the percentage by the Estimated Quantity to calculate the Extended Price.

AWARD

Lot #2 may be awarded to multiple contractors to ensure adequate coverage for all types of generators. Each brand of generator will be awarded to the lowest responsive and responsible contractor for each respective brand. Contractors can be awarded multiple brands.

HOURS OF PERFORMANCE

Standard hours of operation are 8am to 5pm Monday through Friday are billable at the quoted rate. Afterhours hours of operation are 5:01 PM to 7:59 AM and are billable for approved work at the quoted rate. Weekends and City approved Holidays for approved work are billable at the quoted rate.

INSURANCE REQUIREMENTS:

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

IMPORTANT: The City does not accept Workers' Compensation Exemptions. Bidder may use leased employees if the bidder 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 bidder 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. Bidder 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, non-renewal, 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 of prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages. Bidder 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 bidder is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the bidder to ensure the subcontractors maintain the required coverage, shall not relieve the bidder of any contractual responsibility, obligation, or liability. The City reserves the right to increase the insurance coverage requirement as determined for higher risk contracts. The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with and does not waive the insurance required by this. Should at any time the bidder 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 bidder

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.

E-VERIFY:

All Contractors 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 bidder during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract. Contractors shall complete the attached E-Verify Affidavit and include it in the returned bid package along with the first few pages of their 'My Company Profile' from their E-Verify account. Failure to include the affidavit may result in rejection of the bid.

End of Scope-of-Work

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote

Complete all fields shaded in green.

NAME OF BUSINESS:	
CONTACT PERSON:	
EMAIL ADDRESS:	
AUTHORIZED SIGNATURE:	

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor IDLC275-4JU John Deere 6090HF484	$ -	$ -	$ -	$ -
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QTS30-G5	$ -	$ -	$ -	$ -
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$ -	$ -	$ -	$ -
4	Pavillion	1999 City Center Circle	2006	250	Detroit Diesel 6063MK35	$ -	$ -	$ -	$ -
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 6063TK35 400 DSE	$ -	$ -	$ -	$ -
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TX35 275REOZD	$ -	$ -	$ -	$ -
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$ -	$ -	$ -	$ -
8	Fire Station 72	6027 Central Park Blvd.	2009	200	MTU John Deere 6068HF485	$ -	$ -	$ -	$ -
9	Fire Station 73	1090 City Center Blvd.	2020	150	CAT D150 C7.1	$ -	$ -	$ -	$ -
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176.7D18HPSY3	$ -	$ -	$ -	$ -
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$ -	$ -	$ -	$ -
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ -	$ -	$ -	$ -

13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ -	$ -	$ -	$ -
14	Public Works	407 Virgina Avenue	2003	175	Cummins 6CTA8.3 DGFB5588551	$ -	$ -	$ -	$ -
15	Public Works Backup/portable	407 Virgina Avenue	2006	400	Detroit 6063HK35 400 DSE	$ -	$ -	$ -	$ -
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$ -	$ -	$ -	$ -
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$ -	$ -	$ -	$ -
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$ -	$ -	$ -	$ -
19	Ponce Inlet Master Lift Station	4668 S Peninsula Dr	1989	100	CAT 3116DI 362G34606	$ -	$ -	$ -	$ -
20	Reclaimed Plant South(Portable)	817 Oak Street	2021	910	CAT C32 6CPXL32.0ESK				$ -
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R1637K36900DSE4	$ -	$ -	$ -	$ -
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$ -	$ -	$ -	$ -
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$ -	$ -	$ -	$ -
24	Artesian Way Well 17	2775 Artesian Way	1990	215	Detroit Diesel 1063-7305 432RSL4015BH-175 W	$ -	$ -	$ -	$ -
25	Cypress Head	6262 S.Williamson Blvd	1993	200	Detroit Diesel 10637405 432RSL4511BH	$ -	$ -	$ -	$ -
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 10637305 432RSL4015	$ -	$ -	$ -	$ -
27	Garnsey Water Plant	4400 Wellfield Road	2000	1250	Detroit Diesel T123-7K36 1250DS4	$ -	$ -	$ -	$ -
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC6DT3	$ -	$ -	$ -	$ -
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$ -	$ -	$ -	$ -
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ -	$ -	$ -	$ -
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC6DT3	$ -	$ -	$ -	$ -
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ -	$ -	$ -	$ -
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ -	$ -	$ -	$ -
					LOT #1 TOTALS (Items 1-33)	$ -	$ -	$ -	$ -

LOT #2 - REPAIR & EMERGENCY SERVICES

MTU

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$18,200.00	%		$ -
				TOTAL:	$ -

Detroit Diesel

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$15,700.00	%		$ -
				TOTAL:	$ -

Cummins

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,500.00	%		$ -
				TOTAL:	$ -

Caterpillar

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,900.00	%		$ -
				TOTAL:	$ -

Generac

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	20	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	20	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	20	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$4,100.00	%		$ -
				TOTAL:	$ -

CITY OF PORT ORANGE
PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM #1

RFQ - PW24BLD02- Generator Service and Repair

To All Quoters:
The following changes, clarifications and additions are hereby made part of the RFQ and specifications for the above referenced project dated May 3rd, 2024 and prepared by the City of Port Orange as fully and completely as if the same were fully set forth therein.

A. **QUESTIONS AND ANSWERS:**

Question #1 – Can you provide the "Schedule of Unit Pricing" in an Excel/Word doc so that we can enter our prices into it easily. Currently it's a Pdf and I cannot easily enter my pricing.

Answer #1 – The Schedule of Unit Pricing is delivered in a PDF format intentionally, as is the policy of the Purchasing Department.

Question #2 – Can I get a copy of the last winning contract/quote?

Answer #2 – The contract and exhibit are attached here as Exhibit A.

Question #3 – I have been looking through Demand star and your web page and don't find this RFQ. Do we just email the documents to you?

Answer #3 – All questions and quotes should be returned via email to DFrey@Port-Orange.Org.

In all other respects, except as specifically stated herein, the subject RFQ remains unchanged.

END OF ADDENDUM #1

Denyce Frey
Administrative Supervisor
dfrey@port-orange.org

CITY OF PORT ORANGE
STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this 30 day of January ~~2018,~~ 2019 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 **GENSET SERVICES, INC.** ("Contractor"), a Florida corporation, whose principal address is 3100 Gateway Drive, Pompano Beach, Florida 33069. The City and Contractor are collectively referred to herein as the "Parties."

1. *Provision of Services*

(a) The Contractor hereby agrees to provide generator services, which shall include preventive maintenance, load bank testing, regular repair and service, emergency repair and service, and as more specially described in Intent to Bid 18-05 ("ITB 18-05") scope of work, Addendum No. 1, Addendum No. 2, and Contractor's schedule of unit pricing, attached hereto as Exhibit "1." A complete copy of ITB 18-05, Addendum No. 1, Addendum No. 2 and Contractor's Proposal is available in the Office of the City Clerk.

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

Term: The initial term of this Contract shall commence on the last date the Contract is signed by the Parties and shall continue for a period of two (2) years (the "Initial Term").

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

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 and executed by the City. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. *City Obligations*. In return for the services identified above, the City agrees to compensate the Contractor at the unit costs set forth in Exhibit "1" of this Contract in the amount Forty-Two Thousand Six Hundred Eighty and 00/100 Dollars ($42,680.00) per fiscal year for preventative maintenance. The City reserves the right to exceed $42,680.00 for unforeseen repairs. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. *Contract Documents* The following forms are attached as Exhibit "2" and must be completed, signed, witnessed and notarized as indicated, and returned to the City prior to the commencement of any services by Contractor under this Contract:

a. Front Page for Bond (F.S. § 255.05)

b. Combination Payment and Performance Bond (F.S. §255.05)

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

5. *Contract Administration*. The Works and Utilities Director, Lynn Stevens, shall perform contract administration of this Contract. The City may change the contract administration, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

6. *Termination for Convenience of the City*

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

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

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

(i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;

(ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;

(iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;

(iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and

(v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

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

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

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

(i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

(1) the cost of work performed or supplies delivered;

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

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

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

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 21 of this contract concerning disputes.

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

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

9. *Examination of Records*

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

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

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

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

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

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

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term.

(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 or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

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

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

11. *Termination for Non-Appropriation of Funds*

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

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

12. *Insurance*. Contractor shall maintain insurance during the life of this Contract. Contractor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the bidder's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

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

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

Standard Insurance Requirements			
	Insurance	**Standards**	**Additional Requirements**
☒	Workers' Compensation Additional Coverage:	Limits: Coverage A - Statutory Coverage B - $100,000 All States (Broad Form) Voluntary Compensation	☐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	Limits: Combined Single Limit Bodily Injury and Property damage $500,000 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 automobiles. Additional Coverage:	Limits: Auto Liability Body Injury: $200,000 each person $300,000 each occurrence. Property Damage Liability $100,000 each occurrence. Non-Owned, Hired Car	Or $500,000 Combined Single Limit for Bodily Injury and Property Damage

	Additional Insurance Requirements		
☒	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	Limits: Coverage - $1,000,000 minimum.	
☐	Installation Floater (IT)	Limits: Coverage - $ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - $ 1,000,000.00.	
☐	Errors and Omissions	Limits: Coverage - $1,000,000.00 minimum.	
☒	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	**Department Head waives Payment and Performance Bond for work under $25,000.00.**		
☐	**Unless otherwise required by law, Department Head waives Insurance for work described as follows: (check at least one)** **☐ under $25,000.00** **☐ including goods F.O.B. the place of destination**		

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. *Additional Bond Security* If any surety bond furnished in connection with this Contract becomes unacceptable to the City, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the City and a person supplying labor and materials in the prosecution of work contemplated by this Contract. Contractor expressly acknowledges that if the work to be performed hereunder is a public work, a Payment and Performance Bond, in accordance with Florida Statutes Section 255.05, in a form acceptable to the City, shall be provided and recorded with the Clerk of Volusia County at Contractors expense.

19. *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.

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

21. *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.

22. *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 subcontractor 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 subcontractor during the term of this Contract.

23. *Disputes*. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Contract. 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, CMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

25. *Controlling Law*. **THIS CONTRACT 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 CONTRACT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.**

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

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

28. *Notice*. For purposes of this Contract, notices shall be sent as follows:

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Lynn Stevens, Public Works and Utilities Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5852

Contractor: Genset Services, Inc.
Attention: Keith Friedman, President
3100 Gateway Drive
Pompano Beach, Florida 33069
(407) 532-0414 – Telephone
(407) 532-0415 – Facsimile
ddenic@gensetservices.com

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

29. *Contract Construction*

This Contract 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 Contract 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 Contract.

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

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: TIM RESHOLZ

Printed Name: ALEXANDER MENA

GENSET SERVICES, INC.

By: _____

Keith Friedman, 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: 1/21/19

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 21st day of January, 2019, by Keith Friedman, as President of Genset Services, Inc., a Florida corporation, and who:

[Notary: Please select one]

☑ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

ABIGAIL FORERO
State of Florida-Notary Public
Commission # GG 54132
My Commission Expires
December 11, 2020

Witnesses:

Ruth E Thayne
Printed Name: RUTH E. THAYNE

Shelby Field
Printed Name: Shelby Field

CITY OF PORT ORANGE

By: Donald O Burnette
Donald O. Burnette, Mayor

Date: 1/30/19

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 30 day of Jan 2019, ~~2018,~~ by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

SHELBY FIELD
Commission # GG 274469
Expires November 5, 2022
Bonded Thru Budget Notary Services

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

Witnesses:

Ruth E Thayne
Printed Name: RUTH E. THAYNE

Shelby Field
Printed Name: Shelby Field

ATTEST:

By: Robin L Fenwick
Robin L. Fenwick, CMC, City Clerk

Date: 1/30/19

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 30 day of Jan 2019, ~~2018,~~ by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

SHELBY FIELD
Commission # GG 274469
Expires November 5, 2022
Bonded Thru Budget Notary Services

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

"ATTACHMENT 1" SCHEDULE OF UNIT PRICING"

BID FORM

CITY OF PORT ORANGE

EMERGENCY GENERATOR PREVENTATIVE MAINTENANCE AND EMERGENCY RESPONSE

ITB # 18-05

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

Instruction to save Attachment from DemandStar website:

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

NAME OF BUSINESS: Genset Services, Inc.

CONTACT PERSON: Dale Denio

EMAIL ADDRESS: ddenio@gensetservices.com

AUTHORIZED SIGNATURE:

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

NO.	DEPT	LOCATION	PHYSICAL ADDRESS	KW	MAKE	S/N	QUARTERLY SERVICE PER	ANNUAL SERVICE PER	LOAD BANK (4 HOURS)	EXTENDED COST
1	Drainage	Ruth Street Pump	541 Ruth Street	275	[illegible]	37227326 C070042106	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
2	Drainage	Tallwood Pump Station	6809 Tallwood Dr	750	[illegible]	37227326 C070042106	$ 80.00	$ 554.00	$ 800.00	$ 1,354.00
3	Parks	Cypress Head Clubhouse	6201 Palm Vista Street	200	Marathon Detroit	[illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
4	Parks	Gymnasium	4405 City Center Circle	155	MTU [illegible]	6AG421769 MB-95150	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
5	Parks	Parks & Recreation Warehouse	6809 Tallwood Dr	45	John Deere [illegible]	TE421601278719 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
6	Parks	Pavilion	1485 City Center Blvd	250	Detroit 6000AK06	06R0690640 2095153	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
7	Parks	Pavilion Backup Generator	4535 City Center Blvd	155	Marathon Detroit	[illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
8	PW	City Hall	1000 City Center Circle	400	Detroit [illegible] 400 DS6	06R0347030 2047132	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
9	PW	City Hall Annex (DB Police Department)	1305 Dunlavich Avenue	275	Detroit [illegible]	06R0609875 0932531	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
10	PW	Fire Station 1	4200 S South Ridgewood Ave	150	Cummins DSG7-G6 [illegible]	37[illegible]8237 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
11	PW	Fire Station 2	901 Central Park Blvd	200	John Deere 6068HF485	PE6068L055167 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
12	PW	Fire Station 3	1100 City Center Blvd	400	Cummins [illegible]	30389008 C030042485	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
13	PW	Fire Station 4	6701 Airport Road	100	Generac [illegible]	TE861237 2049209	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
14	PW	Fire Station 6	1751 Town West Blvd	200	John Deere 6068HF485	PE6068L054029 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
15	PW	Police Station North	4545 S Dixie Hwy Blvd	600	Kohler P222FE [illegible]	EUY08802353 2101305	$ 80.00	$ 554.00	$ 520.00	$ 1,154.00
16	PW	Police Station South	4445 S Dixie Hwy Blvd	600	Kohler P222FE [illegible]	EUY08802353 2101305	$ 80.00	$ 554.00	$ 520.00	$ 1,154.00
17	PW	Public Works	407 Virginia Avenue	175	Cummins [illegible]	45278204 A030453821	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
18	PW	Public Works Backup	407 Virginia Avenue	400	Detroit [illegible]	06R0831131883	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
19	PW	Public Works Portable	407 Virginia Avenue	25	Kohler Generator / [illegible]	TE4030 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
20	WRF	Christiancy Lift Station	1400 Christiancy Ave	80	Spectrum [illegible]	PE4048 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
21	WRF	Herbert & Nova Lift Station	3655 Nova Road	150	Spectrum [illegible]	RG0081A10 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
22	WRF	Lab Operations	541 Ruth Street	40	John Deere 4024HF290	85010801060	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
23	WRF	Ponce Inlet Master Lift Station	6566 S Peninsula Dr	100	CAT 3116DJ [illegible]	2SK00587 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
24	WRF	Reclaimed Wtr Plant North	817 Oak Street	800	Spectrum [illegible]	S3020013357 701714	$ 80.00	$ 754.00	$ 798.00	$ 1,632.00
25	WRF	Reclaimed Wtr Plant South	817 Oak Street	900	Spectrum [illegible]	S3020013340 701609	$ 80.00	$ 754.00	$ 798.00	$ 1,632.00
26	WRF	Taylor / Countryside Lift Station	935 Taylor Rd	60	Spectrum 4043TF250 [illegible]	PE4046 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
27	WRF	Wilkerson Regional Lift Station	3653 S Williamson Blvd		CAT	6YR01060	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
28	WRF	WRF Portable 1	817 Oak Street	80	Onan [illegible]	K000172192	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
29	WRF	WRF Portable 2	817 Oak Street	80	Onan [illegible]	K000172193	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
30	WTP	Aragon Way	5775 Aragon Way	136	Detroit	ZL4060472-02	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
31	WTP	Cypress Head	6201 Palm Vista Street	100	Detroit	YF1953578125	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
32	WTP	Drama Way	2440 Drama Way	135	Detroit	ZL4060472-02	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
33	WTP	Gamsey Water Plant	1400 Wilson Road	1260	Kohler	446368	$ 80.00	$ 554.00	$ 798.00	$ 1,352.00
34	WTP	Oceana	2842 Ridge Road	180	MTU 6068HF485 [illegible]	PE 6068L 154239 [illegible]	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
35	WTP	Peninsula	4270 S Atlantic Ave	150	MTU	318770-2-2-0310	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
36	WTP	PO Well 12	2426 Harley Road	230	Kohler	2034226	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
37	WTP	PO Well 15	1204 Rishel Road	130	Kohler	318770-1-1-0310	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
38	WTP	PO Well 23	1805 Cardona Road	230	Kohler	2053898	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00
39	WTP	PO Well 9	2301 Cardona Road	230	Kohler	2034976	$ 80.00	$ 554.00	$ 400.00	$ 1,034.00

	TOTAL BASE BID:	$ 42,680.00
For parts and installation Services	Business Hours/Rate per Hour	$ 185.00
"Emergency Response"	Holiday or After Hours Rate Per Hour	$ 150.00
	Markup from cost on parts (Not to exceed 15%)	15%

EXHIBIT "1"

SECTION 3 – SCOPE OF WORK

PROJECT DESCRIPTION:

The City of Port Orange is soliciting sealed Bids from general contractors to obtain the services of a qualified generator service contractor to provide preventive maintenance, load bank testing, regular repair and service and emergency repair and service.

SCOPE OF WORK:

The City of Port Orange is seeking qualified Generator Contractors to perform required maintenance and inspection of the Emergency Generators listed in the bid form.

All work will be in accordance with the equipment manufacturer recommendations and in compliance with all applicable laws and standards of service.

The Contractor will provide emergency troubleshooting/repair service response within three (3) hours . Contractors closest repair shop must stock standard consumable parts and supplies and be within three (3) hours travel time to the City limits.

The Contractor shall provide a formal, written report after each service which will document the findings including pictures and/or video and provide recommendations with cost estimates.

The Contractor is required to perform all work in accordance with the manufacturer's recommendation for each unit serviced. The work will include but not limited to the following tasks:

ANNUAL SERVICE:

- Change all lube oil and fuel oil filters. Analysis of engine lube oil will be performed. (Analysis of oil is maintained on record for future comparison, copies of record are provided on request at no additional charge.)
- The vendor is responsible to dispose of used oil, filters, fluids and other items replaced.
- Vendor to provide all filters and fluids. City to supply oil at each location.
- Testing the coolant solution for proper freeze protection and corrosion inhibitors and report results.
- Service battery(s), check battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate.
- Inspect and lubricate generator bearings.
- Inspect and lubricate airflow louvers.
- Check all hoses, belts, etc. for wear. Apply conditioner as recommended by the manufacturer

EXHIBIT "1"

- Clean dirt and dust from the unit.
- Perform 4-hour full load bank test on the generator. Check all temperatures, fluids, voltage, etc. to ensure proper operation
- Thermal heat scan of engine, generator, radiator, and switchgear.

ANNUAL SERVICE VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings (megaohm testing of windings can be done at additional cost).
- Clean and inspect rectifier bridge.

ANNUAL PERFORMANCE EVALUATION:

- Check operation of the starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Vendor to perform a thermal test of generator and transfer switch during operation.
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).

EXHIBIT "1"

QUARTERLY SERVICE:

- Verify the proper oil level in the sump. (Make up oil in excess of 1 gallon will be invoiced as an additional charge.)
- Testing coolant solution for proper freeze protection and corrosion inhibitors and recording results.
- Service battery(s) checking battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with an applicable corrosion inhibitor.
- Verify proper operation of the battery charger and record voltage and charging rate.
- Clean dirt and dust from the unit.

QUARTERLY VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings (megaohm testing of windings can be done at additional cost).
- Clean and inspect rectifier bridge.

QUARTERLY PERFORMANCE EVALUATION:

- Check operation of the starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).

EXHIBIT "1"

- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).

ANNUAL LOAD BANK TESTING

- During the Annual Service, technician to perform an annual load bank test - 4-hours bank test.

TERM:

The Standard Contract for Services will have an initial term of two (2) years with three (3) one (1) year renewal options agreed upon by both parties.

REFERENCE:

The Contractor must provide the business names, contact persons and telephone numbers of three (3) references for which the firm has provided the services described in ITB #18-05. Include relationships with utility and governmental agencies. It is our intent to contact these references during the award process. The award of the contract will be based on price, references, experience, and ability to respond to emergencies.

End of Scope-of-Work

EXHIBIT "1"

EXHIBIT "2"

Payment and Performance Bond

Consisting of 3 Pages

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. _____

PRINCIPAL:
Developer or Contractor: _____
Principal Business Address: _____
_____
Contact Person: _____
Phone Number: _____

SURETY: _____
Address: _____
_____
Contact Person: _____
Phone Number: _____

OWNER: City of Port Orange, Florida, a chartered municipal corporation
1000 City Center Circle
Port Orange, Florida 32129-4144
Contact Person: City Manager
Phone Number: (386) 506-5501

Amount: $42,680.00

City Project Number: **ITB18-05 Emergency Generator Preventative Maintenance and Emergency Response**

Description of Work: Emergency Generator Preventive Maintenance and Emergency Response

Project Location: Various locations, Port Orange, Volusia County, Florida

Legal Description: Various locations, Port Orange, Volusia County, Florida

Front Page

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

[CA6476]
[MTR/sal 2015-02-10]

Genset Services, Inc.

ITB18-05 Emergency Generator Preventive Maintenance and Emergency Response

Bond No._____

COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION

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

BY THIS BOND, We, **Genset Services, Inc.**, as Principal, and _____, a corporation, as Surety, are bound to **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of **FORTY-TWO THOUSAND SIX HUNDRED EIGHTY AND 00/100 DOLLARS ($42,680.00)**, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain Standard Contract for Services, having an effective date of _____, entered into by and between the Principal and the City, for emergency generator preventative maintenance and emergency response, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and

3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and

4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

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

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

IN WITNESS WHEREOF, this performance and payment bond is executed and shall be deemed an original, this _____, day of_____, 2018.

Attest:

GENSET SERVICES, INC.
(Principal)

_____
(As to Corporate Principal) Secretary

By:_____
Keith Friedman, President

_____
(Witness to Principal)

(Corporate Seal)

_____
(Surety)

_____
(Witness to Surety)

By:_____
Name:_____
(Attorney-in-Fact)

(Corporate Seal)

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

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

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote
Complete all fields shaded in green.

NAME	ACF Standby Systems, LLC
CO	Nick Affolter
E	n.affolter@acfpower.com
AUTHORIZED SIGNATURE:	Nick Affolter

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor IDLC275-4JU John Deere 6090HF484	$ 199 EACH	$599.00	$750.00	$1,946.00
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QT530-G5	$ 199 EACH	$1,299.00	$1,200.00	$3,096.00
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$ 199 EACH	$349.00	$750.00	$1,696.00
4	Pavillion	1999 City Center Circle	2006	250	Detroit Diesel 6063MK35	$ 199 EACH	$599.00	$750.00	$1,946.00
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 6063TK35 400 DSE	$ 199 EACH	$699.00	$1,000.00	$2,296.00
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TX35 275REOZD	$ 199 EACH	$599.00	$750.00	$1,946.00
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$ 199 EACH	$399.00	$750.00	$1,746.00
8	Fire Station 72	6027 Central Park Blvd.	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$599.00	$750.00	$1,946.00
9	Fire Station 73	1090 City Center Blvd.	2020	150	CAT D150 C7.1	$ 199 EACH	$499.00	$750.00	$1,846.00
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176.7D18HPSY3	$ 199 EACH	$499.00	$750.00	$1,846.00
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
14	Public Works	407 Virgina Avenue	2003	175	Cummins 6CTA8.3 DGFB5588551	$ 199 EACH	$499.00	$750.00	$1,846.00
15	Public Works Backup/portable	407 Virgina Avenue	2006	400	Detroit 6063HK35 400 DSE	$ 199 EACH	$799.00	$1,000.00	$2,396.00
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$ 199 EACH	$399.00	$750.00	$1,746.00
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$ 199 EACH	$499.00	$750.00	$1,846.00
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$ 199 EACH	$349.00	$750.00	$1,696.00
19	Ponce Inlet Master Lift Station	4668 S Peninsula Dr	1989	100	CAT 3116DI 362G34606	$ 199 EACH	$399.00	$750.00	$1,746.00
20	Reclaimed Plant South(Portable)	817 Oak Street	2021	910	CAT C32 6CPXL32.0ESK	$ 199 EACH	$1,799.00	$1,500.00	$3,896.00
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R1637K36900DSE4	$ 199 EACH	$1,799.00	$1,500.00	$3,896.00
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$ 199 EACH	$349.00	$750.00	$1,696.00
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$ 199 EACH	$599.00	$750.00	$1,946.00
24	Arteslan Way Well 17	2775 Arteslan Way	1990	215	Detroit Diesel 1063-7305 432RSL4015BH-175 W	$ 199 EACH	$599.00	$750.00	$1,946.00
25	Cypress Head	6262 S.Williamson Blvd	1993	200	Detroit Diesel 10637405 432RSL4511BH	$ 199 EACH	$599.00	$750.00	$1,946.00
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 10637305 432RSL4015	$ 199 EACH	$599.00	$750.00	$1,946.00
27	Garnsey Water Plant	4400 Wellfield Road	2000	1250	Detroit Diesel T123-7K36 1250DS4	$ 199 EACH	$2,599.00	$1,700.00	$4,896.00
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC6DT3	$ 199 EACH	$499.00	$750.00	$1,846.00
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC6DT3	$ 199 EACH	$499.00	$750.00	$1,846.00
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
					LOT #1	$6,567	$23,617.00	$28,650.00	$72,058.00

LOT #2 - REPAIR & EMERGENCY SERVICES

MTU

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$18,200.00	%		$ -
				TOTAL:	$ -

Detroit Diesel

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$15,700.00	%		$ -
				TOTAL:	$ -

Cummins

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,500.00	%		$ -
				TOTAL:	$ -

Caterpillar

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,900.00	%		$ -
				TOTAL:	$ -

Generac

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	20	hour	$135.00	$2,700.00
2	AFTER-HOURS SERVICE RATE	20	hour	$202.00	$4,040.00
3	WEEKEND/HOLIDAY SERVICE RATE	20	hour	$270.00	$5,400.00
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$4,100.00	%	12	$4,592.00
				TOTAL:	$16,732.00

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote
Complete all fields shaded in green.

NAME	ACF Standby Systems, LLC
CO	Nick Affolter
E	n.affolter@acfpower.com
AUTHORIZED SIGNATURE:	Nick Affolter

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor IDLC275-4RJ John Deere 6090HF484	$ 199 EACH	$599.00	$750.00	$1,946.00
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QTSJ0-G5	$ 199 EACH	$1,299.00	$1,200.00	$3,096.00
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$ 199 EACH	$349.00	$750.00	$1,696.00
4	Pavilion	1999 City Center Circle	2006	250	Detroit Diesel 6063MK35	$ 199 EACH	$599.00	$750.00	$1,946.00
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 6063TK35 400 DSE	$ 199 EACH	$699.00	$1,000.00	$2,296.00
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TK35 275REOZD	$ 199 EACH	$599.00	$750.00	$1,946.00
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$ 199 EACH	$399.00	$750.00	$1,746.00
8	Fire Station 72	6027 Central Park Blvd.	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$599.00	$750.00	$1,946.00
9	Fire Station 73	1090 City Center Blvd.	2020	150	CAT D150 C7.1	$ 199 EACH	$499.00	$750.00	$1,846.00
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176.7D1BHPSY3	$ 199 EACH	$499.00	$750.00	$1,846.00
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 199 EACH	$899.00	$1,000.00	$2,496.00
14	Public Works	407 Virgina Avenue	2003	175	Cummins 6CTA8.3 DGFB5588551	$ 199 EACH	$499.00	$750.00	$1,846.00
15	Public Works Backup/portable	407 Virgina Avenue	2006	400	Detroit 6063HK35 400 DSE	$ 199 EACH	$798.00	$1,000.00	$2,396.00
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$ 199 EACH	$399.00	$750.00	$1,746.00
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$ 199 EACH	$499.00	$750.00	$1,846.00
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$ 199 EACH	$349.00	$750.00	$1,696.00
19	Ponce Inlet Master Lift Station	4668 S Peninsula Dr	1989	100	CAT 3116DI 3626346O6	$ 199 EACH	$399.00	$750.00	$1,746.00
20	Reclaimed Plant South(Portable)	817 Oak Street	2021	910	CAT C32 6CPXL32.OESK	$ 199 EACH	$1,799.00	$1,500.00	$3,896.00
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R1637K36900DSE4	$ 199 EACH	$1,799.00	$1,500.00	$3,896.00
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$ 199 EACH	$349.00	$750.00	$1,696.00
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$ 199 EACH	$399.00	$750.00	$1,946.00
24	Artesian Way Well 17	2775 Artesian Way	1990	215	Detroit Diesel 1063-7305 432RSL4015BH-175 W	$ 199 EACH	$599.00	$750.00	$1,946.00
25	Cypress Head	6262 S.Williamson Blvd	1993	200	Detroit Diesel 10637405 432RSL4511BH	$ 199 EACH	$599.00	$750.00	$1,946.00
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 10637305 432RSL4015	$ 199 EACH	$599.00	$750.00	$1,946.00
27	Garnsey Water Plant	4400 Wellfield Road	2000	1250	Detroit Diesel T123-7K36 1250DS4	$ 199 EACH	$2,599.00	$1,700.00	$4,896.00
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC60T3	$ 199 EACH	$499.00	$750.00	$1,846.00
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$ 199 EACH	$499.00	$750.00	$1,846.00
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC60T3	$ 199 EACH	$499.00	$750.00	$1,846.00
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 199 EACH	$599.00	$750.00	$1,946.00
					LOT #1	$6,567	$23,617.00	$28,650.00	$72,058.00

LOT #2 - REPAIR & EMERGENCY SERVICES

MTU

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$18,200.00	%		$ -
				TOTAL:	$ -

Detroit Diesel

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	60	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	60	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	60	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$15,700.00	%		$ -
				TOTAL:	$ -

Cummins

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,500.00	%		$ -
				TOTAL:	$ -

Caterpillar

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	40	hour	$ -	$ -
2	AFTER-HOURS SERVICE RATE	40	hour	$ -	$ -
3	WEEKEND/HOLIDAY SERVICE RATE	40	hour	$ -	$ -
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$3,900.00	%		$ -
				TOTAL:	$ -

Generac

ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (Items 1 - 3) Percentage (Item 4)	EXTENDED PRICE
1	REGULAR SERVICE RATE	20	hour	$135.00	$2,700.00
2	AFTER-HOURS SERVICE RATE	20	hour	$202.00	$4,040.00
3	WEEKEND/HOLIDAY SERVICE RATE	20	hour	$270.00	$5,400.00
4	MATERIALS/SUPPLIES MARKUP (Not to Exceed 15%)	$4,100.00	%	12	$4,592.00
				TOTAL:	$16,732.00

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote

Complete all fields shaded in green.

NAME OF BUSINESS:	FLORIDA DETROIT DIESEL
CONTACT PERSON:	MARK SEAMAN
EMAIL ADDRESS:	M.SEAMAN@KIRBYCORP.COM
AUTHORIZED SIGNATURE:	Mark Seaman

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor IDLC275-4JU John Deere 6090HF484	$ 200 -	$ 987 -	$ 1284 -	$ 2471 -
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QTS30-G5	$ 200 -	$ 1682 -	$ 1829 -	$ 3711 -
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$ 200 -	$ 952 -	$ 1138 -	$ 2290 -
4	Pavillion	1999 City Center Circle	2006	250	Detroit Diesel 6063MK35	$ 200 -	$ 987 -	$ 1284 -	$ 2471 -
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 6063TK35 400 DSE	$ 200 -	$ 1302 -	$ 1567 -	$ 3069 -
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TX35 275REOZD	$ 200 -	$ 987 -	$ 1284	$ 2471 -
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$ 200 -	$ 987 -	$ 1284	$ 2471 -
8	Fire Station 72	6027 Central Park Blvd.	2009	200	MTU John Deere 6068HF485	$ 200 -	$ 987 -	$ 1284	$ 2471 -
9	Fire Station 73	1090 City Center Blvd.	2020	150	CAT D150 C7.1	$ 200 -	$ 987 -	$ 1284	$ 2471 -
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176.7D18HPSY3	$ 200 -	$ 987 -	$ 1284	$ 2471 -
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$ 200 -	$ 987 -	$ 1284	$ 2471 -
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 200 -	$ 1452 -	$ 1717 -	$ 3369 -

13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$ 200 -	$ 1452 -	$ 1717 -	$ 3369 -
14	Public Works	407 Virgina Avenue	2003	175	Cummins 6CTA8.3 DGFB5588551	$ 200 -	$ 987 -	$ 1284	$ 2471 -
15	Public Works Backup/portable	407 Virgina Avenue	2006	400	Detroit 6063HK35 400 DSE	$ 200 -	$ 1252 -	$ 1642	$ 3094 -
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$ 200 -	$ 952 -	$ 1138 -	$ 2290 -
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$ 200 -	$ 987 -	$ 1284 -	$ 2471 -
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$ 200 -	$ 952 -	$ 1138 -	$ 2290 -
19	Ponce Inlet Master Lift Station	4668 S Peninsula Dr	1989	100	CAT 3116DI 362G34606	$ 200 -	$ 987 -	$ 1284 -	$ 2471 -
20	Reclaimed Plant South(Portable)	817 Oak Street	2021	910	CAT C32 6CPXL32.0ESK	200	2252	3208	$ 5660 -
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R1637K36900DSE4	$ 200 -	$ 2002 -	$ 3208	$ 5410 -
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$ 200 -	$ 952 -	$ 1138	$ 2290 -
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$ 200 -	$ 987 -	$ 1284	$ 2471 -
24	Artesian Way Well 17	2775 Artesian Way	1990	215	Detroit Diesel 1063-7305 432RSL4015BH-175 W	$ 200 -	$ 987 -	$ 1284	$ 2471 -
25	Cypress Head	6262 S.Williamson Blvd	1993	200	Detroit Diesel 10637405 432RSL4511BH	$ 200 -	$ 987 -	$ 1284	$ 2471 -
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 1063730S 432RSL4015	$ 200 -	$ 987 -	$ 1284	$ 2471 -
27	Garnsey Water Plant	4400 Wellfield Road	2000	1250	Detroit Diesel T123-7K36 1250DS4	$ 200 -	$ 2252	$ 3208	$ 5660 -
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC6DT3	$ 200 -	$ 987 -	$ 1284	$ 2471 -
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$ 200 -	$ 987 -	$ 1284	$ 2471 -
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 200 -	$ 987 -	$ 1284	$ 2471 -
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC6DT3	$ 200 -	$ 987 -	$ 1284	$ 2471 -
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 200 -	$ 987 -	$ 1284	$ 2471 -
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$ 200 -	$ 987 -	$ 1284	$ 2471 -
					LOT #1 TOTALS (Items 1-33)	$ 6600 -	$ 38181 -	$ 49612 -	$ 94393 -

SCHEDULE OF UNIT PRICING
CITY OF PORT ORANGE
RFQ-PW24BLD02 - Generator Maintenance & Repair

Completed Schedule of Unit Pricing MUST be included with quote

Complete all fields shaded in green.

NAME OF BUSINESS:	Cummins, Inc dba Cummins Sales & Service
CONTACT PERSON:	John Foster
EMAIL ADDRESS:	john.d.foster@cummins.com
AUTHORIZED SIGNATURE:	Jason Simmons PEM Sales Manager, on behalf of John Foster

LOT #1 - ANNUAL SERVICE AND PERFORMANCE EVALUATION

ITEM #	LOCATION	PHYSICAL ADDRESS	YEAR	KW	MAKE	QUARTERLY INSPECTION	ANNUAL PM SERVICE	LOAD BANK TEST (4 HOURS)	ANNUAL TOTAL
1	Ruth Street Pump	541 Ruth Street	2013	275	MTU Baldor IDLC275-4JU John Deere 6090HF484	$530 X 3	$ 1,575 -	$ 1,090 -	$ 4,255 -
2	Trailwood Pump Station - Cambridge	5839 Trailwood Dr	2006	750	Cummins Onan QTS30-G5	$595 X 3	$ 2,770 -	$ 1,735 -	$ 6,290 -
3	Parks & Recreation Warehouse	5839 Trailwood Dr	1991	45	MTU John Deere Magnamiten Genset	$465 X 3	$ 1,020 -	$ 1,035 -	$ 3,450 -
4	Pavillion	1999 City Center Circle	2006	250	Detroit Diesel 6063MK35	$530 X 3	$ 1,575 -	$ 1,090 -	$ 4,255 -
5	City Hall	1000 City Center Circle	2005	400	Detroit Diesel 6063TK35 400 DSE	$530 X 3	$ 1,930 -	$ 1,345 -	$ 4,865 -
6	City Hall Annex (Old Police Department)	1395 Dunlawton Avenue	1991	275	Detroit Diesel 6063TX35 275REOZD	$530 X 3	$ 1,575 -	$ 1,090 -	$ 4,255 -
7	Fire Station 71	4200 S South Ridgewood Avenue	2017	150	Cummins QSB7-G5 w/400 Amp ATS	$530 X 3	$ 1,310 -	$ 1,090 -	$ 3,990 -
8	Fire Station 72	6027 Central Park Blvd.	2009	200	MTU John Deere 6068HF485	$530 X 3	$ 1,575 -	$ 1,090 -	$ 4,255 -
9	Fire Station 73	1090 City Center Blvd.	2020	150	CAT D150 C7.1	$530 X 3	$ 1,310 -	$ 1,090 -	$ 3,990 -
10	Fire Station 74	6701 Airport Road	2019	150	Generac SD0150GG176.7D18HPSY3	$530 X 3	$ 1,310 -	$ 1,090 -	$ 3,990 -
11	Fire Station 75	1701 Town West Blvd	2009	200	MTU John Deere 6068HF485	$530 X 3	$ 1,575 -	$ 1,090 -	$ 4,255 -
12	Police Station North	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$595 X 3	$ 2,405 -	$ 1,605 -	$ 5,795 -

13	Police Station South	4545 S Clyde Morris Blvd	2008	600	Generac P222FE 10456910500	$595 X 3	$2,405 -	$1,605 -	$5,795 -
14	Public Works	407 Virgina Avenue	2003	175	Cummins 6CTA8.3 DGFB5588551	$530 X 3	$1,310 -	$1,090 -	$3,990 -
15	Public Works Backup/portable	407 Virgina Avenue	2006	400	Detroit 6063HK35 400 DSE	$530 X 3	$1,930 -	$1,345 -	$4,865 -
16	Christiancy Lift Station	5403 Christiance Ave	2004	80	MTU 4045TF250 80DSEJB	$465 X 3	$1,020 -	$1,035 -	$3,450 -
17	Herbert & Nova Lift Station	3655 Nova Road	2021	150	CAT D150-10	$530 X 3	$1,310 -	$1,090 -	$3,990 -
18	Lab Operations	541 Ruth Street	2015	50	MTU John Deere 4024HF285	$465 X 3	$1,020 -	$1,035 -	$3,450 -
19	Ponce Inlet Master Lift Station	4668 S Peninsula Dr	1989	100	CAT 3116DI 362G34606	$530 X 3	$1,310 -	$1,090 -	$3,990 -
20	Reclaimed Plant South(Portable)	817 Oak Street	2021	910	CAT C32 6CPXL32.0ESK	595 X 3	2,770	1,735	$6,290 -
21	Reclaimed Wtr Plant North	817 Oak Street	1997	900	Detroit Diesel R1637K36900DSE4	$595 X 3	$2,770 -	$1,735 -	$6,290 -
22	Taylor / Countryside Lift Station	633 Taylor Rd	2002	60	Detroit Diesel 4045TF250 60DSEJB	$465 X 3	$1,020 -	$1,035 -	$3,450 -
23	Williamson Regional Lift Station	5955 S Williamson Blvd	1999	230	CAT SR4 Genset 3306 Engine	$530 X 3	$1,575 -	$1,090 -	$4,255 -
24	Artesian Way Well 17	2775 Artesian Way	1990	215	Detroit Diesel 1063-7305 432RSL4015BH-175 W	$530 X 3	$1,575 -	$1,090 -	$4,255 -
25	Cypress Head	6262 S.Williamson Blvd	1993	200	Detroit Diesel 10637405 432RSL4511BH	$530 X 3	$1,575 -	$1,090 -	$4,255 -
26	Drema Way Well 20	2440 Drema Way	1990	215	Detroit Diesel 10637305 432RSL4015	$530 X 3	$1,575 -	$1.090 -	$4,255 -
27	Garnsey Water Plant	4400 Wellfield Road	2000	1250	Detroit Diesel T123-7K36 1250DS4	$660 X 3	$4,275 -	$3,200 -	$9,455 -
28	Oceans	2842 Ridge Road	2010	180	MTU John deere 6068HF485 180RJC6DT3	$530 X 3	$1,575 -	$1,090 -	$4,255 -
29	Peninsula	4270 S Atlantic Ave	2010	180	MTU John Deere 6068HF485	$530 X 3	$1,575 -	$1,090 -	$4,255 -
30	PO Well 12	2426 Harley Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$530 X 3	$1,575 -	$1,090 -	$4,255 -
31	PO Well 15	1264 Richel Road	2010	125	MTU John Deere 125RJC6DT3	$530 X 3	$1,310 -	$1,090 -	$3,990 -
32	PO Well 23	2905 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$530 X 3	$1,575 -	$1,090 -	$4,255 -
33	PO Well 8	2396 Campsite Road	2005	230	MTU Kohler John Deere 6081AF001 230DSEJB	$530 X 3	$1,575 -	$1,090 -	$4,255 -
					LOT #1 TOTALS (Items 1-33)	$53,055 -	$56,555 -	$41,335-	$150,945 -

Frey, Denyce

From: Nick Affolter <n.affolter@acfpower.com>
Sent: Tuesday, May 14, 2024 5:15 PM
To: Frey, Denyce
Subject: [EXT] Re: City of Port Orange - RFQ-PW24BLDG02

Hi Denyce,

Great! Thank you, we are looking forward to being your generator service provider.

Mr. Andy Young will be the person to execute the contract.

Andrew Young

President

Direct: (813) 621-9671 x 102

Email: a.young@acfpower.com

Connect: acfpower.com

Our HQ address is:
ACF Standby Systems, LLC
9311 SOLAR DRIVE STE#4
TAMPA, FL 33619

I will request the E-verify log in from our HR Dept.

Thanks!
Nick

ACF Standby Systems
Power Generation
GENERAC
INDUSTRIAL POWER

Nick Affolter
Technical Service Consultant
Mobile **(407) 754-5684**
Fax (813) 621-6980
Email N.Affolter@ACFPower.com
Connect

From: Frey, Denyce <DFrey@port-orange.org>
Sent: Tuesday, May 14, 2024 9:02 AM
To: Nick Affolter <n.affolter@acfpower.com>
Subject: City of Port Orange - RFQ-PW24BLDG02

Good morning Nick,

I am working on submitting the documents for the contract to be prepared for Generator Maintenance and I need a little more information, I am hoping you can assist.

Can you please confirm who will be executing the document, Mr. Young or Mr. Voelker? I will also need a physical address, phone number and email as well.

You were kind enough to submit the insurance and the E-Verify Affidavit, I also need the 1st page or so of the log in screen that shows your E-Verify number. You are already an approved vendor so that part is already done!

Congratulations on the new contract – we are so glad to have you on board! Let me know if you have any questions 😊

Thank you,

Denyce Frey
Administrative Supervisor
City of Port Orange
Public Works
407 Virginia Ave
Port Orange, FL 32127
TEL: 386-506-5752
EMAIL: dfrey@port-orange.org
WEBSITE: www.port-orange.org

Sunbiz.org Division of CORPORATIONS
An official State of Florida website

Detail by Entity Name

Florida Limited Liability Company
ACF STANDBY SYSTEMS, LLC

Filing Information

Document Number	L07000099799
FEI/EIN Number	26-1240400
Date Filed	10/01/2007
Effective Date	07/06/2007
State	FL
Status	ACTIVE
Last Event	LC NAME CHANGE
Event Date Filed	10/29/2009
Event Effective Date	NONE

Principal Address

9311 SOLAR DRIVE
TAMPA, FL 33619

Mailing Address

9311 SOLAR DRIVE
TAMPA, FL 33619

Registered Agent Name & Address

YOUNG, ANDREW J
9311 SOLAR DRIVE
TAMPA, FL 33619

Authorized Person(s) Detail

Name & Address

Title MGRM

YOUNG, ANDREW JPRES
9311 SOLAR DRIVE
TAMPA, FL 33619

Title MGRM

VOELKER, DAVID VP

9311 SOLAR DRIVE
TAMPA, FL 33619

Annual Reports

Report Year	Filed Date
2022	04/22/2022
2023	04/04/2023
2024	04/22/2024

Document Images

04/22/2024 -- ANNUAL REPORT	View image in PDF format
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03/23/2015 -- ANNUAL REPORT	View image in PDF format
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02/22/2013 -- ANNUAL REPORT	View image in PDF format
03/23/2012 -- ANNUAL REPORT	View image in PDF format
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02/17/2010 -- ANNUAL REPORT	View image in PDF format
10/29/2009 -- LC Name Change	View image in PDF format
04/17/2009 -- ANNUAL REPORT	View image in PDF format
03/19/2008 -- ANNUAL REPORT	View image in PDF format
10/01/2007 -- Florida Limited Liability	View image in PDF format

CITY OF PORT ORANGE

CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES

Project Name: CITY OF PORT ORANGE GENERATOR MAINTENANCE

I, the undersigned hereby certify that ACS STANDBY SYSTEMS, LLC **(insert contractor company name) does not employ, contract with or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.**

I acknowledge that it is my responsibility to ensure full compliance with Section 448.095, Florida Statutes. I am aware enrollment in the E-Verify system for employers can be done at www.e-verify.gov.

A true and correct copy of ACS STANDBY SYSTEMS, LLC **(insert contractor company name) proof of registration in the E-Verify system is attached to this Affidavit.**

By affixing my signature below, I hereby affirm that I am duly authorized to bind the company reference herein and I will comply with all applicable E-Verify requirements.

NICHOLAS AFFOLTER - SERVICE CONSULTANT
Print or Type Name, Title

Signature of Affiant

26-1240400
Federal Employer ID Number (FEIN)

571783
E-Verify Number

STATE OF FLORIDA

COUNTY OF: CITRUS

The foregoing instrument was acknowledged before me by means of ☒physical presence or ☐online notarization, this 24th day of JANUARY, 2023, by NICHOLAS AFFOLTER and who: ☐Is personally known to me; or ☒ has produced FLORIDA DRIVERS LICENSE as identification.

Notary Public, State of FLORIDA

Printed, typed or stamped name, commission and expiration: 06-NOV-2027

ARMAND DAMESIMO, JR
MY COMMISSION # HH 418473
EXPIRES: November 6, 2027

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Wallace, Welch & Willingham
300 First Ave South, Fifth Floor
St. Petersburg FL 33701

CONTACT NAME: Certificates/Commercial Lines
PHONE (A/C, No, Ext): 727-522-7777 FAX (A/C, No): 727-521-2902
E-MAIL ADDRESS: certificates@w3ins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Nat'l Fire Ins Co of Hartford	20478
INSURER B : Continental Insurance Company/CNA	35289
INSURER C : Valley Forge Insurance Company/CNA	20508
INSURER D : Allied World Assurance Co.(U.S.), Inc.	19489
INSURER E :	
INSURER F :	

INSURED
ACF Standby Systems,LLC
9311 Solar Dr
Tampa FL 33619

AIRCE-2

COVERAGES **CERTIFICATE NUMBER:** 1088926091 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			6022896092	4/1/2023	4/1/2024	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 250,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY [X] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	X OTHER: Contractual incl							$
A	AUTOMOBILE LIABILITY			6024190012	4/1/2023	4/1/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB X OCCUR			6024190009	4/1/2023	4/1/2024	EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED X RETENTION $ 10,000							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC624190026	4/1/2023	4/1/2024	X PER STATUTE / OTH-ER	U.S.L. & H.
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? Y/N [N] N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	Contractors Pollution			03119792	4/1/2023	4/1/2024	Each Occurance Aggregate Deductible	5,000,000 5,000,000 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Named Insured: ACF Holdings of Tampa Bay Inc. Air Centers of Florida Inc. ACF Standby Systems, LLC. DAB Investments LLC d/b/a ACF Tool & Hoist, A & D Investments LLC, Performance Air Compressor Solutions, LLC

Automatic additional insured and waiver of subrogation applies in favor of City of Port Orange if required by written contract, subject to terms, conditions, and exclusions of the policies, per attached blanket endorsement forms.

Umbrella Liability applies excess of General Liability, Auto Liability and Employers Liability.

CERTIFICATE HOLDER

City of Port Orange
Public Works
407 Virginia Ave
Port Orange FL 32127

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE
Name of Additional Insured Person Or Organization
ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II** - LIABILITY COVERAGE, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

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WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: ACF HOLDINGS OF TAMPA BAY INC.

Endorsement Effective Date: 04/01/2023

SCHEDULE
Name(s) Of Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "**accident**" or the "**loss**" under a contract with that person or organization.

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CNA	CNA PARAMOUNT General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

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E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

   a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

   b. the construction, erection, or removal of elevators; or

   c. the ownership, maintenance or use of any elevators covered by this insurance; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

   The coverage granted by this paragraph does not apply to:

   a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

   b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

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I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

   a. the **Named Insured's** acts or omissions; or

   b. the acts or omissions of those acting on the **Named Insured's** behalf,

   in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury or property damage included within the products-completed operations hazard**.

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:

   a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;

   b. any express warranty unauthorized by the **Named Insured**;

   c. any physical or chemical change in any product made intentionally by such person or organization;

   d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

   e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

   f. demonstration, installation, servicing or repair operations, except such operations performed at the such person or organization's premises in connection with the sale of a product;

   g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or

   h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

      (1) the exceptions contained in Subparagraphs **d.** or **f.** above; or

      (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

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3. This Paragraph **J.** also does not apply:

   a. to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;

   b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor

   c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

K. Other Person Or Organization

Any person or organization who is not an additional insured under Paragraphs **A.** through **J.** above. Such additional insured is an **Insured** solely for **bodily injury**, **property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured**'s acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. for **bodily injury**, **property damage**, or **personal and advertising injury** arising out of the rendering or failure to render any professional service;

2. for **bodily injury** or **property damage** included within the **products-completed operations hazard**; nor

3. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured.

B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph **1.K.** of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS** the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS,** the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

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The **Named Insured**'s rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

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7. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES**, **Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

8. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

9. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES**, **Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES**, **Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions.

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

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Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. **DEFINITIONS** is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

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(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a), (b), (c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

c. add the following:

Insured does not include any physician while acting in his or her capacity as such.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

10. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

11. LEGAL LIABILITY – DAMAGE TO PREMISES

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph **(6)** of the **Damage to Property** exclusion and replace it with the following:

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the

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owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

C. **LIMITS OF INSURANCE** is amended to delete Paragraph **6.** (the Damage To Premises Rented To You Limit) and replace it with the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:

a. any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and

b. contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.

The Damage To Premises Rented To You Limit is $200,000. unless a higher Damage to Premises Rented to You Limit is shown in the Declarations.

D. The **Other Insurance** Condition is amended to delete Paragraph **b.(1)(a)(ii)**, and replace it with the following:

(ii) That is property insurance for premises rented to a **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

E. This Provision **11.** does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part**.

12. MEDICAL PAYMENTS

A. **LIMITS OF INSURANCE** is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C - Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: ; or

(2) the amount shown in the Declarations for Medical Expense Limit.

B. Under **COVERAGES**, **Coverage C – Medical Payments**, the **Insuring Agreement** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

13. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

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The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

14. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

15. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES, Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

   This insurance does not apply to:

   Knowing Violation of Rights of Another

   Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

   (a) the **Named Insured**; or

   (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

   This insurance does not apply to:

   Employment Related Discrimination

   discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

   Premises Related Discrimination

   discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

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Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision **1. ADDITIONAL INSUREDS** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

16. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

Personal and advertising injury for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages**:

(1) that the **Insured** would have in the absence of the contract or agreement; or

(2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract**. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:

(a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract**; and

(b) such attorney fees and litigation expenses are for defense of such party against a civil or alternative dispute resolution proceeding in which covered **damages** are alleged.

B. Solely for the purpose of the coverage provided by this paragraph, **DEFINITIONS** is amended to delete the definition of **insured contract** in its entirety, and replace it with the following:

Insured contract means that part of a written contract or written agreement pertaining to the **Named Insured's** business under which the **Named Insured** assumes the tort liability of another party to pay for **personal or advertising injury** arising out of the offense of false arrest, detention or imprisonment. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

C. Solely for the purpose of the coverage provided by this paragraph, the following changes are made to the Section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

   d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

   So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Notwithstanding the provisions of Paragraph **e.(2)** of the Contractual Liability exclusion (as amended by this Endorsement), such payments will

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not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

17. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

18. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

19. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

20. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the **Transfer Of Rights Of Recovery Against Others To Us** Condition is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury**, **property damage** or **personal and advertising injury** giving rise to the **claim**.

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All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

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Company ID Number:571783 Client Company ID Number:1231486

If you have any questions, contact E-Verify at 1-888-464-4218.

Approved by:

Employer Air Centers of Florida, Inc.	
Name (Please Type or Print) Liliana Torres	Title HR Manager
Signature	Date 9/20/17
E-Verify Employer Agent Paylocity Corporation	
Name (Please Type or Print) Grace Wheeler	Title
Signature Electronically Signed	Date September 19, 2017
Department of Homeland Security – Verification Division	
Name	Title
Signature	Date

Information Required for the E-Verify Program **Information relating to your Company:**	
Company Name	AIR CENTERS OF FLORIDA INC
Company Facility Address	9311 Solar Drive Tampa, FL 33619
Company Alternate Address	9311 Solar Drive Tampa, FL 33619
County or Parish	Hillsborough
Employer Identification Number	59-2780766
North American Industry Classification Systems Code	Merchant Wholesalers, Durable Goods (423)
Parent Company	
Number of Employees	20 to 99
Number of Sites Verified for	3

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

Florida	3

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name	Liliana Torres
Phone Number	(813) 621-9671 e xt. 103
Fax Number	
Email Address	l.torres@acfpower.com

Name	Andrew Young
Phone Number	(813) 621-9671 e xt. 102
Fax Number	
Email Address	a.young@acfpower.com

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (C9) Approval of Change Order No. 5 to Task Authorization No. 9 with Stanley Consultants, Inc. for Environmental Permitting and Time Extension - SUN Trail

DEPARTMENT: Community Development

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

RECOMMENDED MOTION: Move to approve Change Order No. 5 for Task Authorization No. 9 with Stanley Consultants, Inc., subject to the approval of Resolution No. 24-13, approving the Supplemental Grant Agreement; and authorize the Mayor and City Clerk to execute all necessary documents.

SUMMARY: At their February 6, 2024 meeting, the City Council approved Change Order No. 4 to Traffic Engineering Data Solutions (n/k/a Stanley Consultants, Inc.) 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). Change Order No. 4 expires on July 31, 2024.

In January 2024, the design consultant, Traffic Engineering Data Solutions, Inc. n/k/a Stanley Consultants, Inc., submitted the plans and environmental documentation to St. John's River Water Manager District (SJRWMD) to be reviewed for an Environmental Resource Permit (ERP). Per their process, SJRWMD forwarded the permit request to the Florida Department of Environmental Protection (FDEP) for their review. On February 15, 2024, a Federal court issued a ruling formally vacating the Environmental Protection Agency's (EPA) December 2020 decision to allow the State of Florida to assume permitting authority for Section 404 of the Clean Water Act for all projects. Based on this Federal court ruling, SJRWMD and the design consultant advised the City that an alternate method to obtain an environmental permit would be to submit to the US Army Corps of Engineers. It is anticipated that the design schedule needs to be extended an additional 6- 9 months for the additional review and permitting by the US Army Corps of Engineers.

FDOT has agreed to fund the additional costs of the additional consulting services needed to assemble, submit, and coordinate the permit application to US Army Corps of Engineers and on May 17, 2024, FDOT requested the City execute a Supplemental Agreement for the FDOT State Funded Grant for the project in the amount of $20,690.00. No match by the city is required (see accompanying Agenda Item and

Resolution No. 24-13). The request for execution of this Change Order to the design consultant is predicated on the City's agreement for execution of the Supplemental Agreement and receipt of FDOT's Notice to Proceed. The FDOT Supplemental Agreement is anticipated to provide sufficient funding by FDOT to cover all design expenses associated with the alternate environmental permitting process, along with updates to the design plans. Change Order No. 5 also extends the completion date for design services to April 28, 2025.

Change Order No. 5 includes the consultant's additional services to administer their subconsultant's contract for environmental permitting, additional general coordination with the City to discuss project/permit issues and provide status updates over the extended duration of design, maintain updated cost estimates and design plan updates, and, if required, review the design plans and bid documents with current FDOT Standard Plans and Design Manual to ensure compliance during the extended duration.

The proposed Change Order No. 5 extends the completion date for the trail design plans and Task Authorization No. 9 to February 28, 2025, and does not require additional city funds. The Change Order to the design consultant will be executed pending the City's approval of the Supplemental Grant Agreement 2 and receipt of Notice to Proceed from FDOT.

PRESENTER: Margaret Tomlinson

ATTACHMENTS:

1.	Stanley Change Order 5 to Task Authorization No. 9 - SJR2C LOOP TRAIL 404 Extension	TEDS Change Order 5 to Task Authorization No. 9 - SJR2C LOOP TRAIL 404 Extension.pdf
2.	TRAFFIC ENGINEERING TA 9 SJR2C LOOP TRAIL	TRAFFIC ENGINEERING TA 9 SJR2C LOOP TRAIL (2).pdf
3.	TEDS Change Order 1 - Fully Executed	TEDS Change Order 1 fully executed (1).pdf
4.	TEDS Change Order 2 - Fully Executed	TEDS Change Order 2 - Fully Executed (1).pdf
5.	TEDS Change Order 3 - Fully Executed	TEDS Change Order 3 - Fully Executed.pdf
6.	TEDS Change Order 4 - Fully Executed	TEDS Change Order 4 - Fully Executed.pdf
7.	TEDS Change Order 5 - Draft REV-signed by SCI	TEDS Change Order 5 - Draft REV-signed by SCI.pdf

Lisa Epstein	Created/Initiated - 5/17/2024
Tim Burman	Approved - 5/17/2024
John McKinney	Approved - 5/21/2024
Shannon Balmer	Approved - 5/23/2024
Wayne Clark	Approved - 5/29/2024
Tracee Cody	Final Approval - 5/29/2024

CHANGE ORDER NO. 5
To Construction Contract dated 2/14/2017
Task Authorization #9 (6/15/2021)
STANLEY CONSULTANTS, INC.
F/K/A 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 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 No.4: Requested Final Completion for Tasks 11-18 of Task Authorization No. 9: July 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. 5: $20,690.00	Changes in contract time requested this Change Order No.5: (Requires Council Approval) Addition of Tasks 19 - 21 Final Completion for Tasks 11 -21 of Task Authorization No.9: February 28, 2025
Contract Price with all approved Change Orders: $309,707.08	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 11-21 of Task Authorization No. 9: February 28, 2025 (NTP issued on 1/19/2023 & 1/16/24) (NTP not yet issued for Tasks 12, 19 - 21)

Remainder of page intentionally left blank

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 US Army Corps of Engineers.

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

III. JUSTIFICATION:

Changes in scope require Council approval. Is this a scope change? No

Due to the length of time and efforts coordinating with St. John's River Water Management District (SJRWMD), Florida Department of Environmental Protection (FDEP), and the related Federal court order issued on February 15, 2024, divesting FDEP of its authority to issue State 404 Program Permits in Florida, an approved Jurisdictional Determination, and individual permit or nationwide permit verification will need to be obtained from the US Army Corps of Engineers. TEDS/Stanley Consultants requests a 7-month extension to complete the 100% plans and specs, required environmental permitting, and bid phase documents, including typical agency and FDOT reviews and response time frames. The requested completion date of February 28, 2025, is in compliance with the current FDOT State-Funded Grant Agreement expiration date.

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 $309,707.08. 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:_____

ACCEPTED BY:
STANLEY CONSULTANTS, INC.
F/K/A TRAFFIC ENGINEERING DATA SOLUTIONS, INC.
Contractor

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

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. 5
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)
SCI Project Number:	10962
Date:	May 7, 2024

Stanley Consultants, Inc. (SCI) 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, SCI 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).
- On January 16, 2024 SCI submitted the plans and environmental documentation to the Saint John's River Water Management District (SJRWMD) to be reviewed for an Environmental Resource Permit (ERP).
- On January 17, 2024 the SJRWMD forwarded the request to the Department of Environmental Protection (DEP) for the State 404 assumed waters permit coordination.
- On February 15, 2024 a federal court issued a ruling formally vacating the Environmental Protection Agency's (EPA) December 2020 decision to allow the state of Florida to assume permitting authority for section 404 of the Clean Water Act.
- Based on the above-mentioned federal court ruling, an approved Jurisdictional Determination and individual permit or nationwide permit verification will need to be obtained from the United States Army Corps of Engineers (USACE). It is anticipated that the design schedule should be extended for an additional seven (7) months with a completion date of February 28, 2025.

SUPPLEMENTAL SERVICES

Task 19 – Project Extension and Permit Coordination

SCI will complete additional project management and administrative services related to the additional project duration and additional environmental support services, including the following:

- Additional general coordination with the CITY to discuss project issues or provide status updates on current progress over the extended duration of design
- Additional setup of sub-consultant contract(s) and administration, including monthly invoicing
- Cost estimate and plan updates to the CITY and FDOT over the extended duration of design
- Once all required permits are obtained, SCI will review the design plans and bid documents with the current FDOT Standard Plans and Design Manual to ensure compliance

Task 20 – Supplemental Environmental Services

SCI will retain Terracon Consultants, Inc. (Terracon) to prepare and submit a Notice of Intent to Use a General Permit to USACE as described in the attached proposal dated April 12, 2024.

Task 21 – Plan updates – (if required)

If significant changes are made to the FDOT Standard Plans or the FDOT Design Manual which require a plans update, SCI will update the plans and bid documents.

FEES

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

Task	Fee
Task 19 – Project Extension and Permit Coordination	$5,010.00
Task 20 – Supplemental Environmental Services	$6,500.00
Task 21 – Plan Update	$9,180.00
Net Additional Fee	**$20,690.00**

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

CITY OF PORT ORANGE
MAN-HOUR ESTIMATE

May 7, 2024

CHANGE ORDER No.: **05 (Project Extension & 404 Permitting)**

SCI 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: Stanley Consultants, Inc.
ESTIMATE PREPARED BY: Karen O'Neill

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	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	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
Task 19 – Project Extension	**6.0**	**1,080.00**	**29.0**	**3,335.00**	**7.0**	**595.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**42.0**	**5,010.00**	**119.29**
General coordination / progress status updates	2.0		13.0		2.0								17.0		
Initial setup & admin of sub-contracts / monthly invoicing	2.0		3.0		3.0								8.0		
Review Current FDOT Standards prior to bid	2.0		13.0		2.0								17.0		
Task 21 – Plans Update (if required)	**16.0**	**2,880.00**	**40.0**	**4,600.00**	**20.0**	**1,700.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**76.0**	**9,180.00**	**120.79**
Update Plans	4.0		20.0		10.0								34.0		
QAQC	8.0		10.0		10.0								28.0		
Final Plans Package	4.0		10.0										14.0		
TOTALS	**22.0**	**3,960.00**	**69.0**	**7,935.00**	**27.0**	**2,295.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**118.0**	**14,190.00**	**120.25**

SCI LABOR	**$14,190.00**
EXPENSES ***(Refer to backup provided on the following page)***	
Sub-Consultant Fees	
I. SUB-CONSULTANT FEES	**$6,500.00**
Direct Expenses	
II. REPRODUCTION	**$0.00**
III. MILEAGE / TRAVEL	**$0.00**
IV. PERMIT REVIEW FEES	**$0.00**
V. SHIPPING / POSTAGE	**$0.00**
Sub-Total Direct Expenses	**$0.00**
SUB-TOTAL EXPENSES	**$6,500.00**
TOTAL LUMP SUM CONTRACT AMOUNT	**$20,690.00**

Terracon

SUPPLEMENT TO AGREEMENT FOR SERVICES

CHANGE TO
SCOPE OF SERVICES AND FEES

This **SUPPLEMENT to AGREEMENT FOR SERVICES** to the original Agreement for Services (original Agreement dated 05/06/2021) is between Stanley Consultants Company ("Client") and Terracon Consultants, Inc. ("Consultant") for additional or changed Services to be provided by Consultant for Client on the Project, as described in the Agreement for Services. This Supplement is incorporated into and part of the Agreement for Services.

1. **Scope of Services**. The scope of the additional or changed Services are described in the Scope of Services section of the Consultant's Supplemental Proposal, unless Services are otherwise described below or in Exhibit B to this Supplement (which section or exhibit are incorporated into the Supplement).

   United States Army Corps of Engineers (USACE) Permitting

   Terracon will prepare and submit the necessary information for obtaining an Approved Jurisdictional Determination (AJD) and individual permit (IP) or nationwide permit verification from USACE for proposed site wetland impacts for impacts proposed to jurisdictional waters to USACE. This task includes preparation of an Environmental Documentation Report, avoidance and minimization analysis, alternatives analysis, application package, UMAM data sheets, USACE data sheets, preliminary jurisdictional assessment (WOTUS FORMS), and mitigation plan for off-site mitigation. If an alternate form of mitigation is required (on or off-site enhancement, creation, or preservation), then Terracon will coordinate the additional scope and fees with the client. Should USACE determine that the wetlands are isolated and/or non-jurisdictional, Terracon will request an NPR determination. This would require preparation of a submittal package and documentation demonstrating that the wetlands or surface waters are isolated from WOTUS. The task includes responding to one RAI from USACE regarding the IP, NPR, or GP Verification, and one field visit to review the wetlands.

2. **Compensation.** Client shall pay compensation for the additional or changed Services performed at the fees stated in the Supplemental Proposal unless fees are otherwise stated below or in Exhibit C to this Supplement (which section or exhibit are incorporated into the Supplement).

   Lump Sum - $6,500

All terms and conditions of the **Agreement for Services** shall continue in full force and effect. This Supplement is accepted and Consultant is authorized to proceed.

Consultant:	**Terracon Consultants, Inc.**	Client:	**Stanley Consultants Company**
By:	Brian Brandon — Date: **4/12/2024**	By:	Date:
Name/Title:	**Brian P. Brandon / Department Manager III**	Name/Title:	
Address:	**1675 Lee Rd**	Address:	**80 Spring Vista Dr**
	Winter Park, FL 32789-2207		**Debary, FL 32713-1821**
Phone:	**(407) 740-6110** Fax: **(407) 740-6112**	Phone:	**(386) 753-0558** Fax:
Email:	**Brian.Brandon@terracon.com**	Email:	

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:

Sandy Council

Printed Name: Sandy Council

Eileen Wright

Printed Name: Eileen Wright

TRAFFIC ENGINEERING DATA SOLUTIONS, INC.

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:

Printed Name: Matt Jones

Printed Name: Jamie Miller

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, City Mayor

Date: 6/15/2021

Witnesses:

Printed Name: Matt Jones

Printed Name: Jamie Miller

ATTEST:

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

Date: 6/15/2021

Traffic Engineering Data Solutions, Inc.

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.

- 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.

- 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

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.

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.

FEES

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

Description	*Fee*
Task 1 – Project Management & Administration	**$9,135.00**
Task 2 – Surveying	**$51,200.00**
Task 2.1 – Right-of-Way Surveys	*$7,900.00*
Task 2.2 – Baseline Survey	*$3,000.00*
Task 2.3 – Bench Levels	*$4,000.00*
Task 2.4 – Intersection Survey	*$4,500.00*
Task 2.5 – Cross-Sections	*$10,300.00*
Task 2.6 – City Parcels - Boundary Topographic and Tree Location Surveys	*$9,250.00*
Task 2.7 – Jenzano Corridor Topographic Survey	*$4,000.00*
Task 2.8 – Sketch of Legal Description of Jenzano Trail Easement	*$750.00*
Task 2.9 – Jenzano Parent Parcel Eminent Domain Survey	*$7,500.00*
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.

TEDS

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	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	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
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 drainge 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		
													0.0		
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		

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	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	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
Task 9 – Utility Coordination	**4.0**	**720.00**	**6.0**	**690.00**	**39.0**	**3,315.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**49.0**	**4,725.00**	**96.43**
811 Design Ticket					1.0								1.0		
Confirm representatives					5.0								5.0		
Prepare & send notification e-mails with plans	1.0				8.0								9.0		
Adjust location of existing utilities per UAO markups	2.0		3.0		20.0								25.0		
Depict relocations by UAO's per conflicts (if applicable)	1.0		3.0		5.0								9.0		
Task 10 – Agency Permitting	**16.0**	**2,880.00**	**43.0**	**4,945.00**	**80.0**	**6,800.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**139.0**	**14,625.00**	**105.22**
Submit 60% plans to City & FDOT	1.0		2.0		2.0								5.0		
Review comments and revise plans	3.0		15.0		25.0								43.0		
Submit 90% plans to City & FDOT	1.0		2.0		2.0								5.0		
Review comments and revise plans	3.0		10.0		20.0								33.0		
Submit FINAL plans to City & FDOT	1.0		2.0		2.0								5.0		
Prepare & submit SJRWMD ERP Modification	3.0		5.0		10.0								18.0		
Review comments and revise plans	2.0		3.0		15.0								20.0		
Prepare & submit County R/W Use Permit	1.0		2.0		2.0								5.0		
Review comments and revise plans	1.0		2.0		2.0								5.0		
Task 11 – Bid Phase Services	**12.0**	**2,160.00**	**21.0**	**2,415.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**0.0**	**0.00**	**33.0**	**4,575.00**	**138.64**
Review draft bid docs (by City)	3.0		3.0										6.0		
Prepare Technical Specifications	1.0		3.0										4.0		
Prepare project description & bid sheet	1.0		2.0										3.0		
Revisions per City & FDOT	1.0		5.0										6.0		
Attend pre-bid meeting	3.0												3.0		
Answer bid questions	1.0		3.0										4.0		
Prepare bid tabulation	2.0		5.0										7.0		

CITY OF PORT ORANGE
MAN-HOUR ESTIMATE
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.

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	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	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
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
CONTRACT DESCRIPTION: Master Contract for Engineering Services (February 14, 2017)

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)

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 Survey	$4,500.00
e)	PEC Surveying and Mapping, LLC	Task 2.5 – Cross-Sections	$10,300.00
f)	PEC Surveying and Mapping, LLC	Task 2.6 – City Parcels - Boundary Topographic and Tree Location Surveys	$9,250.00
g)	PEC Surveying and Mapping, LLC	Task 2.7 – Jenzano Corridor Topographic Survey	$4,000.00
h)	PEC Surveying and Mapping, LLC	Task 2.8 – Sketch of Legal Description of Jenzano Trail Easement	$750.00
i)	PEC Surveying and Mapping, LLC	Task 2.9 – Jenzano Parent Parcel Eminent Domain Survey	$7,500.00
j)	Terracon Consulting, Inc.	Task 3 – Environmental Resources & Permitting	$12,000.00
k)	Terracon Consulting, Inc.	Task 4 – Geotechnical Engineering	$14,900.00
l)	Florida Bridge and Transportation, Inc.	Task 8 – Structural Engineering	$19,500.00
		Totals	**$96,700.00**

II. REPRODUCTION

Contract Rate

Black / White:			Color:		
	8.5" x 11"	$0.10 / sheet		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**	**Cost**
a) Construction Plans - FINAL Submittal		56			1		4	$52.80
						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 meetings / 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	*application fees to be waived by County*
	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**

PEC

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.

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 Emminent 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

Terracon

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

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*

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

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.

Terracon

Reference Number: PEQ217222

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**	Phone:	**(386) 753-0558** Fax:
Email:	**Gary.Howalt@terracon.com**	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

633 Dartmouth St * Orlando, FL 32804 * Phone (407) 513-9709 * Fax (407) 513-9712

- 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

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

80 Spring Vista Drive • DeBary, Fl 32713 • Phone 386.753.0558 • Fax 386.753.0778
www.teds-fl.com

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

Date Signed: 12/10/2021

ACCEPTED BY:
TRAFFIC DATA ENGINEERING SOLUTIONS, INC.
Contractor

By: Deanna F. Ferrell
Printed Name: Deanna F. Ferrell
Title: President

Date Signed: 12/3/2021

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Division Manager

By: Margaret Tomlinson
Printed Name: Margaret Tomlinson
Title: Construction & Engineering Manager

Date Signed: 12/10/2021

APPROVED BY:
CITY OF PORT ORANGE
Department Head

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

Date Signed: 12-10-2021

City Manager

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

Date Signed: 12/15/2021

Affirmed:

_____
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**

80 Spring Vista Drive • DeBary, Fl 32713 • Phone 386.753.0558 • Fax 386.753.0778
www.teds-fl.com

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: Lisa Epstein
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: N/A
Printed Name: Wayne Clark
Title: City Manager

Date Signed:

Affirmed:

By:
Robin L. Fenwick, MMC, City Clerk

Date Signed: 11/1/2022

If Council approval is required:

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

Date Signed: September 13, 2023

City Manager

By: N/A
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

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:	**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 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/Stanley 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

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

Date Signed: 2-1-2024

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

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

Date Signed: 2024-01-23

APPROVED BY:
CITY OF PORT ORANGE
Department Head

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

Date Signed: 02-01-2024

City Manager

By: N/A
Printed Name: Wayne Clark
Title: City Manager

Date Signed:

If Council approval is required:

By:
Donald O., Burnette, Mayor

Date Signed: 2/6/2024

Affirmed:

By:
Robin L. Fenwick, MMC, City Clerk

Date Signed: 2/6/2024

CHANGE ORDER NO. 5
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 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 No.4: Requested Final Completion for Tasks 11-18 of Task Authorization No. 9: July 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. 5: $20,690.00	Changes in contract time requested this Change Order No.5: (Requires Council Approval) Addition of Tasks 19 - 21 Final Completion for Tasks 11 -21 of Task Authorization No.9: February 28, 2025
Contract Price with all approved Change Orders: $309,707.08	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 11-21 of Task Authorization No. 9: February 28, 2025 (NTP issued on 1/19/2023 & 1/16/24) (NTP not yet issued for Tasks 12, 19 - 21)

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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 US Army Corps of Engineers.

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

III. JUSTIFICATION:

Changes in scope require Council approval. Is this a scope change? No

Due to the length of time and efforts coordinating with St. John's River Water Management District (SJRWMD), Florida Department of Environmental Protection (FDEP), and the related Federal court order issued on February 15, 2024, divesting FDEP of its authority to issue State 404 Program Permits in Florida, an approved Jurisdictional Determination, and individual permit or nationwide permit verification will need to be obtained from the US Army Corps of Engineers. TEDS/Stanley Consultants requests a 7-month extension to complete the 100% plans and specs, required environmental permitting, and bid phase documents, including typical agency and FDOT reviews and response time frames. The requested completion date of February 28, 2025, is in compliance with the current FDOT State-Funded Grant Agreement expiration date.

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 $309,707.08. 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: Lisa Epstein
Printed Name: Lisa Epstein
Title: Project Manager

Date Signed: 5-20-2024

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

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

Date Signed: 5-22-2024

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:_____

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (C10) Resolution No. 24-13 - Approval of Florida Department of Transportation (FDOT) State-Funded Grant Supplemental Agreement to Contract G1X103 for Environmental Permitting and Time Extension No. 3

DEPARTMENT: Community Development

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

RECOMMENDED MOTION: Move to approve Resolution No. 24-13, subject to approval of the Supplemental Grant Agreement and issuance of Notice to Proceed by the Florida Department of Transportation.

SUMMARY: On May 18, 2021, the City accepted a State Funded Grant from the Florida Department of Transportation (FDOT) in the amount of $200,000 for the design of the Port Orange segment of the St. Johns River to Sea (SJR2C) Loop Trail on Spruce Creek Road from Selin Circle to Herbert Street. The St. Johns River-to-Sea Loop is a 260-mile regional trail system that runs through five Florida counties (Putnam, St. Johns, Volusia, Brevard, and Flagler), and includes the entire Palatka-to-St. Augustine State Trail and is part of the 3,000-mile East Coast Greenway.

The approved layout of the shared-use trail currently includes a raised boardwalk through a wooded, city-owned parcel, north of Canalview Boulevard and connects to Herbert Street (See Graphic attachment). This parcel contains wetlands and floodplain and, therefore, must receive an environmental permit for the proposed scope of work. In January 2024, the design consultant, Stanley Consultants, submitted the plans and environmental documentation to the St. John's River Water Manager District (SJRWMD) to be reviewed for an Environmental Resource Permit (ERP). Per their process, SJRWMD forwarded the permit request to the Florida Department of Environmental Protection (FDEP) for their review. On February 15, 2024, a Federal court issued a ruling formally vacating the Environmental Protection Agency's (EPA) December 2020 decision to allow the State of Florida to assume permitting authority for Section 404 of the Clean Water Act for all projects. Based on this Federal court ruling, SJRWMD and the design consultant advised the city that an alternate method to obtain an environmental permit would be to submit to the US Army Corps of Engineers. It is anticipated that the design schedule needs to be extended an additional 6-9 months for additional review and permitting by the US Army Corps of Engineers.

FDOT has agreed to fund the costs of the additional consulting services needed to assemble, submit, and coordinate the permit application to the US Army Corps of Engineers, and on May 17, 2024, FDOT requested the City execute the attached Supplemental Agreement for the FDOT State Funded Grant for the project in the amount of $20,690.00. No match by the city is required. The FDOT Supplemental Agreement is anticipated to provide sufficient funding by FDOT to cover all design expenses associated with the alternate environmental permitting process, along with updates to the design plans. Execution of this agreement extends FDOT funding for this project's design and permitting to June 30, 2025.

A Change Order to the design consultant accompanies this request (See related Agenda Item, Change Order No. 5 to Task Authorization No. 9) and will be executed pending approval of the Supplemental Grant Agreement and receipt of Notice to Proceed from FDOT.

PRESENTER: Margaret Tomlinson

ATTACHMENTS:

1.	Resolution No. 24-13 w exhibit	Resolution No. 24-13 w exhibit.pdf
2.	439865-3-34-01 (G1X03) SJR2C Loop Trail Supplemental Agreement #2	439865-3-34-01 (G1X03) SJR2C Loop Trail Supplemental Agreement #2 .pdf
3.	SJR2C Loop Trail Plan Project Graphic	SJR2C Loop Trail Plan Project Graphic.pdf
4.	Aerial of proposed boardwalk	Aerial of proposed boardwalk (2).jpg
5.	Graphic overview City of Port Orange portion of project (1)	Graphic overview City of Port Orange portion of project (1).pdf
6.	EXECUTED 439865-3-34-01 (G1X03) St John's River to Sea Loop Trail (Spruce Creek Rd) S of Selin Cir to Herbert St St	EXECUTED 439865-3-34-01 (G1X03) St John's River to Sea Loop Trail (Spruce Creek Rd) S of Selin Cir to Herbert St St.pdf
7.	EXECUTED 439865-3-34-01 (G1X03) SJR2C Loop Trail SA #1	EXECUTED 439865-3-34-01 (G1X03) SJR2C Loop Trail SA #1 .pdf
8.	EXECUTED-439865-3-34-01 (G1X03)-TE #2	EXECUTED-439865-3-34-01 (G1X03)-TE #2.pdf

Lisa Epstein	Created/Initiated - 5/17/2024
Tim Burman	Approved - 5/17/2024
Shannon Balmer	Approved - 5/29/2024
John McKinney	Approved - 5/29/2024
Wayne Clark	Approved - 5/29/2024
Tracee Cody	Final Approval - 5/30/2024

RESOLUTION NO.24-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING AND ACCEPTING THE FLORIDA DEPARTMENT OF TRANSPORTATION STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT FOR FPN 439865-3-34-01, FOR FUNDING THE ADDITIONAL CONSULTING SERVICES NEEDED TO ASSEMBLE, SUBMIT, AND COORDINATE THE PERMIT APPLICATION TO THE US ARMY CORPS OF ENGINEERS FOR THE SEGMENT OF THE ST. JOHNS RIVER TO SEA LOOP TRAIL (SPRUCE CREEK ROAD) FROM SOUTH OF SELIN CIRCLE TO HERBERT STREET; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SAME; AND AUTHORIZING A BUDGET AMENDMENT FOR THE ADDITIONAL FUNDS IN THE AMOUNT OF $20,690.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange has previously executed with the State of Florida Department of Transportation the State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01; and

WHEREAS, the City of Port Orange has previously executed with the State of Florida Department of Transportation the State Funded Supplemental Agreement for the aforementioned project, FPN 439865-3-34-01 in order to provide sufficient funding to cover all design expenses associated with lighting along the boardwalk segment of the trail; and

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to further facilitate the St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street; and

WHEREAS, the State of Florida Department of Transportation has agreed to fund the costs of the additional consulting services needed to assemble, submit, and coordinate the permit application to the US Army Corps of Engineers required for the segment of the St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street; and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange execute and deliver to the State of Florida Department of Transportation the State Funded Supplemental Agreement ("Supplemental Agreement") for the aforementioned project, FPN 439865-3-34-01 in order to provide sufficient funding to cover the additional costs of consulting services needed to assemble, submit, and coordinate the permit application to the U S Army Corps of Engineers required for this segment of the trail.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby accepts said grant and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Supplemental State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01, a copy of which is attached hereto as **Exhibit "1".**

Section 2. The City Council of the City of Port Orange, Florida, hereby approves and authorizes amendment to the City's budget in the amount of $20,690.00 to account for the funds from State of Florida Department of Transportation for the additional consulting services, as reflected in the Supplemental Agreement.

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

_____
MAYOR DONALD O. BURNETTE

ATTEST

_____
Robin L. Fenwick, MMC, City Clerk

Adopted on the _____ day of _____, 2024

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

EXHIBIT "1"

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

SUPPLEMENTAL NO.
2

CONTRACT NO.
G1X03

FPN
439865-3-34-01

Recipient: City of Port Orange

This Supplemental Agreement ("Supplemental"), dated _____ arises from the desire to supplement the State-Funded Grant Agreement ("Agreement") entered into and executed on 5/21/2021 and amended on 10/24/2022 as identified above. All provisions in the Agreement and supplements, if any, remain in effect except as expressly modified by this Supplemental.

The parties agree that the Agreement is to be amended and supplemented as follows:

1. The Department approves a Time Extension for the subject State-Funded Grant Agreement (SFGA) to June 30, 2025 to allow for completion of enviornmental permitting and design for this Project.

2. Paragraphs 6.a and 6.b are revised as follows:

a. The estimated cost of the Project is $253,765.00 (Two Hundred Fifty-Three Thousand Seven Hundred Sixty-Five Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in Exhibit "B", Schedule of Financial Assistance, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.

b. The Department agrees to participate in the Project cost up to the maximum amount of $253,765.00 (Two Hundred Fifty-Three Thousand Seven Hundred Sixty-Five Dollars and No/100) and, additionally the Department's participation in the Project shall not exceed NA% of the total cost of the Project, and as more fully described in Exhibit "B". The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.

3. Exhibit "A", Project Description and Responsibilities is amended and incorporated into this Supplemental Agreement.

4. Exhibit "B", Schedule of Financial Assistance is amended and incorporated into this Supplemental Agreement.

5. Exhibit "D", Recipient Resolution authorizing entry into this Supplemental Agreement is attached and incorporated into this Supplemental Agreement.

6. Exhibit "J", State Financial Assistance (Florida Single Audit Act) is attached and incorporated into this Supplemental Agreement.

Reason for this Supplemental and supporting engineering and/or cost analysis:

1. The additional USACE permitting scope of work is warranted due to the State 404 assumed waters permit coordination with SJRWMD will extend the completion of the design for this project.

2. Additional $20,690.00 GRTR funding has been added to accommodate the permitting scope of work for Section 404 of the Clean Water Act. This will include obatinin the permit and also review of the design plans and bid documents with the current FDOT standard plans and Design Manual to ensure complaince at the time of let.

Revisions to the funding amount are reflected in the Adjusted Schedule of Financial Assistance, attached hereto and incorporated herein, as Exhibit "B" and in Exhibit "J", State Financial Assistance (Florida Single Audit Act).

STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

RECIPIENT:
CITY OF PORT ORANGE

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

Attest: _____
Robin L. Fenwick, City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By:_____
Name: C. Jack Adkins
Title: Director of Transportation Development

Legal Review:

_____

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 439865-3-34-01

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

the City of Port Orange (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS:

PROJECT DESCRIPTION:

This SunTrail project is located within the City of Port Orange (Recipient) 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. In the event acquisition of Right-of-Way or easement is unsuccessful, then the trail will extend northerly along the west side of Spruce Creek Road towards Oak Street and cross over Spruce Creek Road and continue along the east side of Halifax Canal from Oak Street to Dunlawton Avenue utilizing the existing 8-foot wide trail. The proposed trail will then continue along Spruce Creek Road from Dunlawton Avenue to Canal View Boulevard. The proposed trail continues through a vacant parcel to Herbert Street, connecting to the existing trail segment. Total project length is approximately 0.652 miles. Within the vacant parcel, owned by the City of Port Orange (Recipient), an 8-foot wide, 715-foot long boardwalk is proposed in the wetland area. The entire length of the proposed sidewalk is located within the special flood hazard area and floodplain impacts and compensatory storage calculations and design will be required. Additional scope includes, design of lighting for safety purposes: (1) on the portion of the proposed trail as a boardwalk through the heavily wooded area located between State Road 421 (Dunlawton Avenue) and Herbert Street, (2) at the uncontrolled crosswalk across Herbert Street, and (3) at the two Spruce Creek Road crossovers (if the additional Right-of-Way or easement is not able to be obtained).

Project scope includes design of trail and lighting improvements along the trail route to enhance safety, particularly at points of conflict such as at driveways and roadway crossings. Design services shall include topographic/boundary survey, geotechnical investigations, environmental assessment(s), and engineering design. Utility coordination will be required. Coordination for permitting needs are anticipated. Right-of-Way acquisition or any easement/easement modifications may be required and will be determined during the design phase. All pedestrian accommodations shall adhere to current ADA standards. Design of this trail shall follow the PD&E study finalized in April 2020. In addition, the SunTrail width will need to follow the latest FDOT Design Manual criteria, per Section 224.4, Widths. If a variance for the SunTrail width is needed, it will be coordinated with the Department.

Project needs a state 404 assumed water permit coordination based on the Environmental Resource Permit application to SJRWMD. Based on the federal court ruling, an approved Jurisdictional Determination and Individual permit or nationwide permit verification will need to be obtained from the United States Army Corps of Engineers (USACE).

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

If and when real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the Right-of-Way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of Right-of-Way related maps and is a depiction of the right-of-way survey field work performed for a specific transportation project.

Invoices, progress reports and other supporting documentation shall be submited no more than monthly and no less than quarterly to D5-Suntrailprogram@dot.state.fl.us

Pursuant to the legislation, Section 339.81, F.S., components funded through the SUN Trail program will not include:

• Sidewalks, nature trails, or loop trails wholly within a single park or natural area; or
• On-road facilities (such as bicycle lanes of routes other than on-road facilities that are no longer than one-half mile connecting two or more nonmotorized trails) if the provision of non-road facilities is infeasible and if such on-road facilities are signed and marked for nonmotorized use; an exception is made for on-road components of the Florida Keys Overseas Heritage Trail. SUN Trail funds are for the transportation element of the standard trail. Ineligible costs include, but are not limited to, the following:

• Benches, trail furniture, seating areas, or tables;
• Bicycle racks or lockers, bicycle air or repair stations;
• Buildings or enclosed structures, restrooms, bathhouses, comfort stations, wayside structures, shade structures, concession stands, overlooks, fishing platforms, boat ramps or launches, transit or ride share facilities, shelters, gazebos, or picnic pavilions;
• Kiosks, interpretive panels, or placemaking signs (safety controls are an allowable cost);
• Landscaping (trail stabilization is an allowable cost);
• Litter or recycle receptacles, or doggie bag dispensers;
• Parking areas, trailheads, or camping areas;
• Playgrounds or playing fields, fitness equipment, or fitness structures;
• Promotional, marketing, or educational materials;
• Sculptures, monuments, or art; and
• Water fountains, splash zones, spigots, showers, water features, or irrigation equipment.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) 30% Plans Submittal to be completed by October 18, 2021.
b) 60% Plans Submittal to be completed by August 21, 2022.
c) 90% Plans Submittal to be completed by January 31, 2023.
d) Final Plans Submittal to be competed by February 28, 2025.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project.

The project funding may be reduced to an amount equal to the award amount and/or the actual contract costs.

The remainder of this page intentionally left blank.

STATE-FUNDED GRANT AGREEMENT

EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Port Orange 1000 City Center Circle Port Orange, Florida, 32129	439865-3-34-01

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY: 2020/2021	Maximum Department Participation (SUNTrail)	$200,000.00	$0.00	$200,000.00	☐ In-Kind ☐ Cash
FY: 2022/2023	Maximum Department Participation (SUNTrail)	$33,075.00	$0.00	$33,075.00	☐ In-Kind ☐ Cash
	Total Design Cost	$233,075.00 %	$ 0.00 %	$233,075.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase : 34) FY: **2023/2024**	Maximum Department Participation (SUNTrail)	$20,690.00	$0.00	$20,690.00	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$20,690.00 %	$ 0.00 %	$20,690.00 %	
	TOTAL COST OF THE PROJECT	$253,765.00	$ 0.00	$253,765.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Paul Schoelzel
District Grant Manager Name

Signature Date

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

State Project Title and CSFA Number:

☐ County Incentive Grant Program (CIGP), (CSFA 55.008)
☐ Small County Outreach Program (SCOP), (CSFA 55.009)
☐ Small County Road Assistance Program (SCRAP), (CSFA 55.016)
☐ Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
☒ Florida Shared-Use Nonmotorized (SUN) Trail Network Program, CSFA 55.038

***Award Amount:** $253,765.00

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

SUPPLEMENTAL NO.
2

CONTRACT NO.
G1X03

FPN
439865-3-34-01

Recipient: City of Port Orange

This Supplemental Agreement ("Supplemental"), dated _____ arises from the desire to supplement the State-Funded Grant Agreement ("Agreement") entered into and executed on 5/21/2021 and amended on 10/24/2022 as identified above. All provisions in the Agreement and supplements, if any, remain in effect except as expressly modified by this Supplemental.

The parties agree that the Agreement is to be amended and supplemented as follows:

1. The Department approves a Time Extension for the subject State-Funded Grant Agreement (SFGA) to June 30, 2025 to allow for completion of enviornmental permitting and design for this Project.

2. Paragraphs 6.a and 6.b are revised as follows:

a. The estimated cost of the Project is $253,765.00 (Two Hundred Fifty-Three Thousand Seven Hundred Sixty-Five Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in Exhibit "B", Schedule of Financial Assistance, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.

b. The Department agrees to participate in the Project cost up to the maximum amount of $253,765.00 (Two Hundred Fifty-Three Thousand Seven Hundred Sixty-Five Dollars and No/100) and, additionally the Department's participation in the Project shall not exceed NA% of the total cost of the Project, and as more fully described in Exhibit "B". The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.

3. Exhibit "A", Project Description and Responsibilities is amended and incorporated into this Supplemental Agreement.

4. Exhibit "B", Schedule of Financial Assistance is amended and incorporated into this Supplemental Agreement.

5. Exhibit "D", Recipient Resolution authorizing entry into this Supplemental Agreement is attached and incorporated into this Supplemental Agreement.

6. Exhibit "J", State Financial Assistance (Florida Single Audit Act) is attached and incorporated into this Supplemental Agreement.

Reason for this Supplemental and supporting engineering and/or cost analysis:

1. The additional USACE permitting scope of work is warranted due to the State 404 assumed waters permit coordination with SJRWMD will extend the completion of the design for this project.

2. Additional $20,690.00 GRTR funding has been added to accommodate the permitting scope of work for Section 404 of the Clean Water Act. This will include obatinin the permit and also review of the design plans and bid documents with the current FDOT standard plans and Design Manual to ensure complaince at the time of let.

Revisions to the funding amount are reflected in the Adjusted Schedule of Financial Assistance, attached hereto and incorporated herein, as Exhibit "B" and in Exhibit "J", State Financial Assistance (Florida Single Audit Act).

STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

RECIPIENT:
CITY OF PORT ORANGE

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

Attest: _____
Robin L. Fenwick, City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By:_____
Name: C. Jack Adkins
Title: Director of Transportation Development

Legal Review:

_____

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 439865-3-34-01

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

the City of Port Orange (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS:

PROJECT DESCRIPTION:

This SunTrail project is located within the City of Port Orange (Recipient) 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. In the event acquisition of Right-of-Way or easement is unsuccessful, then the trail will extend northerly along the west side of Spruce Creek Road towards Oak Street and cross over Spruce Creek Road and continue along the east side of Halifax Canal from Oak Street to Dunlawton Avenue utilizing the existing 8-foot wide trail. The proposed trail will then continue along Spruce Creek Road from Dunlawton Avenue to Canal View Boulevard. The proposed trail continues through a vacant parcel to Herbert Street, connecting to the existing trail segment. Total project length is approximately 0.652 miles. Within the vacant parcel, owned by the City of Port Orange (Recipient), an 8-foot wide, 715-foot long boardwalk is proposed in the wetland area. The entire length of the proposed sidewalk is located within the special flood hazard area and floodplain impacts and compensatory storage calculations and design will be required. Additional scope includes, design of lighting for safety purposes: (1) on the portion of the proposed trail as a boardwalk through the heavily wooded area located between State Road 421 (Dunlawton Avenue) and Herbert Street, (2) at the uncontrolled crosswalk across Herbert Street, and (3) at the two Spruce Creek Road crossovers (if the additional Right-of-Way or easement is not able to be obtained).

Project scope includes design of trail and lighting improvements along the trail route to enhance safety, particularly at points of conflict such as at driveways and roadway crossings. Design services shall include topographic/boundary survey, geotechnical investigations, environmental assessment(s), and engineering design. Utility coordination will be required. Coordination for permitting needs are anticipated. Right-of-Way acquisition or any easement/easement modifications may be required and will be determined during the design phase. All pedestrian accommodations shall adhere to current ADA standards. Design of this trail shall follow the PD&E study finalized in April 2020. In addition, the SunTrail width will need to follow the latest FDOT Design Manual criteria, per Section 224.4, Widths. If a variance for the SunTrail width is needed, it will be coordinated with the Department.

Project needs a state 404 assumed water permit coordination based on the Environmental Resource Permit application to SJRWMD. Based on the federal court ruling, an approved Jurisdictional Determination and Individual permit or nationwide permit verification will need to be obtained from the United States Army Corps of Engineers (USACE).

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

If and when real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the Right-of-Way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of Right-of-Way related maps and is a depiction of the right-of-way survey field work performed for a specific transportation project.

Invoices, progress reports and other supporting documentation shall be submited no more than monthly and no less than quarterly to D5-Suntrailprogram@dot.state.fl.us

Pursuant to the legislation, Section 339.81, F.S., components funded through the SUN Trail program will not include:

• Sidewalks, nature trails, or loop trails wholly within a single park or natural area; or
• On-road facilities (such as bicycle lanes of routes other than on-road facilities that are no longer than one-half mile connecting two or more nonmotorized trails) if the provision of non-road facilities is infeasible and if such on-road facilities are signed and marked for nonmotorized use; an exception is made for on-road components of the Florida Keys Overseas Heritage Trail. SUN Trail funds are for the transportation element of the standard trail. Ineligible costs include, but are not limited to, the following:

• Benches, trail furniture, seating areas, or tables;
• Bicycle racks or lockers, bicycle air or repair stations;
• Buildings or enclosed structures, restrooms, bathhouses, comfort stations, wayside structures, shade structures, concession stands, overlooks, fishing platforms, boat ramps or launches, transit or ride share facilities, shelters, gazebos, or picnic pavilions;
• Kiosks, interpretive panels, or placemaking signs (safety controls are an allowable cost);
• Landscaping (trail stabilization is an allowable cost);
• Litter or recycle receptacles, or doggie bag dispensers;
• Parking areas, trailheads, or camping areas;
• Playgrounds or playing fields, fitness equipment, or fitness structures;
• Promotional, marketing, or educational materials;
• Sculptures, monuments, or art; and
• Water fountains, splash zones, spigots, showers, water features, or irrigation equipment.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) 30% Plans Submittal to be completed by October 18, 2021.
b) 60% Plans Submittal to be completed by August 21, 2022.
c) 90% Plans Submittal to be completed by January 31, 2023.
d) Final Plans Submittal to be competed by February 28, 2025.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project.

The project funding may be reduced to an amount equal to the award amount and/or the actual contract costs.

The remainder of this page intentionally left blank.

STATE-FUNDED GRANT AGREEMENT

EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Port Orange 1000 City Center Circle Port Orange, Florida, 32129	439865-3-34-01

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY: 2020/2021	Maximum Department Participation (SUNTrail)	$200,000.00	$0.00	$200,000.00	☐ In-Kind ☐ Cash
FY: 2022/2023	Maximum Department Participation (SUNTrail)	$33,075.00	$0.00	$33,075.00	☐ In-Kind ☐ Cash
	Total Design Cost	$233,075.00 %	$ 0.00 %	$233,075.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase : 34) FY: **2023/2024**	Maximum Department Participation (SUNTrail)	$20,690.00	$0.00	$20,690.00	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$20,690.00 %	$ 0.00 %	$20,690.00 %	
	TOTAL COST OF THE PROJECT	$253,765.00	$ 0.00	$253,765.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Paul Schoelzel
District Grant Manager Name

Signature Date

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

State Project Title and CSFA Number:

☐ County Incentive Grant Program (CIGP), (CSFA 55.008)
☐ Small County Outreach Program (SCOP), (CSFA 55.009)
☐ Small County Road Assistance Program (SCRAP), (CSFA 55.016)
☐ Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
☒ Florida Shared-Use Nonmotorized (SUN) Trail Network Program, CSFA 55.038

***Award Amount:** $253,765.00

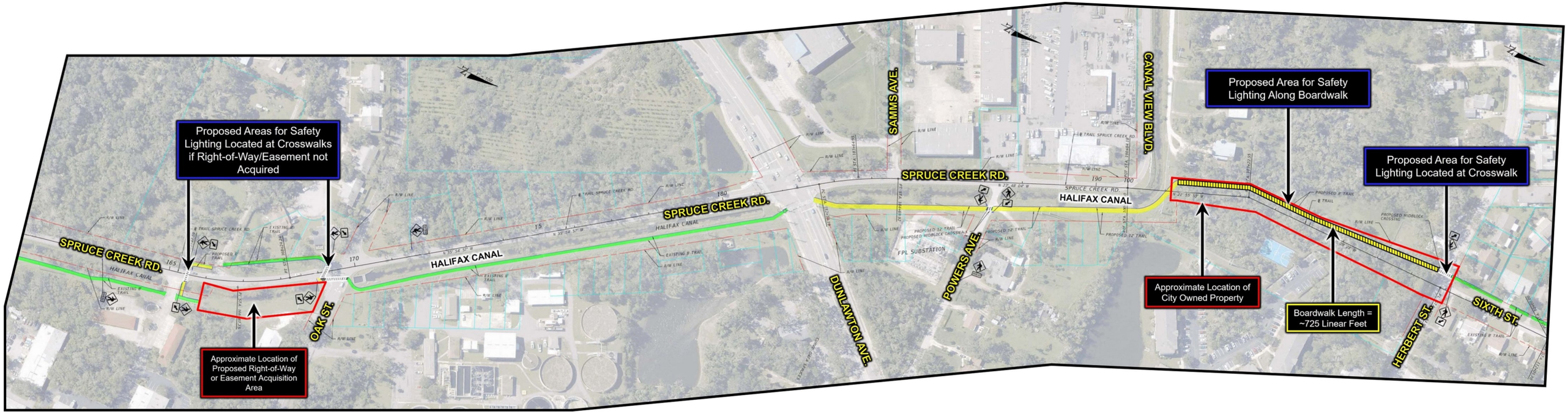
*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

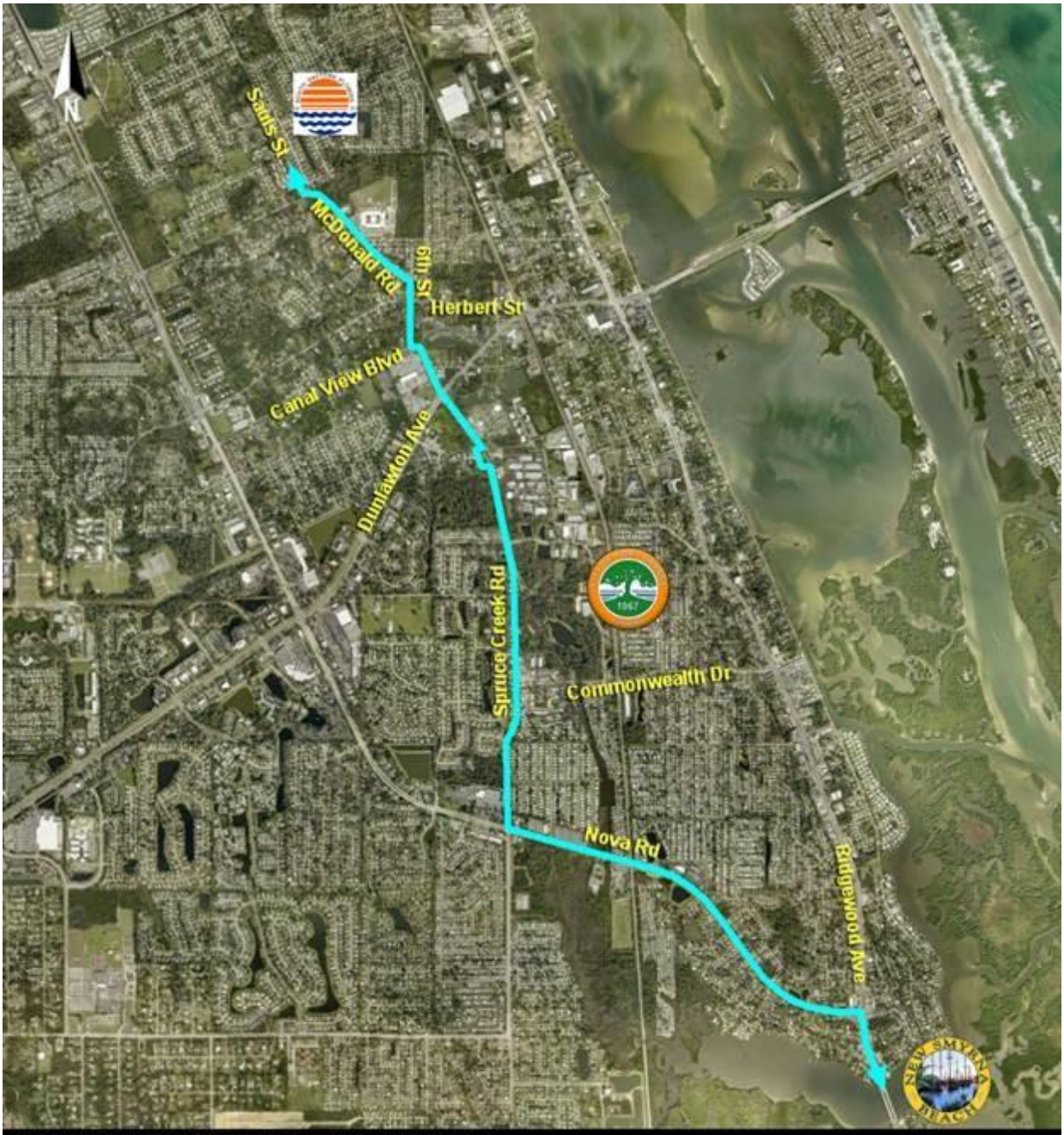
COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx


Proposed Areas for Safety Lighting Located at Crosswalks if Right-of-Way/Easement not Acquired
Approximate Location of Proposed Right-of-Way or Easement Acquisition Area
SPRUCE CREEK RD.
HALIFAX CANAL
OAK ST.
SAMMS AVE.
DUNLAWTON AVE.
POWERS AVE.
CANAL VIEW BLVD.
FPL SUBSTATION
Proposed Area for Safety Lighting Along Boardwalk
Approximate Location of City Owned Property
Boardwalk Length = ~725 Linear Feet
Proposed Area for Safety Lighting Located at Crosswalk
HERBERT ST.
SIXTH ST.

HERBERT STREET
TB-4
TB-3
TB-2
TB-1
CANAL VIEW BLVD



Map created by the City of Port Orange Community Development Department

St. Johns River-to-Sea Loop
N
CLAY
PUTNAM
ST. JOHNS
FLAGLER
VOLUSIA
LAKE
SEMINOLE
BREVARD
PALATKA ST. AUGUSTINE STATE TRAIL
US 17 TRAIL CORRIDOR
EAST COAST GREENWAY
SPRING TO SPRING TRAIL
EAST CENTRAL REGIONAL RAIL TRAIL
0 5 10 20 Miles

DocuSign Envelope ID: 5E65FEA4-83BF-4007-B09D-215588E00AAB

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

STATE-FUNDED GRANT AGREEMENT

525-010-60
PROGRAM MANAGEMENT
10/2020

FPN: 439865-3-34-01	Fund: TLWR Org Code: 55053010541	FLAIR Category: 088849 FLAIR Obj: 751000
FPN:	Fund: Org Code:	FLAIR Category: FLAIR Obj:
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County No: 79	Contract No: G1X03	Vendor No: F596-000-412-003

THIS STATE-FUNDED GRANT AGREEMENT ("Agreement") is entered into on 5/21/2021 | 11:57 AM EDT, (This date to be entered by DOT only) by and between the State of Florida Department of Transportation, ("Department"), and the City of Port Orange, ("Recipient"). The

Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Sections 334.044, 334.044(7), and (*select the applicable statutory authority for the program(s) below):*
   - ☐ Section 339.2817 Florida Statutes, County Incentive Grant Program (CIGP), (CSFA 55.008)
   - ☐ Section 339.2818 Florida Statutes, Small County Outreach Program (SCOP), (CSFA 55.009)
   - ☐ Section 339.2816 Florida Statutes, Small County Road Assistance Program (SCRAP), (CSFA 55.016)
   - ☐ Section 339.2819 Florida Statutes, Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
   - ☒ Section 339.81 Florida Statutes , Florida Shared-Use Nonmotorized (SUN) Trail Network Program , (CSFA 55.038)

   The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Recipient Resolution**, and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street, as further described in **Exhibit "A", Project Description and Responsibilities**, attached to and incorporated into this Agreement ("Project"); to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.

3. **Term of the Agreement, Commencement and Completion of the Project:** This Agreement shall commence upon full execution by both Parties and the Recipient shall complete the Project on or before October 31, 2022. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The Recipient acknowledges that no funding for the Project will be provided by the State under this Agreement for work on the Project that is not timely completed and invoiced in accordance with the terms of this Agreement, or for work performed prior to full execution of the Agreement. Notwithstanding the expiration of the required completion date provided in this Agreement and the consequent potential unavailability of any unexpended portion of State funding to be provided under this Agreement, the

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Recipient shall remain obligated to complete all aspects of the Project identified in **Exhibit "A"** in accordance with the remaining terms of this Agreement, unless otherwise agreed by the Parties, in writing.

Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase of the Project until the Department issues a written Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department.

4. **Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.

5. **Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable laws or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

   a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the Department's determination to terminate the Agreement, with instructions as to the effective date of termination or to specify the stage of work at which the Agreement is to be terminated.

   b. The Parties to this Agreement may also terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.

   c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.

   d. Upon termination of this Agreement, the Recipient shall, within thirty (30) days, refund to the Department any funds determined by the Department to have been expended in violation of this Agreement.

6. **Project Cost:**

   a. The estimated cost of the Project is $200,000.00 (Two Hundred Thousand Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B", Schedule of Financial Assistance**, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.

   b. The Department agrees to participate in the Project cost up to the maximum amount of $200,000.00 (Two Hundred Thousand Dollars and No/100) and, additionally the Department's participation in the Project shall not exceed N/A% of the total cost of the Project, and as more fully described in **Exhibit "B"**. The Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of an amendment. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.

   c. The Department's participation in eligible Project costs is subject to, but not limited to:

      i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

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ii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and

iii. Department approval of the Project scope and budget at the time appropriation authority becomes available.

7. Compensation and Payment:

a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Project Description and Responsibilities in **Exhibit "A"**, and as set forth in the Schedule of Financial Assistance in **Exhibit "B"**.

b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Project Description and Responsibilities. Any changes to the deliverables shall require an amendment executed by both parties.

c. Invoices shall be submitted no more often than monthly and no less than quarterly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursements. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.

d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. Travel expenses are not compensable under this Agreement.

f. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

Recipients receiving financial assistance from the Department should be aware of the following time frames. Inspection and approval of deliverables and costs incurred shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved.

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If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Recipient who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

g. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.

h. **Progress Reports.** Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

i. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

j. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

k. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's financial assistance for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.

l. In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

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m. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation, shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

n. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred prior to issuance of a Notice to Proceed, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved Schedule of Financial Assistance in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

8. General Requirements:

The Recipient shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

a. The Recipient must obtain written approval from the Department prior to performing itself (through the efforts of its own employees) any aspect of the Project that will be funded under this Agreement.

☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

b. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.

c. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

d. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project by the Recipient's contractors and consultants. No funds will be provided for payment of claims or additional work on the Project under this Agreement without the prior written approval of the claim or request for additional work by Department.

9. Contracts of the Recipient

a. The Department has the right to review and approve any and all third party contracts with respect to the Project before the Recipient executes any contract or obligates itself in any manner requiring the disbursement of Department funds under this Agreement, including consultant or construction contracts or amendments thereto. If the Department exercises this right and the Recipient fails to obtain such approval, the Department may deny payment to the Recipient. The Department may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.

b. It is understood and agreed by the parties hereto that participation by the Department in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the Recipient complying in full with the provisions of Chapter 287.057 Florida Statutes The Recipient shall certify to the Department that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057 Florida Statutes It shall be the sole responsibility of the Recipient to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders,

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construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B"**, or that are not consistent with the Project description and scope of services contained in **Exhibit "A"** must be approved by the Department prior to Recipient execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department.

c. Participation by the Department in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

10. Design and Construction Standards and Required Approvals: In the event the Project includes construction the following provisions are incorporated into this Agreement:

a. The Recipient is responsible for obtaining all permits necessary for the Project.

b. In the event the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:

i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement. The Recipient's use of this option is subject to approval by the Department.

c. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. For projects that are not located on the Department's right-of-way, the Recipient is not required to hire a contractor prequalified by the Department unless the Department notifies the Recipient prior to letting that they are required to hire a contractor prequalified by the Department.

d. The Recipient is responsible for provision of Construction Engineering Inspection (CEI) services. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall have the right to approve the CEI firm. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Subject to the approval of the Department, the Recipient may choose to satisfy the requirements set forth in this paragraph by either hiring a Department prequalified consultant firm or utilizing Recipient staff that meet the requirements of this paragraph, or a combination thereof.

e. The Recipient is responsible for the preparation of all design plans for the Project. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. All design work on the Project shall be performed in accordance with the requirements of all applicable laws and governmental rules and regulations and federal and state accepted design standards for the type of construction contemplated by the Project, including, as applicable, but not

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limited to, the applicable provisions of the Manual of Uniform Traffic Control Devices (MUTCD) and the AASHTO Policy on Geometric Design of Streets and Highways. If any portion of the Project will be located on, under, or over any Department-owned right-of-way, the Department shall review the Project's design plans for compliance with all applicable standards of the Department, as provided in **Exhibit "O", Terms and Conditions of Construction**, which is attached to and incorporated into this Agreement.

f. The Recipient shall adhere to the Department's Conflict of Interest Procedure (FDOT Topic No. 375-030-006).

g. The Recipient will provide copies of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project. The Department will specify the number of copies required and the required format.

h. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with applicable law.

i. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.

j. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

k. The Recipient shall provide the Department with as-built plans of any portions of the Project funded through the Agreement prior to final inspection.

11. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

☒ shall

☐ shall not

maintain the improvements located on the Department right-of-way made for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the State funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

12. State Single Audit: The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and

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financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:

i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "J", State Financial Assistance (Florida Single Audit Act)** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

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Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

13. Restrictions, Prohibitions, Controls and Labor Provisions:

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

b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public

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entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.

d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. The Recipient shall:

i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and

ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

g. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

14. Indemnification and Insurance:

a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.

c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights

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granted to or exercised by [ENTITY] hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

d. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

e. If the Recipient elects to self-perform the Project, and such self-performance is approved by the Department in accordance with the terms of this Agreement, the Recipient may self-insure and proof of self-insurance shall be provided to the Department. If the Recipient elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Recipient shall, or cause its contractor to cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

f. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Recipient shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than $2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than $6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein

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shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

g. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

15. Miscellaneous:

a. In no event shall any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

c. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

d. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

e. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.

f. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

g. The Department reserves the right to unilaterally terminate this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.

h. The Recipient agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes

i. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

j. This Agreement does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

16. Exhibits.

a. **Exhibits A, B, D, F,** and **J** are attached to and incorporated into this Agreement.

b. ☐ The Project will involve construction, therefore, **Exhibit "C"**, Engineer's Certification of Compliance is attached and incorporated into this Agreement.

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c. ☐ Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.

d. ☐ This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.

e. ☒ A portion or all of the Project will utilize the Department's right-of-way and, therefore, **Exhibit O**, **Terms and Conditions of Construction in Department Right-of-Way**, is attached and incorporated into this Agreement.

f. ☐ The following Exhibit(s), in addition to those listed in 16.a. through 16.f., are attached and incorporated into this Agreement: _____

g. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities
Exhibit B: Schedule of Financial Assistance
*Exhibit C: Engineer's Certification of Compliance
Exhibit D: Recipient Resolution
Exhibit F: Contract Payment Requirements
*Exhibit H: Alternative Advance Payment Financial Provisions
Exhibit J: State Financial Assistance (Florida Single Audit Act)
*Exhibit K: Advance Project Reimbursement
*Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

*Additional Exhibit(s): _____
*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

RECIPIENT CITY OF PORT ORANGE

By: _____

Name: DONALD O. BURNETTE

Title: MAYOR

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION

DocuSigned by:

By: Loreen Bobo
1EBD7ED7E5924D5...

Name: Loreen C. Bobo, P.E.

Title: Director of Transportation Development

Legal Review:

DocuSigned by:

By: Daniel McDermott
585E81E26BBA45C...

Name: Daniel McDermott

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EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 439865-3-34-01

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

the City of Port Orange (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: See Project Description Below

PROJECT DESCRIPTION:
This SunTrail project 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. In the event acquisition of right-of-way or easement is unsuccessful, then the trail will extend northerly along the west side of Spruce Creek Road towards Oak Street and cross over Spruce Creek Road and continue along the east side of Halifax Canal from Oak Street to Dunlawton Avenue utilizing the existing 8' wide trail. The proposed trail will then continue along Spruce Creek Road from Dunlawton Avenue to Canal View Boulevard. The proposed trail continues through a vacant parcel to Herbert Street, connecting to the existing trail segment. Total project length is approximately 0.652 miles. Within the vacant parcel, owned by the City of Port Orange, an eight-foot wide, 300-foot long boardwalk is proposed in the wetland area. The entire length of the proposed sidewalk is located within the special flood hazard area and floodplain impacts and compensatory storage calculations and design will be required.

Project scope includes design of trail and lighting improvements along the trail route to enhance safety, particularly at points of conflict such as at driveways and roadway crossings. Design services shall include topographic/boundary survey, geotechnical investigations, environmental assessment(s), and engineering design. Utility coordination will be required. Coordination for permitting needs are anticipated. Right of way acquisition or any easement/easement modifications may be required and will be determined during the design phase. All pedestrian accommodations shall adhere to current ADA standards. Design of this trail shall follow the PD&E study finalized in April 2020. In addition, the SunTrail width will need to follow the latest FDOT Design Manual criteria, per Section 224.4, Widths. If a variance for the SunTrail width is needed, it will be coordinated with the Department.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

If and when real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the right-of-way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support

for the preparation of right of way related maps and is a depiction of the right of way survey field work performed for a specific transportation project.

Invoices, progress reports and other supporting documentation shall be submited no more than monthly and no less than quartely to D5-LocalPrograms@dot.state.fl.us

Pursuant to the enabling legislation, Section 339.81, F.S., components of the Sun Trail Network will not include:

Sidewalks; nature trails; loop trails wholly within a single park or natural area;
On-road facilities, such as bicycle lanes of routes other than on-road facilities that are no longer than one-half mile connecting two or more non-motorized trails, if the provision of non-road facilities is infeasible and if such on-road facilities are signed and marked for non-motorized use; an exception is made for on-road components of the Florida Keys Overseas Heritage Trail.

Allocation of Sun Trail funds will not include the development of amenities associate with trail projects. These amenities include but are not limited to:

- Benches, Trail Furniture or Seating Areas;
- Bicycle Racks, Air Stations or Lockers;
- Buildings, Restrooms, Wayside Structures or Overlooks, Shelters or Picnic Pavilions;
- Kiosks (Regulatory and Safety Signage Permitted);
- Landscaping (Trail Stabilization Permitted);
- Litter or Recycle Receptacles or Doggie Bag Dispensers;
- Parking Areas or Trailheads;
- Playgrounds, Fitness Equipment or Structures;
- Promotional or Educational Materials;
- Sculptures, Fountains, or Art; and
- Water Fountains, Spigots or Showers.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) 30% Plans Submittal to be completed by October 18, 2021.
b) 60% Plans Submittal to be completed by February 21, 2022.
c) 90% Plans Submittal to be completed by April 25, 2022.
d) Final Plans Submittal to be competed by June 21, 2022.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project.

The project funding may be reduced to an amount equal to the award amount and/or the actual contract costs.

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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Port Orange 1000 City Center Circle Port Orange, Florida 32129	439865-3-34-01

I. PHASE OF WORK by Fiscal Year:	FY 2020/2021	FY	FY	TOTAL
Design- Phase 34	$ 200,000.00	$ 0.00	$ 0.00	$200,000.00
Maximum Department Participation - (TLWR)	N/A% or $ 200,000.00	N/A% or $ 0.00	N/A% or $ 0.00	N/A% or $ 200,000.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Local Participation (Any applicable waiver noted in Exhibit "A")	N/A% or $ 0.00	N/A% or $ 0.00	N/A% or $ 0.00	N/A% or $0.00
In-Kind Contribution	$	$	$	$ 0.00
Cash	$	$	$	$ 0.00
Combination In-Kind/Cash	$	$	$	$ 0.00
Right of Way- Phase 44	$ 0.00	$ 0.00	$ 0.00	$0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Local Participation (Any applicable waiver noted in Exhibit "A")	% or $ 0.00	% or $ 0.00	% or $ 0.00	% or $0.00
In-Kind Contribution	$	$	$	$ 0.00
Cash	$	$	$	$ 0.00
Combination In-Kind/Cash	$	$	$	$ 0.00
Construction/CEI - Phase 54	$ 0.00	$ 0.00	$ 0.00	$0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Local Participation (Any applicable waiver noted in Exhibit "A")	% or $ 0.00	% or $ 0.00	% or $ 0.00	% or $0.00
In-Kind Contribution	$	$	$	$ 0.00
Cash	$	$	$	$ 0.00
Combination In-Kind/Cash	$	$	$	$ 0.00

Insert Phase and Number (if applicable)	$ 0.00	$ 0.00	$ 0.00	$0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Maximum Department Participation - (Insert Program Name)	% or $	% or $	% or $	% or $ 0.00
Local Participation (Any applicable waiver noted in Exhibit "A")	% or $ 0.00	% or $ 0.00	% or $ 0.00	% or $0.00
In-Kind Contribution	$	$	$	$ 0.00
Cash	$	$	$	$ 0.00
Combination In-Kind/Cash	$	$	$	$ 0.00
II. TOTAL PROJECT COST:	$200,000.00	$0.00	$0.00	$200,000.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Amir Asgarinik
District Grant Manager Name

DocuSigned by:
Amir Asgarinik 5/20/2021 | 11:46 AM EDT
Signature 85BEE949E... Date

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EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

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RESOLUTION NO. 21-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ACCEPTING A GRANT FOR FPN 439865-3-34-01, FOR DESIGN OF THE ST. JOHNS RIVER TO SEA LOOP TRAIL (SPRUCE CREEK ROAD) FROM SOUTH OF SELIN CIRCLE TO HERBERT STREET; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE STATE-FUNDED GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to facilitate the St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street and,

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby accepts said grant and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01, a copy of which is attached hereto as **Exhibit "1"**.

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Section 2. This resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the 18 day of May, 2021.

Reviewed and Approved:

Shannon K. Balmer, Assistant City Attorney

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EXHIBIT F

CONTRACT PAYMENT REQUIREMENTS
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

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Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf.

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EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

State Project Title and CSFA Number:

☐ County Incentive Grant Program (CIGP), (CSFA 55.008)
☐ Small County Outreach Program (SCOP), (CSFA 55.009)
☐ Small County Road Assistance Program (SCRAP), (CSFA 55.016)
☐ Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
☒ Florida Shared-Use Nonmotorized (SUN) Trail Network Program, (CSFA 55.038)

***Award Amount:** $200,000.00

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

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EXHIBIT O

TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY

Section 10.e. of the Agreement is amended as follows for Construction on the Department's Right of Way.

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is D5-ConstructionSpecialProjects@dot.state.fl.us.

c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

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g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.

i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.

j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.

k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient 's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

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p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

r. Restricted hours of operation will be from TO BE DETERMINED PRIOR TO CONSTRUCTION, (DAYS OF THE WEEK FOR RESTRICTED OPERATION TO BE DETERMINED), unless otherwise approved by the Operations Engineer, or designee.

s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

D5-PIO@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

To: Kevin.Powell@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G1X03

5/20/2021

CONTRACT INFORMATION

Contract:	G1X03
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	PORT ORANGE, CITY OF
Vendor ID:	F596000412003
Beginning Date of This Agreement:	05/19/2021
Ending Date of This Agreement:	10/31/2022
Contract Total/Budgetary Ceiling:	ct = $200,000.00
Description:	St. Johns River to Sea Loop Trail from South of Selin Circleto Herbert Street

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 5/20/2021

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55053010541
Expansion Option:	N3
Object Code:	751000
Amount:	$200,000.00
Financial Project:	43986533401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2021
Budget Entity:	55100100
Category/Category Year:	088849/21
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $200,000.00

DocuSign

Certificate Of Completion

Envelope Id: 5E65FEA483BF4007B09D215588E00AAB
Status: Completed
Subject: Please DocuSign: 439865-3-34-01 (G1X03) SJR2C S of Selin Cir to Herbert St
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):
Local Programs
Source Envelope:

Document Pages: 28
Certificate Pages: 2
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Signatures: 3
Initials: 0

Envelope Originator:
Kevin Powell
605 Suwannee Street
MS 20
Tallahassee, FL 32399-0450
Kevin.Powell@dot.state.fl.us
IP Address: 156.75.252.6

Record Tracking

Status: Original
5/20/2021 10:26:42 AM

Holder: Kevin Powell
Kevin.Powell@dot.state.fl.us

Location: DocuSign

Signer Events	Signature	Timestamp
Amir Asgarinik Amir.Asgarinik@dot.state.fl.us Scope Development Manager Florida Department of Transportation Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Amir Asgarinik 45CA2F85BEE949E... Signature Adoption: Pre-selected Style Using IP Address: 156.75.180.190	Sent: 5/20/2021 10:39:27 AM Viewed: 5/20/2021 11:45:50 AM Signed: 5/20/2021 11:46:00 AM
Daniel McDermott Daniel.McDermott@dot.state.fl.us Senior Attorney FL DOT Signing Group: D5 General Law Legal Group Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Daniel McDermott 585E81E26BBA45C... Signature Adoption: Pre-selected Style Using IP Address: 156.75.252.6	Sent: 5/20/2021 11:46:02 AM Viewed: 5/20/2021 3:33:55 PM Signed: 5/20/2021 3:49:14 PM
Loreen Bobo Loreen.Bobo@dot.state.fl.us District 5 Director of Transportation Development Florida Department of Transportation Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Loreen Bobo 1EBD7ED7E5924D5... Signature Adoption: Pre-selected Style Using IP Address: 156.75.252.6	Sent: 5/20/2021 3:49:17 PM Viewed: 5/21/2021 11:57:06 AM Signed: 5/21/2021 11:57:13 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

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: 5/21/2021 11:57:16 AM Viewed: 5/21/2021 1:11:05 PM
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: 5/21/2021 11:57:16 AM
Lisa Buscher lisa.buscher@dot.state.fl.us Allison Godwin allison.godwin@dot.state.fl.us Teresa Hutson Teresa.Hutson@dot.state.fl.us Precious L. Lewis Precious.Lewis@dot.state.fl.us Kevin Powell Kevin.Powell@dot.state.fl.us Local Program Coordinator Florida Department of Transportation Signing Group: D5 Local Government Agreements Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 5/21/2021 11:57:15 AM Resent: 5/21/2021 11:57:22 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/20/2021 10:39:27 AM
Certified Delivered	Security Checked	5/21/2021 11:57:06 AM
Signing Complete	Security Checked	5/21/2021 11:57:13 AM
Completed	Security Checked	5/21/2021 11:57:16 AM

Payment Events	Status	Timestamps

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STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

SUPPLEMENTAL NO.
1

CONTRACT NO.
G1X03

FPN
439865-3-34-01

Recipient: City of Port Orange

This Supplemental Agreement ("Supplemental"), dated 10/24/2022 | 11:20 AM EDT arises from the desire to supplement the State-Funded Grant Agreement ("Agreement") entered into and executed on 5/21/2021 as identified above. All provisions in the Agreement and supplements, if any, remain in effect except as expressly modified by this Supplemental.

The parties agree that the Agreement is to be amended and supplemented as follows:

1. The Department approves a Time Extension for the subject State-Funded Grant Agreement (SFGA) to January 31, 2024 to allow for completion of design for this Project.

2. Paragraphs 6.a and 6.b are revised as follows:

a. The estimated cost of the Project is $233,075.00 (Two Hundred Thirty-Three Thousand Seventy-Five Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in Exhibit "B", Schedule of Financial Assistance, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.

b. The Department agrees to participate in the Project cost up to the maximum amount of $233,075.00 (Two Hundred Thirty-Three Thousand Seventy-Five Dollars and No/100) and, additionally the Department's participation in the Project shall not exceed NA% of the total cost of the Project, and as more fully described in Exhibit "B". The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.

3. Exhibit "A", Project Description and Responsibilities is amended and incorporated into this Supplemental Agreement.

4. Exhibit "B", Schedule of Financial Assistance is amended and incorporated into this Supplemental Agreement.

5. Exhibit "D", Recipient Resolution authorizing entry into this Supplemental Agreement is attached and incorporated into this Supplemental Agreement.

6. Exhibit "J", State Financial Assistance (Florida Single Audit Act) is attached and incorporated into this Supplemental Agreement.

Reason for this Supplemental and supporting engineering and/or cost analysis:

1. The additional lighting scope of work will extend the completion of the design for this project.

2. Additional $33,075.00 TLWR funding has been added to accommodate the lighting scope for safety purposes. This will include completing Lighting Design Analysis Report (LDAR) and updating the plans to incorportate the lighting at State Road 421 (Dunlawton Avenue) and Herbert Street, uncontrolled crosswalk across Herbert Street and at the two Spruce Creek Road crossover.

Revisions to the funding amount are reflected in the Adjusted Schedule of Financial Assistance, attached hereto and incorporated herein, as Exhibit "B" and in Exhibit "J", State Financial Assistance (Florida Single Audit Act).

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STATE-FUNDED GRANT SUPPLEMENTAL AGREEMENT

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

RECIPIENT:
CITY OF PORT ORANGE

By: _____
Name: DONALD O. BURNETTE
Title: MAYOR

ATTEST: _____
FOR ROBIN L. FENWICK, MMC, CITY CLERK
Tracee Cody

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: C. Jack Adkins
1752524EC337485...
Name: C. Jack Adkins
Title: Director of Transportation Development

Legal Review:
DocuSigned by:
Daniel McDermott
585E81E26BBA45C...

DocuSign Envelope ID: 4832C8A4-0C1E-4D69-A916-6CD2B13E734C

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 439865-3-34-01

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

the City of Port Orange (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS:

PROJECT DESCRIPTION:

This SunTrail project is located within the City of Port Orange (Recipient) 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. In the event acquisition of Right-of-Way or easement is unsuccessful, then the trail will extend northerly along the west side of Spruce Creek Road towards Oak Street and cross over Spruce Creek Road and continue along the east side of Halifax Canal from Oak Street to Dunlawton Avenue utilizing the existing 8-foot wide trail. The proposed trail will then continue along Spruce Creek Road from Dunlawton Avenue to Canal View Boulevard. The proposed trail continues through a vacant parcel to Herbert Street, connecting to the existing trail segment. Total project length is approximately 0.652 miles. Within the vacant parcel, owned by the City of Port Orange (Recipient), an 8-foot wide, 715-foot long boardwalk is proposed in the wetland area. The entire length of the proposed sidewalk is located within the special flood hazard area and floodplain impacts and compensatory storage calculations and design will be required. Additional scope includes, design of lighting for safety purposes: (1) on the portion of the proposed trail as a boardwalk through the heavily wooded area located between State Road 421 (Dunlawton Avenue) and Herbert Street, (2) at the uncontrolled crosswalk across Herbert Street, and (3) at the two Spruce Creek Road crossovers (if the additional Right-of-Way or easement is not able to be obtained).

Project scope includes design of trail and lighting improvements along the trail route to enhance safety, particularly at points of conflict such as at driveways and roadway crossings. Design services shall include topographic/boundary survey, geotechnical investigations, environmental assessment(s), and engineering design. Utility coordination will be required. Coordination for permitting needs are anticipated. Right-of-Way acquisition or any easement/easement modifications may be required and will be determined during the design phase. All pedestrian accommodations shall adhere to current ADA standards. Design of this trail shall follow the PD&E study finalized in April 2020. In addition, the SunTrail width will need to follow the latest FDOT Design Manual criteria, per Section 224.4, Widths. If a variance for the SunTrail width is needed, it will be coordinated with the Department.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

If and when real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the Right-of-Way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of Right-of-Way related maps and is a depiction of the right-of-way survey field work performed for a specific transportation project.

Invoices, progress reports and other supporting documentation shall be submited no more than monthly and no less than quarterly to D5-Suntrailprogram@dot.state.fl.us

Pursuant to the legislation, Section 339.81, F.S., components funded through the SUN Trail program will not include:

• Sidewalks, nature trails, or loop trails wholly within a single park or natural area; or
• On-road facilities (such as bicycle lanes of routes other than on-road facilities that are no longer than one-half mile connecting two or more nonmotorized trails) if the provision of non-road facilities is infeasible and if such on-road facilities are signed and marked for nonmotorized use; an exception is made for on-road components of the Florida Keys Overseas Heritage Trail. SUN Trail funds are for the transportation element of the standard trail. Ineligible costs include, but are not limited to, the following:

• Benches, trail furniture, seating areas, or tables;
• Bicycle racks or lockers, bicycle air or repair stations;
• Buildings or enclosed structures, restrooms, bathhouses, comfort stations, wayside structures, shade structures, concession stands, overlooks, fishing platforms, boat ramps or launches, transit or ride share facilities, shelters, gazebos, or picnic pavilions;
• Kiosks, interpretive panels, or placemaking signs (safety controls are an allowable cost);
• Landscaping (trail stabilization is an allowable cost);
• Litter or recycle receptacles, or doggie bag dispensers;
• Parking areas, trailheads, or camping areas;
• Playgrounds or playing fields, fitness equipment, or fitness structures;
• Promotional, marketing, or educational materials;
• Sculptures, monuments, or art; and
• Water fountains, splash zones, spigots, showers, water features, or irrigation equipment.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) 30% Plans Submittal to be completed by October 18, 2021.
b) 60% Plans Submittal to be completed by August 21, 2022.
c) 90% Plans Submittal to be completed by January 31, 2023.
d) Final Plans Submittal to be competed by September 30, 2023.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project.

The project funding may be reduced to an amount equal to the award amount and/or the actual contract costs.

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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:
City of Port Orange
1000 City Center Circle
Port Orange, Florida, 32129

FINANCIAL PROJECT NUMBER:
439865-3-34-01

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY: 2020/2021	Maximum Department Participation (SUNTrail)	$200,000.00	$0.00	$200,000.00	☐ In-Kind ☐ Cash
FY: 2022/2023	Maximum Department Participation (SUNTrail)	$33,075.00	$0.00	$33,075.00	☐ In-Kind ☐ Cash
	Total Design Cost	$233,075.00 %	$ 0.00 %	$233,075.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase :) FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
	TOTAL COST OF THE PROJECT	$233,075.00	$ 0.00	$233,075.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Paul Schoelzel
District Grant Manager Name

DocuSigned by:
Paul Schoelzel
C0D30736F6C6445...
Signature

10/24/2022 | 9:58 AM EDT
Date

DocuSign Envelope ID: 4832C8A4-0C1E-4D69-A916-6CD2B13E734C

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

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RESOLUTION NO.22-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ACCEPTING THE SUPPLEMENTAL GRANT FOR FPN 439865-3-34-01, FOR FUNDING THE DESIGN OF LIGHTING ELEMENTS FOR A PORTION OF THE SEGMENT OF THE ST. JOHNS RIVER TO SEA LOOP TRAIL (SPRUCE CREEK ROAD) FROM SOUTH OF SELIN CIRCLE TO HERBERT STREET; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE STATE-FUNDED SUPPLEMENTAL GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange has previously executed with the State of Florida Department of Transportation the State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01; and

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to further facilitate the St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street and,

WHEREAS, the State of Florida Department of Transportation has agreed to fund the design of lighting elements for a portion of the segment of the St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street; and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange execute and deliver to the State of Florida

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Department of Transportation the State Funded Supplemental Agreement for the aforementioned project, FPN 439865-3-34-01 in order to provide sufficient funding to cover all design expenses associated with lighting along the boardwalk segment of the trail.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby accepts said grant and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Supplemental State-Funded Grant Agreement for the aforementioned project, FPN 439865-3-34-01, a copy of which is attached hereto as Exhibit "1".

Section 2. This resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST

For Robin L. Fenwick, MMC, City Clerk
Tracee Cody

Adopted on the 18 day of October, 2022

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

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EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

State Project Title and CSFA Number:

- ☐ County Incentive Grant Program (CIGP), (CSFA 55.008)
- ☐ Small County Outreach Program (SCOP), (CSFA 55.009)
- ☐ Small County Road Assistance Program (SCRAP), (CSFA 55.016)
- ☐ Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
- ☒ Florida Shared-Use Nonmotorized (SUN) Trail Network Program, CSFA 55.038

***Award Amount:** $233,075.00

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

To: Lorien.Wise@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G1X03

10/21/2022

CONTRACT INFORMATION

Contract:	G1X03
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	PORT ORANGE, CITY OF
Vendor ID:	F596000412003
Beginning Date of This Agreement:	05/21/2021
Ending Date of This Agreement:	10/31/2022
Contract Total/Budgetary Ceiling:	ct = $233,075.00
Description:	St. Johns River to Sea Loop Trail from South of Selin Circleto Herbert Street

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 10/21/2022

Action:	Supplemental
Reviewed or Approved:	APPROVED
Organization Code:	55053010541
Expansion Option:	N3
Object Code:	751000
Amount:	$33,075.00
Financial Project:	43986533401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2023
Budget Entity:	55100100
Category/Category Year:	088849/23
Amendment ID:	S001
Sequence:	00
User Assigned ID:	1
Enc Line (6s)/Status:	0002/04

Total Amount: $33,075.00

DocuSign

Certificate Of Completion

Envelope Id: 4832C8A40C1E4D69A9166CD2B13E734C
Status: Completed
Subject: Please DocuSign: 439865-3-34-01 (G1X03) / SFGA / SJR2C LOOP TRAIL /Port Orange
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: 10
Certificate Pages: 2
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Signatures: 3
Initials: 0

Envelope Originator:
Aishwarya Sandineni
605 Suwannee Street
MS 20
Tallahassee, FL 32399-0450
Aishwarya.Sandineni@dot.state.fl.us
IP Address: 156.75.196.176

Record Tracking

Status: Original
10/24/2022 8:04:26 AM

Holder: Aishwarya Sandineni
Aishwarya.Sandineni@dot.state.fl.us

Location: DocuSign

Signer Events	Signature	Timestamp
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	DocuSigned by: Paul Schoelzel C0D30736F6C6445... Signature Adoption: Pre-selected Style Using IP Address: 156.75.180.190	Sent: 10/24/2022 9:25:18 AM Viewed: 10/24/2022 9:54:55 AM Signed: 10/24/2022 9:58:45 AM
Daniel McDermott Daniel.McDermott@dot.state.fl.us Senior Attorney FL DOT Signing Group: D5 General Law Legal Group Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Daniel McDermott 585E81E26BBA45C... Signature Adoption: Pre-selected Style Using IP Address: 156.75.252.6	Sent: 10/24/2022 9:58:47 AM Viewed: 10/24/2022 10:35:34 AM Signed: 10/24/2022 10:36:13 AM
C. Jack Adkins jack.adkins@dot.state.fl.us Director of Transportation Development FDOT Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: C. Jack Adkins 1752524FC337485... Signature Adoption: Pre-selected Style Using IP Address: 156.75.252.6	Sent: 10/24/2022 10:36:19 AM Viewed: 10/24/2022 11:20:25 AM Signed: 10/24/2022 11:20:35 AM

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Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

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: 10/24/2022 10:36:16 AM Viewed: 10/24/2022 10:38:35 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: 10/24/2022 10:36:17 AM Viewed: 10/24/2022 11:36:53 AM
Aishwarya Sandineni aishwarya.sandineni@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: 10/24/2022 11:20:37 AM Resent: 10/24/2022 11:20:40 AM

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Notary Events	Signature	Timestamp

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Signing Complete	Security Checked	10/24/2022 11:20:35 AM
Completed	Security Checked	10/24/2022 11:20:37 AM

Payment Events	Status	Timestamps

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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: _____ Date: 1/19/24
Name: Wayne Clark
Title: City Manager - Port Orange

APPROVED:

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

By: DocuSigned by: C. Jack Adkins 1752524EC337485... Date: 01/22/2024 | 10:13 AM EST

Name: C. Jack Adkins

Title: Director of Transportation Development

Legal Review: DocuSigned by: Daniel McDermott 585E81E26BBA45C...

DocuSign

Certificate Of Completion

Envelope Id: A87C966B60A64913A195702AFB1BC76A
Status: Completed
Subject: Complete with DocuSign: 439865-3-34-01 FDOT Grant Agmt Time Extension #2 Signed.pdf
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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):
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HR Action?: No
Source Envelope:

Document Pages: 1
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EnvelopeId Stamping: Enabled
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MS 20
Tallahassee, FL 32399-0450
Aishwarya.Sandineni@dot.state.fl.us
IP Address: 156.75.193.3

Record Tracking

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1/22/2024 9:41:29 AM

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Aishwarya.Sandineni@dot.state.fl.us

Location: DocuSign

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

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Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

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
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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 6/4/2024

SUBJECT: (C11) Resolution No. 24-14 - Approval of Florida Department of Transportation (FDOT) Supplemental Agreement for Additional Design Services 449770-2 Dunlawton Turn Lanes Bundle Project (#PNC200)

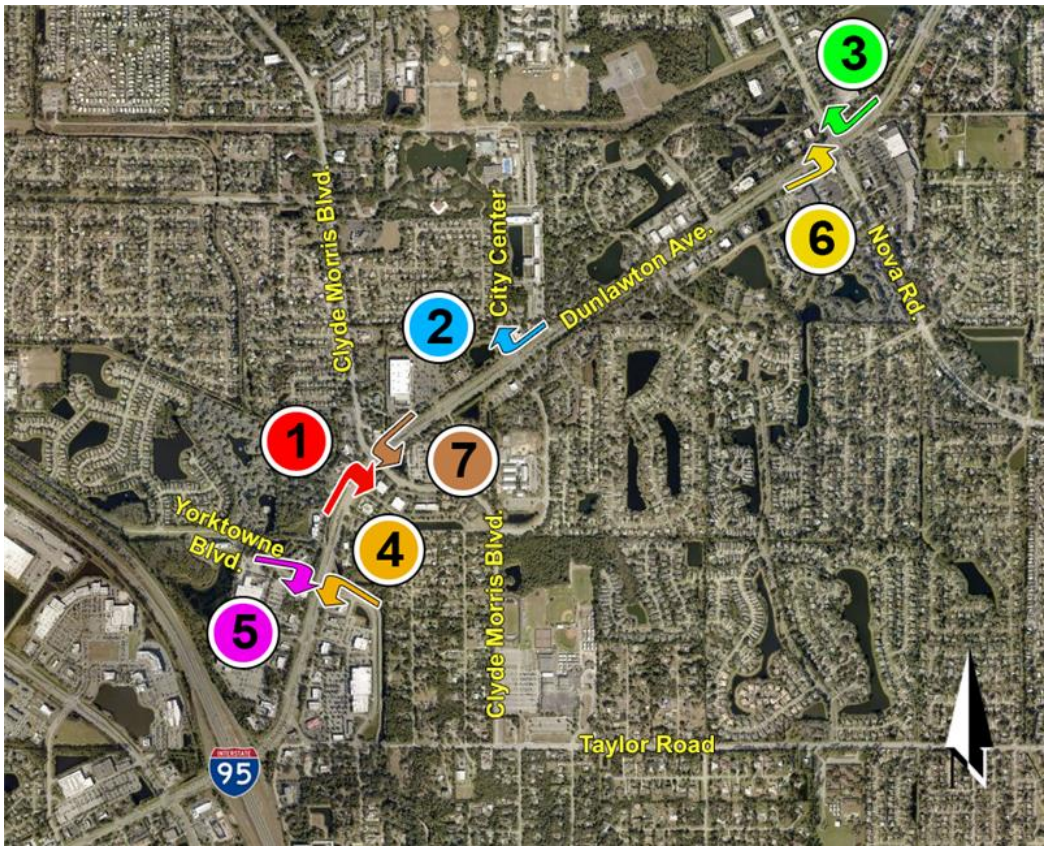
DEPARTMENT: Community Development

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

RECOMMENDED MOTION: Move to approve Resolution No. 24-14.

SUMMARY: In 2023, the City entered into a Locally Funded Agreement (LFA) with the Florida Department of Transportation (FDOT) for design services associated with the Dunlawton Avenue Turn Lanes Bundle (FDOT #449770-2-32-01; Port Orange CIP #PNC200). The design consultant, Dewberry Consultants, anticipates that the design and permitting of the turn lanes, along with pedestrian improvements at the intersections, will be completed by the end of 2024. Currently, this project is in the FDOT Adopted Five-Year Work Program, with right-of-way acquisition programmed for 2025 and construction programmed for late 2026/2027. The general location of the seven (7) turn lane projects are described and shown below.

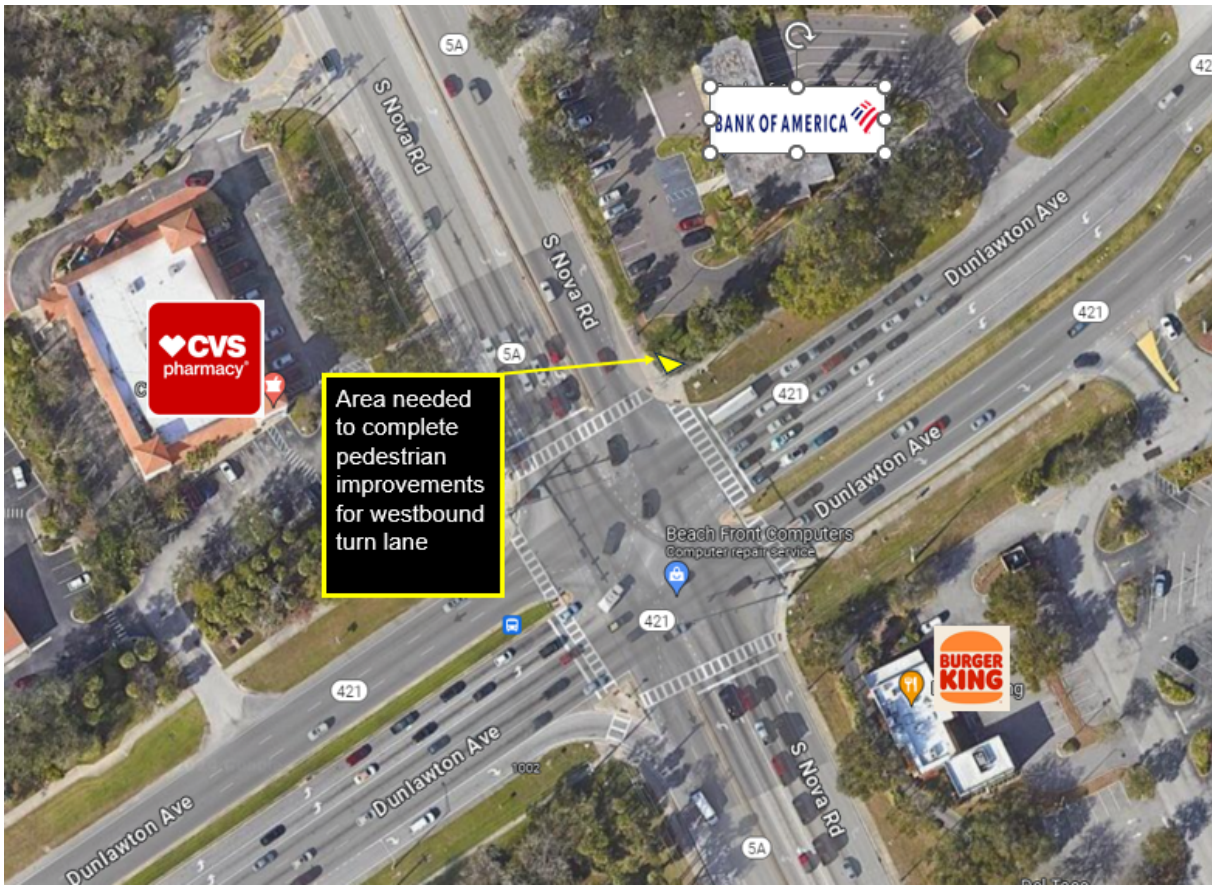
1. Eastbound right turn lane on Dunlawton Avenue at the intersection with Clyde Morris Boulevard.
2. Westbound right turn lane on Dunlawton Avenue at the intersection with City Center Parkway.
3. Westbound right turn lane on Dunlawton Avenue to the intersection with Nova Road.
4. Eastbound right-turn lane on Yorktowne Boulevard at the intersection with Dunlawton Avenue.
5. Extension of the existing westbound left-turn lane on Yorktowne Boulevard at the intersection with Dunlawton Avenue.
6. Design of an eastbound left-turn lane extension on Dunlawton Avenue at the intersection with Nova Road.
7. Design of a westbound left-turn lane extension on Dunlawton Avenue at the intersection with Clyde Morris Boulevard.



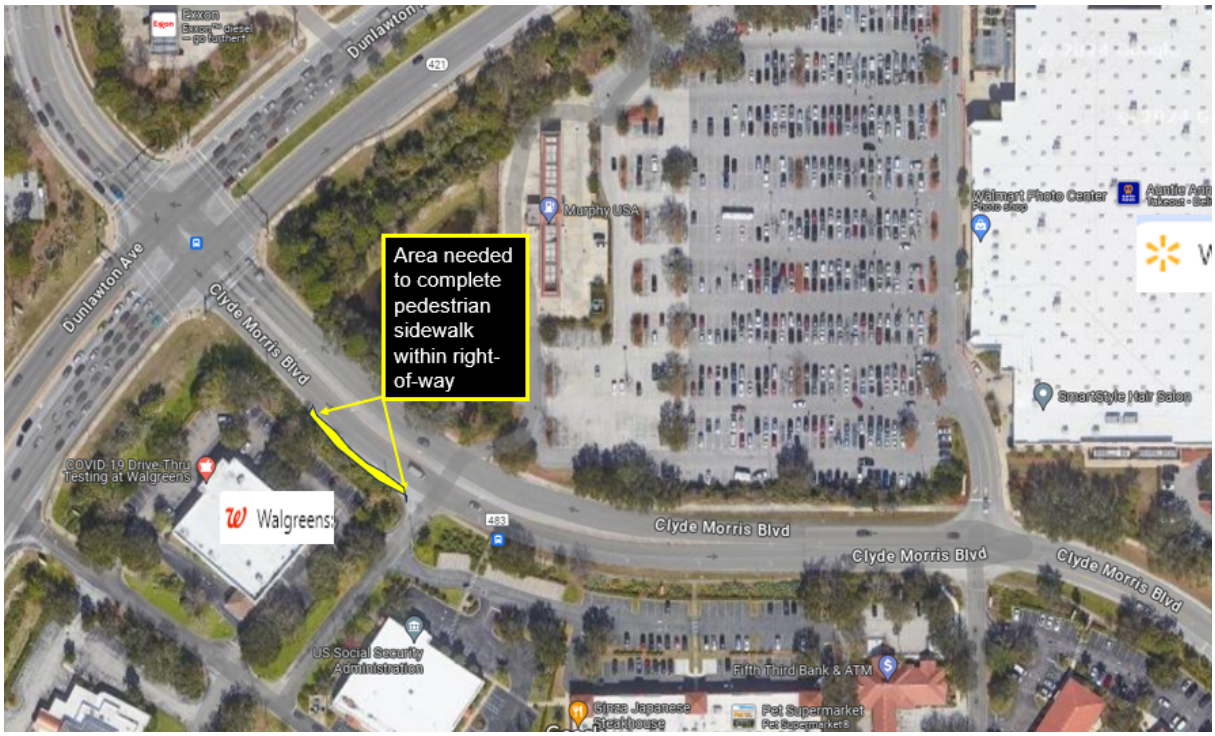
These turn lane improvements and pedestrian improvements at the intersections are anticipated to add roadway capacity at certain intersections along the Dunlawton Avenue corridor, reduce travel delays, reduce damage and maintenance costs of the medians, and improve pedestrian access and compliance with ADA requirements at the intersections.

In the scope of services for the design of these turn lane improvements, the design consultant was tasked to identify areas where right-of-way or an easement would be needed to construct the turn lanes and the associated pedestrian improvements. During the design phase, the consultant identified two (2) areas:

1) A 50-square-foot triangular area at the northeast corner of Dunlawton Avenue and Nova Road: The 50-square-feet are needed to relocate the pedestrian crosswalk approaches to accommodate the right turn lane being added. Acquiring right-of-way or easement at this intersection was anticipated in the Feasibility Study for the project. Once this area is obtained, it will either be an easement granted to FDOT or part of FDOT's right-of-way for Dunlawton Avenue and



2) A 1,836 square-foot strip of property (+/- 11 feet by 175 feet) along the east side of Clyde Morris Boulevard between Dunlawton Avenue and the shared driveway for Walgreens and the Social Security Administration Office. This area is needed to construct a 6-foot wide sidewalk to complete a sidewalk gap between the existing sidewalk on Clyde Morris Boulevard and Dunlawton Avenue sidewalk. This area is not required to construct the turn lane at this intersection, but it will allow for an existing sidewalk gap to be connected and provide connectivity for pedestrians. Once this area is obtained, it will either be part of Volusia County's right-of-way for Clyde Morris Boulevard or a pedestrian easement between the City and Walgreens.



This Supplemental Agreement with FDOT is to allow the design consultant to prepare the required Title Searches and Right-of-Way Maps for the areas described above. FDOT requires this work to be completed during the Design Phase prior to starting the Right-of-Way Phase, which is programmed to begin in 2025. The City's cost of the proposed services is $24,215. The funds for this service are currently budgeted and available for this project (Project #PNC200) for this purpose.

In mid-2025, staff anticipates receiving another LAP agreement to fund the Right-of-Way Phase. During this Phase, the consultant will contact the property owners regarding the acquisition of right-of-way or easements, negotiate settlements, and complete the acquisitions. FDOT LAP funds typically cover 90% of the consultant fees. The City will need to provide a 10% match to cover the consultant fees along with the cost of acquiring the right-of-way areas that are negotiated with the property owners. At this time, there are no cost estimates for the right-of-way or easement areas. This phase is anticipated to take approximately 10–12 months to complete.

Construction funds are scheduled for this project in late 2026/early 2027. The right-of-way phase **will not impact** the timing of construction. If right-of-way or easement acquisitions are unsuccessful, the Turn Lane Bundle project can still move forward with the construction of three (3) new turn lanes and three (3) extensions to existing turn lanes in late 2026/early 2027, less the westbound Dunlawton Avenue turn lane at Nova Road (Project #1 on the Map above) and/or the sidewalk along Clyde Morris Boulevard.

PRESENTER: Margaret Tomlinson

ATTACHMENTS:

1.	Resolution No. 24-14 w exhibit	Resolution No. 24-14 w exhibit.pdf
2.	449770-2-32-01 LFA Supplemental Agreement 1 - Dunlawton Ave	449770-2-32-01 LFA SA 1 - Dunlawton Ave.pdf
3.	449770 Scope of Services for Supplemental Agmt Phase 32	449770 SA1 REV SSE - Phase 32 LAP LFA 5-1-24.pdf
4.	ROW 449770-1 ROADWAY PLANS Clyde Morris Blvd	ROW 449770-1_ROADWAY_PLANS_60% Clyde Morris Blvd.pdf
5.	ROW 449770-1 ROADWAY PLANS Nova Rd	ROW 449770-1_ROADWAY_PLANS_60% Nova Rd.pdf

Lisa Epstein	Created/Initiated - 5/8/2024
Tim Burman	Approved - 5/16/2024
John McKinney	Approved - 5/21/2024
Shannon Balmer	Approved - 5/29/2024
Wayne Clark	Approved - 5/29/2024
Tracee Cody	Final Approval - 5/29/2024

RESOLUTION NO. 24-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; APPROVING AND ACCEPTING THE FLORIDA DEPARTMENT OF TRANSPORTATION SUPPLEMENTAL GRANT AGREEMENT FOR FPN 449770-2-32-01 DUNLAWTON AVENUE TURNLANES BUNDLE PROJECT FOR FUNDING THE ADDITIONAL COSTS FOR TITLE SEARCHES AND RIGHT-OF-WAY MAPPING FOR AREAS GENERALLY DESCRIBED IN THE REVISED SCOPE OF WORK, CONTAINED IN SAID SUPPLEMENTAL GRANT AGREEMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SAME; AUTHORIZE THE CITY'S REQUISITE 10% MATCH IN THE AMOUNT OF $24,215; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida has previously executed with the State of Florida Department of Transportation the State-Funded Grant Agreement for the aforementioned project, FPN 449770-2-32-01; and

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to further facilitate the project for the design and permitting of the Dunlawton Avenue Turn Lanes Bundle; and

WHEREAS, the State of Florida Department of Transportation has agreed to fund the additional costs associated with title searches and right-of-way mapping areas generally described in the revised scope of work, attached State-Funded Supplemental Agreement ("Supplemental Agreement"); and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the Supplemental Agreement for the aforementioned project, FPN 449770-2-32-01.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the State Funded Supplemental Agreement for the project FPN 444033-1-32-01, a copy of which is attached hereto as **Exhibit "1".**

Section 2. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the 10% match in the amount of $24,215, as required in the Supplemental Agreement.

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

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

LOCALLY FUNDED AGREEMENT
SUPPLEMENTAL AMENDMENT NUMBER 1

EXECUTION DATE:_____

Agency: City of Port Orange **Vendor No: F596000412003**	**Fund: LF** **Original Contract Amount: $60,897.00** **Supplemental Amount: $24,215.00**	**Financial Project Number:** **449770-2-32-01**

The terms of the Locally Funded Agreement between the CITY OF PORT ORANGE (hereinafter referred to as the "LOCAL GOVERNMENT") and the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") for the "Dunlawton Avenue Turn Lanes (Various Locations)" project, executed on **January 27, 2023**, are hereby amended as follows:

The purpose of this Supplemental Amendment Number 1 is to update Exhibit "A", Scope of Services for additional costs for title searches and right-of-way mapping as described in revised Exhibit "A", Scope of Services.

The updated **total** LOCAL GOVERNMENT cost for this Project is **$85,112.00 (Eighty-Five Thousand One Hundred Twelve Dollars and No/100).** The DEPARTMENT received the original deposit from the LOCAL GOVERNMENT in the amount of $60,897.00 (Sixty Thousand Eight Hundred Ninety-Seven Dollars and No/100) on January 24, 2023.

The LOCAL GOVERNMENT agrees to deposit the additional amount of **$24,215.00 (Twenty-Four Thousand Two Hundred Fifteen Dollars and No/100)** within 14 days of the execution of this Supplemental Amendment.

Except as hereby modified, amended, or changed, all the terms and conditions of said original Agreement thereto will remain in full force and effect.

The following attachments are attached and hereby incorporated into the Supplemental Amendment:

Exhibit "A", Scope of Services

Exhibit "B", Resolution

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on _____, and the DEPARTMENT has executed this Agreement on _____.

CITY OF PORT ORANGE

By: _____

Name: Donald O. Burnette

Title: Mayor

Attest:

_____

Robin L. Fenwick, City Clerk

Legal Review:

_____

LOCAL GOVERNMENT Attorney

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: C. Jack Adkins

Title: Director of Transportation Development

Attest:

_____

Executive Secretary

Legal Review:

_____

DEPARTMENT Attorney

Financial Provisions Approval by
Department of Comptroller on:

October 5, 2020

EXHIBIT "A"

SCOPE OF SERVICES

The City of Port Orange (Recipient) proposes to make improvements at five separate locations along Dunlawton Avenue. The first location is Dunlawton Avenue eastbound right-turn lane at Clyde Morris Boulevard and associated pedestrian intersection improvements. This location will consist of constructing a 500-ft long right-turn lane on eastbound Dunlawton Avenue at Clyde Morris Boulevard, reconfiguring drainage ditches and inlets, reconstructing sidewalk, extending the crosswalk and pavement markings improvements. Additional improvements include removal and replacement of the existing mast arm in the southwest quadrant.

The second location is Dunlawton Avenue westbound right-turn lane at City Center Parkway/Victoria Gardens Boulevard and associated pedestrian intersection improvements. This location will consist of constructing a 450-ft long right-turn lane on westbound Dunlawton Avenue at City Center Parkway and associated drainage work. Additional improvements include removal and replacement of the existing mast arm in the northeast quadrant for the northbound approach.

The third location is Dunlawton Avenue westbound right-turn lane at Nova Road and associated intersection improvements. This location will consist of constructing a 390-ft long right-turn lane on westbound Dunlawton Avenue at Nova Road and associated drainage work. Additional improvements include reconstructing sidewalk, construction of a pedestrian refuge island, extending the crosswalk and pavement markings, modification to the adjacent bank property, and modification to the existing mast arm.

The next location is left-turn lanes at Dunlawton. This location will consist of extending left-turn lanes along Dunlawton Avenue at the intersections with Nova Road (eastbound) and Clyde Morris Boulevard (westbound) an additional 250 feet and the associated improvements to pedestrian features including sidewalk and curb ramps.

The last location is a right-turn lane from eastbound Yorktowne Boulevard at Dunlawton Avenue and the left-turn lane from westbound Yorktowne Boulevard to Dunlawton Avenue and associated intersection improvements. This location will consist of creating a right-turn lane on eastbound Yorktowne Boulevard and extending the left-turn lane on westbound Yorktown Boulevard and associated drainage work. Additional improvements include pedestrian crossing improvements and modifications to the signals.

The roadway improvements on Yorktowne Boulevard have been determined to be ineligible for Federal-aid participation since the roadway is not located on the Federal Aid System.

The City of Port Orange (Recipient) shall be responsible for the preparation and submittal of a technical memorandum providing the supporting documentation, as well as any independent reports needed, for all items on the Type 1 Categorical Exclusion (CE) Checklist. The City of Port Orange (Recipient) shall not be responsible for filling out the actual form. FDOT will prepare the checklist using the supplied information. All Principal Investigators for the archaeological, historical, and architectural sections of the Type 1 CE shall meet the minimum requirements stated in the Florida Administrative Code (Chapter 1A-46) and the Code of Federal Regulations, 36 C.F.R. 61.

All pedestrian improvements that are designed shall meet the Americans with Disabilities Act (ADA) guidelines. The design services shall include survey and utility coordination. Right of way acquisition, to include title searches, is anticipated at the intersection of Dunlawton Avenue and Nova Road, to accommodate the proposed westbound turn lane. In addition, right of way acquisition and title searches are needed to accommodate the new sidewalk and extension of sidewalk on the west side of Clyde Morris Boulevard from the intersection of Dunlawton Avenue to the Walgreens entrance.

The River to Sea TPO has established a 10% local match for this project. The LOCAL GOVERNMENT will be responsible for providing funds for the required 10% local match in the initial amount of $60,897.00. The LOCAL GOVERNMENT will be responsible for providing funds for the additional costs in the amount of **$24,215.00 (Twenty-Four Thousand Two Hundred Fifteen Dollars and No/100).**

The remainder of this page intentionally left blank.

EXHIBIT “B”

RESOLUTION

The Resolution, or other official authorization, authorizing entry into this Agreement is attached and incorporated into this Agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

LOCALLY FUNDED AGREEMENT
SUPPLEMENTAL AMENDMENT NUMBER 1

EXECUTION DATE:_____

Agency: City of Port Orange **Vendor No: F596000412003**	**Fund: LF** **Original Contract Amount: $60,897.00** **Supplemental Amount: $24,215.00**	**Financial Project Number:** **449770-2-32-01**

The terms of the Locally Funded Agreement between the CITY OF PORT ORANGE (hereinafter referred to as the "LOCAL GOVERNMENT") and the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") for the "Dunlawton Avenue Turn Lanes (Various Locations)" project, executed on **January 27, 2023**, are hereby amended as follows:

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The updated **total** LOCAL GOVERNMENT cost for this Project is **$85,112.00 (Eighty-Five Thousand One Hundred Twelve Dollars and No/100).** The DEPARTMENT received the original deposit from the LOCAL GOVERNMENT in the amount of $60,897.00 (Sixty Thousand Eight Hundred Ninety-Seven Dollars and No/100) on January 24, 2023.

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The following attachments are attached and hereby incorporated into the Supplemental Amendment:

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Exhibit "B", Resolution

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on _____, and the DEPARTMENT has executed this Agreement on _____.

CITY OF PORT ORANGE

By: _____

Name: _____

Title: _____

Attest:

_____

Legal Review:

_____
LOCAL GOVERNMENT Attorney

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: C. Jack Adkins

Title: Director of Transportation Development

Attest:

_____
Executive Secretary

Legal Review:

_____
DEPARTMENT Attorney

Financial Provisions Approval by
Department of Comptroller on:

October 5, 2020

EXHIBIT "A"

SCOPE OF SERVICES

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The last location is a right-turn lane from eastbound Yorktowne Boulevard at Dunlawton Avenue and the left-turn lane from westbound Yorktowne Boulevard to Dunlawton Avenue and associated intersection improvements. This location will consist of creating a right-turn lane on eastbound Yorktowne Boulevard and extending the left-turn lane on westbound Yorktown Boulevard and associated drainage work. Additional improvements include pedestrian crossing improvements and modifications to the signals.

The roadway improvements on Yorktowne Boulevard have been determined to be ineligible for Federal-aid participation since the roadway is not located on the Federal Aid System.

The City of Port Orange (Recipient) shall be responsible for the preparation and submittal of a technical memorandum providing the supporting documentation, as well as any independent reports needed, for all items on the Type 1 Categorical Exclusion (CE) Checklist. The City of Port Orange (Recipient) shall not be responsible for filling out the actual form. FDOT will prepare the checklist using the supplied information. All Principal Investigators for the archaeological, historical, and architectural sections of the Type 1 CE shall meet the minimum requirements stated in the Florida Administrative Code (Chapter 1A-46) and the Code of Federal Regulations, 36 C.F.R. 61.

All pedestrian improvements that are designed shall meet the Americans with Disabilities Act (ADA) guidelines. The design services shall include survey and utility coordination. Right of way acquisition, to include title searches, is anticipated at the intersection of Dunlawton Avenue and Nova Road, to accommodate the proposed westbound turn lane. In addition, right of way acquisition and title searches are needed to accommodate the new sidewalk and extension of sidewalk on the west side of Clyde Morris Boulevard from the intersection of Dunlawton Avenue to the Walgreens entrance.

The River to Sea TPO has established a 10% local match for this project. The LOCAL GOVERNMENT will be responsible for providing funds for the required 10% local match in the initial amount of $60,897.00. The LOCAL GOVERNMENT will be responsible for providing funds for the additional costs in the amount of **$24,215.00 (Twenty-Four Thousand Two Hundred Fifteen Dollars and No/100).**

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EXHIBIT “B”

RESOLUTION

The Resolution, or other official authorization, authorizing entry into this Agreement is attached and incorporated into this Agreement.

LAP Phase 32 (District Design CSC)
Locally Funded Agreement Scope, Schedule, & Estimate (SSE) Form

Full FPN:	449770-2-32-01	**FY:** 24	**FAN:** D522 089 B
Project Name:	Dunlawton Avenue Turn Lanes		
Local Agency:	City of Port Orange	**Agency Contact: (Project Manager)**	Lisa Epstein
Position Title:	Engineering Project Manager	**Address:**	1000 City Center Circle Port Orange, Florida 32129
Phone:	386-506-5667	**Email:**	Lepstein@port-orange.org

PROJECT SCOPE / DESCRIPTION, TERMINI, PROJECT LENGTH:

The additional scope is as follows:
Consultant services were revised to include a Title Search for the Dunlawton Avenue Westbound Right Turn Lane to Nova Road Right of Way acquisition included in the original scope.
Consultant services were revised to include a Title Search and the preparation of Right of Way maps for the depiction of proposed Right of Way / easement acquisition for the new/extension of sidewalk on the west side of Clyde Morris Boulevard from the intersection of Dunlawton Avenue to the Walgreen's entrance (distance of approximately 350 feet).

IS A LOCALLY FUNDED AGREEMENT NEEDED:

☐ AT-COST *(Price adjusts)*
Tracked - needs separate sequence.
Escrow Agreement required.

☒ LUMP SUM *(Price does not adjust)*
Not tracked – use main project sequence.
No Escrow Agreement required.

*****IMPORTANT: FDOT PM - Please confirm that WP covers the Funding listed below prior to requesting draft*****

TOTAL NEGOTIATED DESIGN COST:	**$ 24,215**	*(Attach fee sheet)*
Federal/State Funding:	**$ 0**	
Local Funding: *(Amount to be collected from Local Agency)*	**$ 24,215**	*Please include amounts below:* ☒ Funding Shortfall ($ 24,215) ☐ Ineligible Costs ($_____) ☐ Local Match ($_____)

DESIGN SCHEDULE (MM/DD/YYYY):

Date & Time Agreement Needed	:	**05/24/2024**
Board Date	:	**06/18/2024**
Funds Due	:	***Within 14 calendar days of the execution of the LFA, unless otherwise noted.***

Construction Funded: ☒ **Yes** ☐ **No** **Fiscal Year: 2027**

FDOT Use Only:

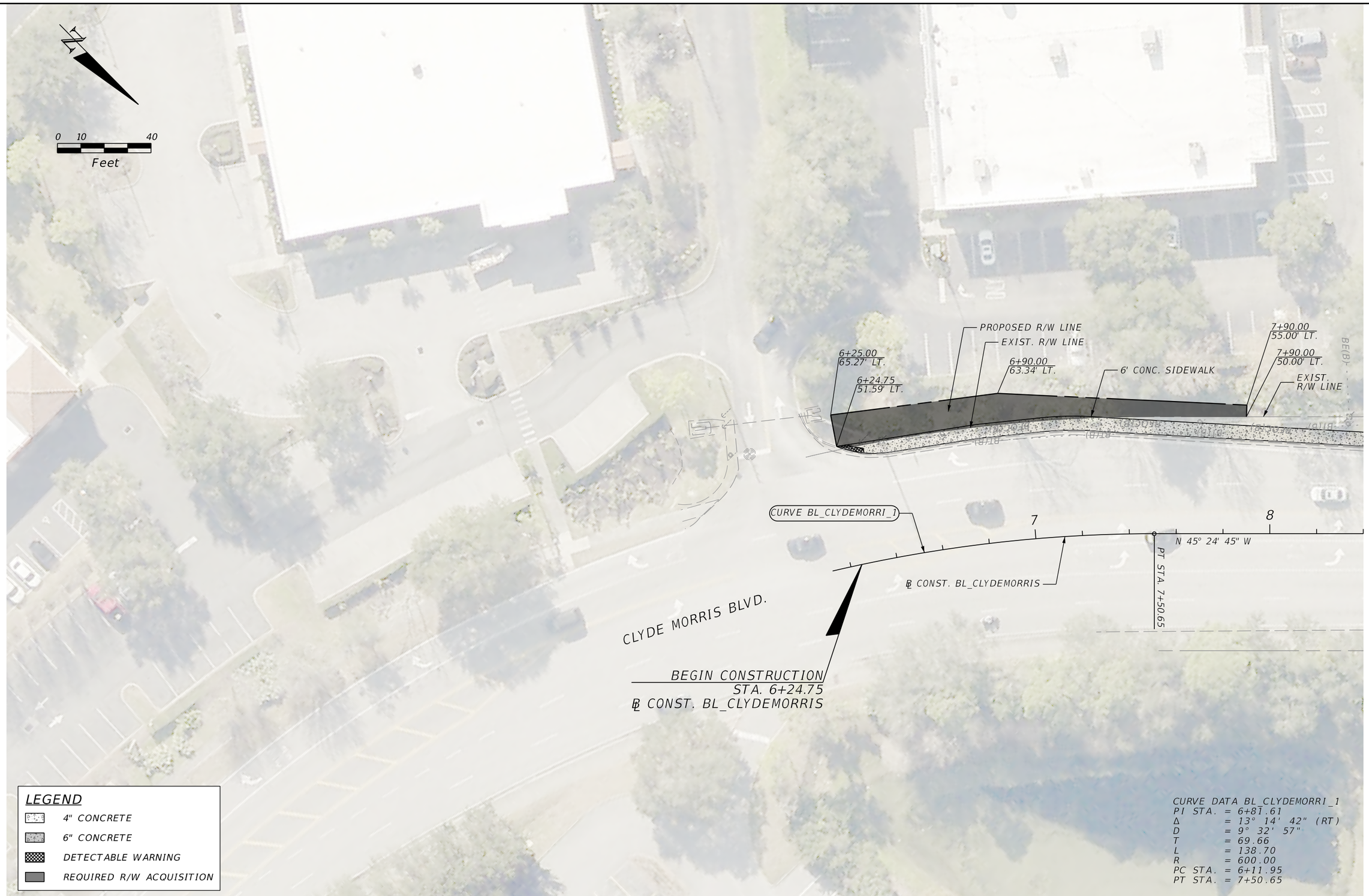
☐ Off System ☐ Off System w/ On System Impacts ☐ On NHS ☒ On SHS

SSE Form - PM Partner Review Completed By:_____ **Date:**_____

PSEE Request - PM Partner Review Completed By:_____ **Date:**_____

LAP Phase 32 (District Design CSC)
Locally Funded Agreement Scope, Schedule, & Estimate (SSE) Form

(If applicable)



REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

JON D. MILLER, P.E.
P.E. LICENSE NUMBER 59034
DEWBERRY ENGINEERS INC.
800 NORTH MAGNOLIA AVENUE SUITE 1000
ORLANDO, FL 32803

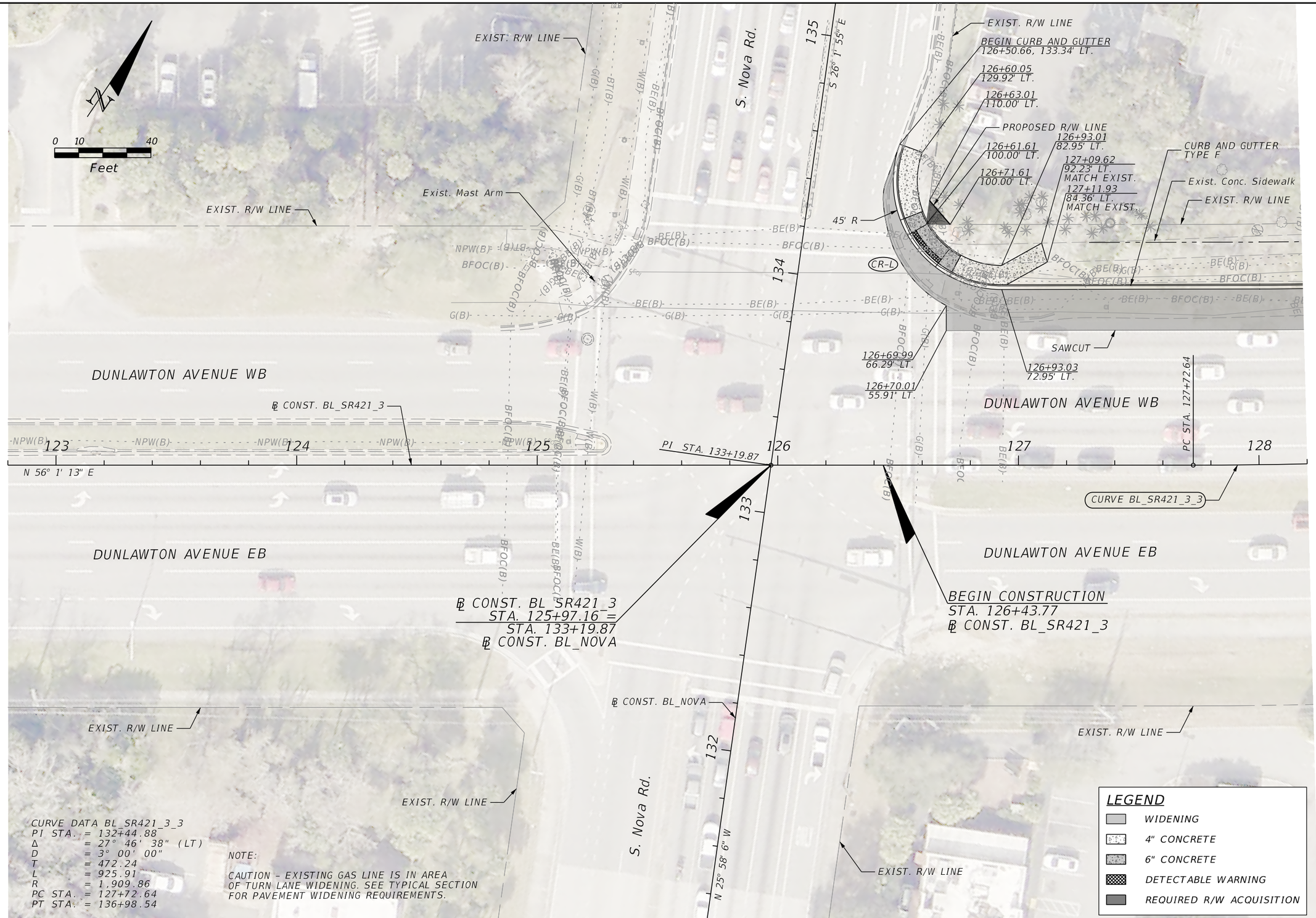
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 421	VOLUSIA	449770-1-58-01

ROADWAY PLAN (4)

SHEET NO.
25

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

JON D. MILLER, P.E.
P.E. LICENSE NUMBER 59034
DEWBERRY ENGINEERS INC.
800 NORTH MAGNOLIA AVENUE SUITE 1000
ORLANDO, FL 32803

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 421	VOLUSIA	449770-1-58-01

ROADWAY PLAN (9)

SHEET NO.
30

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (C12) Resolution No. 24-20 - Approving a revised ballot summary in order to supplement Ordinance No. 2024-07

DEPARTMENT: City Attorney

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 24-20.

SUMMARY: On May 21, 2024, the City Council approved Ordinance No. 2024-07, authorizing the issuance of general obligation bonds in an amount not to exceed $30,000,000.00 for the purpose of improvements to the city's parks and recreation facilities and the associated infrastructure, subject to a bond referendum by the qualified electors of the City of Port Orange. During the process of submitting the ballot summary to the Supervisor of Elections, it was discovered that the proposed ballot summary exceeded the statutory 75-word limit. The purpose of this resolution is for council to affirm the ballot summary to be submitted to the Supervisor of Elections is substantially the same as the proposed ballot summary contained in the above-referenced ordinance and to authorize the City Manager and City Clerk to forward the ballot summary as revised to the Supervisor of Elections to include on the ballot for the election to be held on August 20, 2024.

PRESENTER: Shannon Balmer

ATTACHMENTS:

1.	Resolution No 24-20	Resolution No 24-20 .pdf
2.	Redline of Ballot Summary	Redline of Ballot Summary.pdf

Tracee Cody	Created/Initiated - 5/30/2024
Shannon Balmer	Approved - 5/30/2024
John McKinney	Approved - 5/30/2024
Wayne Clark	Approved - 5/30/2024
Tracee Cody	Final Approval - 5/30/2024

RESOLUTION NO. 24-20

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A REVISED BALLOT SUMMARY THAT COMPLIES WITH SECTION 101.161, FLORIDA STATUTES, IN ORDER TO SUPPLEMENT ORDINANCE NO. 2024-07; AUTHORIZING THE CITY MANAGER AND CITY CLERK TO FORWARD REVISED BALLOT SUMMARY TO THE SUPERVISOR OF ELECTIONS; PROVIDING FOR CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 21, 2024, the City Council approved Ordinance No. 2024-07 authorizing the issuance of general obligation bonds of the City of Port Orange in the aggregate amount of not to exceed $30,000,000 for the purpose of financing the design, construction, renovation, expansion and improvement of public parks and recreation facilities and related infrastructure located in the City; and

WHEREAS, Section 4 of Ordinance No. 2024-07 provides, in part:

" OFFICIAL BALLOT. The ballots be used at such bond election shall be in substantially the following forms and contain the following propositions:

ISSUANCE OF BONDS FOR PARKS AND RECREATION FACILITIES

FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE DESIGN, CONSTRUCTION, RENOVATION, EXPANSION, AND IMPROVEMENT OF PUBLIC PARKS AND RECREATION FACILITIES AND RELATED INFRASTRUCTURE LOCATED IN THE CITY OF PORT ORANGE SHALL THE CITY OF PORT ORANGE, FLORIDA, ISSUE GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, NOT EXCEEDING $30,000,000 PRINCIPAL AMOUNT, BEARING INTEREST NOT EXCEEDING THE MAXIMUM LEGAL RATE OF INTEREST AT THE TIME OF SALE OF THE BONDS, MATURING NOT LATER THAN 30 YEARS FROM THE DATE OF ISSUANCE OF SUCH BONDS, PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY IN THE CITY WITHOUT LIMIT AS TO RATE OR AMOUNT, AS DESCRIBED IN ORDINANCE NO. 2024-07?

FOR BONDS_____
AGAINST BONDS_____ "; and

WHEREAS, Section 101.161(1), Florida Statutes, as amended, requires: "Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such . . . public measure shall be printed in clear and unambiguous language on the ballot . . . "[and t]he ballot summary of the . . . public

measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure." (emphasis added); and

WHEREAS, the ballot summary set forth in Section of Ordinance No. 2024-07 exceeds 75 words; and

WHEREAS, the City Council has determined that it is in the best interests of the citizens of the City of Port Orange to designate a substantially similar ballot summary that does not exceed 75 words in length and complies with Section 101.161, Florida Statutes, for delivery to the Supervisor of Elections for the purposes of Ordinance No. 2024-07.

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

SECTION 1: The City Council of the City of Port Orange hereby approves the following title and revised ballot summary for the purposes of Section 4 of Ordinance No. 2024-07:

"ISSUANCE OF BONDS FOR PARKS AND RECREATION FACILITIES

FOR THE PURPOSE OF FINANCING PUBLIC PARKS AND RECREATION FACILITIES AND RELATED INFRASTRUCTURE LOCATED IN THE CITY OF PORT ORANGE, FLORIDA, SHALL THE CITY ISSUE GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, NOT EXCEEDING $30,000,000 PRINCIPAL AMOUNT, BEARING INTEREST NOT EXCEEDING THE MAXIMUM LEGAL RATE, MATURING NOT LATER THAN 30 YEARS FROM ISSUANCE, AND PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY IN THE CITY WITHOUT LIMIT AS TO RATE OR AMOUNT?

FOR BONDS_____
AGAINST BONDS_____"

SECTION 2: The City Council of the City of Port Orange hereby determines that the title and ballot summary approved pursuant to Section 1 of this resolution is the same, in substance, as the title and ballot summary included in Section 4 of Ordinance No. 2024-07. The City Manager and the City Clerk are hereby authorized to certify and deliver the title and ballot summary approved pursuant to Section 1 of this resolution to the Supervisor of Elections and use such title and ballot summary for all purposes of Ordinance No. 2024-07 in place of the title and ballot summary included in Section 4 of Ordinance No. 2024-07.

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. This resolution is supplemental to Ordinance No. 2024-07 and is not intended to impair or limit the authorization and approval provided in Ordinance No. 2024-07 in any way.

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.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

FOR THE PURPOSE OF FINANCING ~~ALL OR A PORTION OF THE DESIGN, CONSTRUCTION, RENOVATION, EXPANSION, AND IMPROVEMENT OF~~ PUBLIC PARKS AND RECREATION FACILITIES AND RELATED INFRASTRUCTURE LOCATED IN THE CITY OF PORT ORANGE, FLORIDA, SHALL THE CITY ~~OF PORT ORANGE, FLORIDA,~~ ISSUE GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, NOT EXCEEDING $30,000,000 PRINCIPAL AMOUNT, BEARING INTEREST NOT EXCEEDING THE MAXIMUM LEGAL RATE ~~OF INTEREST AT THE TIME OF SALE OF THE BONDS~~, MATURING NOT LATER THAN 30 YEARS FROM ~~THE DATE OF~~ ISSUANCE ~~OF SUCH BONDS OR SERIES OF BONDS~~, AND PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY IN THE CITY WITHOUT LIMIT AS TO RATE OR AMOUNT~~, AS DESCRIBED IN ORDINANCE NO. 2024-07~~?

FOR BONDS_____
AGAINST BONDS_____

The Golf Club at Cypress Head
Course Cash Flow Report
For the Year Ended February 29, 2024

	OCT Actual	NOV Actual	DEC Actual	JAN Actual	FEB Actual	MAR Actual	APR Actual	MAY Actual	JUN Actual	JUL Actual	AUG Actual	SEP Actual
EBITDA	(15,215)	(28,021)	(6,299)	21,793	48,202	0	0	0	0	0	0	0
Management Fee Expense	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	0	0	0	0	0	0	0
Depreciation & Amortization	(96)	(96)	(96)	(96)	(96)	0	0	0	0	0	0	0
Net Income	(21,903)	(34,708)	(12,986)	15,106	41,514	0	0	0	0	0	0	0
Working Capital Changes												
Inventory	(14,763)	3,053	1,069	(20,240)	(2,007)	0	0	0	0	0	0	0
Receivables	38,209	5,687	2,684	(5,913)	(285)	0	0	0	0	0	0	0
Prepaid Expenses	9,683	(30,551)	(2,078)	12,013	14,440	0	0	0	0	0	0	0
Payables	31,140	10,179	(723)	26,959	34,618	0	0	0	0	0	0	0
Due to from the City	(148)	1,332	50	(304)	609	0	0	0	0	0	0	0
Accrued Expenses	10,560	4,778	(9,427)	12,042	5,100	0	0	0	0	0	0	0
Deferred Revenues	(15,018)	(10,866)	(7,321)	(12,423)	(16,944)	0	0	0	0	0	0	0
Depreciation & Amortization	96	96	96	96	96	0	0	0	0	0	0	0
Operating Cash Flow	37,855	(51,000)	(28,637)	27,336	77,140	0	0	0	0	0	0	0
Investing Activities												
Financing Activites												
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	0	0	0	0	0	0	0
Beginning Cash	349,699	387,555	336,554	307,917	335,253	412,393	333,900	333,900	333,900	333,900	333,900	333,900
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	0	0	0	0	0	0	0
Ending Cash	387,555	336,554	307,917	335,253	412,393	412,393	333,900	333,900	333,900	333,900	333,900	333,900

The Golf Club at Cypress Head
Comparative Income Statement
For the Five Months Ending February 29, 2024

	MTD Prior Year	YTD Prior Year	Audited Prior Year	Percent of Total	MTD Actual	YTD Actual	Annual Budget	Percent of Total
REVENUES								
Green Fees & Cart Fees	202,988	753,911	1,778,351	42%	199,662	762,823	1,894,268	40%
Merchandise	31,512	86,776	286,316	30%	25,565	120,532	225,501	53%
Other Pro Shop	6,604	15,170	32,350	47%	5,299	13,452	45,630	29%
Range	7,757	25,512	68,808	37%	6,543	24,337	83,261	29%
Other Operating Revenues	4,441	17,065	40,841	42%	3,765	15,414	44,187	35%
TOTAL REVENUE	253,302	898,433	2,206,665	41%	240,834	936,558	2,292,847	41%
COST OF SALES								
Merchandise	23,645	62,705	202,413	31%	18,263	85,003	157,851	54%
TOTAL COGS	23,645	62,705	202,413	31%	18,263	85,003	157,851	54%
COGS - Merchandise %	75.0%	72.3%	70.7%	102.2%	71.4%	70.5%	70.0%	100.7%
PAYROLL								
Course and Grounds	41,235	191,638	460,036	42%	39,770	201,446	547,942	37%
Carts, Range, Starters, Etc.	12,163	55,251	160,468	34%	16,166	74,414	211,522	35%
Pro Shop	11,009	48,069	131,209	37%	14,668	65,276	159,420	41%
General and Administrative	15,567	80,922	216,590	37%	18,442	92,888	222,142	42%
Marketing	4,553	21,235	34,364	62%	10,219	40,146	80,098	50%
TOTAL PAYROLL	84,526	397,114	1,002,667	40%	99,266	474,169	1,221,123	39%
OPERATING EXPENSES								
Course and Grounds	32,884	126,251	328,078	38%	26,790	134,193	330,078	41%
Carts, Range, Starters, Etc.	14,510	60,847	134,949	45%	7,859	42,511	133,584	32%
Pro Shop	5,915	8,574	13,850	62%	6,002	16,141	14,245	113%
General and Administrative	27,848	143,753	335,710	43%	34,007	156,770	321,392	49%
Marketing	112	4,981	26,704	19%	445	7,309	28,800	25%
TOTAL OPERATING EXPENSES	81,269	344,406	839,290	41%	75,103	356,925	828,099	43%
TOTAL EXPENSES	189,441	804,226	2,044,370	39%	192,632	916,097	2,207,072	42%
OTHER INCOME (EXPENSE)								
MANAGEMENT FEES	(6,400)	(31,874)	(76,674)	42%	(6,592)	(32,960)	(79,104)	42%
Depreciation & Amortization	(96)	(478)	(1,146)	42%	(96)	(478)	(1,146)	42%
TOTAL OTHER INCOME (EXPENSE)	(6,496)	(32,352)	(77,820)	42%	(6,688)	(33,438)	(80,250)	42%
NET INCOME	57,366	61,856	84,476	73%	41,514	(12,977)	5,524	-235%
Paid Rounds	4,848	18,405	45,097		4,156	16,624	43,894	
Annual Pass Rounds	413	1,695	4,163		416	1,794	4,795	
Other Rounds	268	1,212	3,024		243	1,235	2,783	
Total Rounds	5,529	21,312	52,284		4,815	19,653	51,472	
Revenue/Paid Rounds	52	49	49		58	56	52	
Revenue/Total Rounds	46	42	42		50	48	45	

The Golf Club at Cypress Head

For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
199,662	219,768	91%	202,988	98%	Green Fees & Cart Fees	762,823	836,890	91%	753,911	101%	1,894,268	1,787,263
25,565	31,850	80%	31,512	81%	Merchandise	120,532	89,800	134%	86,776	139%	225,501	320,072
5,299	6,800	78%	6,604	80%	Other Pro Shop	13,452	18,950	71%	15,170	89%	45,630	30,632
6,543	8,300	79%	7,757	84%	Range	24,337	31,156	78%	25,512	95%	83,261	67,633
3,765	4,541	83%	4,441	85%	Other Operating Revenues	15,414	18,566	83%	17,065	90%	44,187	39,189
240,834	271,259	89%	253,302	95%	TOTAL REVENUE	936,558	995,362	94%	898,433	104%	2,292,847	2,244,791
					COST OF SALES							
18,263	22,295	82%	23,645	77%	Merchandise	85,003	62,860	135%	62,705	136%	157,851	224,711
18,263	22,295	82%	23,645	77%	TOTAL COGS	85,003	62,860	135%	62,705	136%	157,851	224,711
71.4%	70.0%	102.1%	75.0%	95.2%	COGS - Merchandise %	70.5%	70.0%	100.7%	72.3%	97.6%	70.0%	860.9%
					PAYROLL							
39,770	43,522	91%	41,235	96%	Course and Grounds	201,446	226,113	89%	191,638	105%	547,942	469,845
16,166	16,069	101%	12,163	133%	Carts, Range, Starters, Etc.	74,414	86,295	86%	55,251	135%	211,522	179,631
14,668	12,634	116%	11,009	133%	Pro Shop	65,276	66,039	99%	48,069	136%	159,420	148,416
18,442	18,443	100%	15,567	118%	General and Administrative	92,888	92,382	101%	80,922	115%	222,142	228,556
10,219	6,675	153%	4,553	224%	Marketing	40,146	33,349	120%	21,235	189%	80,098	53,274
99,266	97,343	102%	84,526	117%	TOTAL PAYROLL	474,169	504,177	94%	397,114	119%	1,221,123	1,079,722
					OPERATING EXPENSES							
26,790	27,934	96%	32,884	81%	Course and Grounds	134,193	134,322	100%	126,251	106%	330,078	336,020
7,859	14,677	54%	14,510	54%	Carts, Range, Starters, Etc.	42,511	61,345	69%	60,847	70%	133,584	116,613
6,002	6,050	99%	5,915	101%	Pro Shop	16,141	9,585	168%	8,574	188%	14,245	21,417
34,007	30,351	112%	27,848	122%	General and Administrative	156,770	151,346	104%	143,753	109%	321,392	348,727
445	1,300	34%	112	395%	Marketing	7,309	7,700	95%	4,981	147%	28,800	29,032
75,103	80,312	94%	81,269	92%	TOTAL OPERATING EXPENSES	356,925	364,298	98%	344,406	104%	828,099	851,809
192,632	199,950	96%	189,441	102%	TOTAL EXPENSES	916,097	931,335	98%	804,226	114%	2,207,072	2,156,241
48,202	71,309	68%	63,861	75%	EBITDA	20,461	64,026	32%	94,207	22%	85,774	88,549

The Golf Club at Cypress Head

For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
48,202	71,309	68%	63,861	75%	EBITDA	20,461	64,026	32%	94,207	22%	85,774	88,549
(6,592)	(6,592)	100%	(6,400)	103%	MANAGEMENT FEES	(32,960)	(32,960)	100%	(31,874)	103%	(79,104)	(77,760)
					OTHER INCOME (EXPENSE)							
(96)	(96)	100%	(96)	100%	Depreciation & Amortization	(478)	(478)	100%	(478)	100%	(1,146)	(1,146)
(96)	(96)	100%	(96)	100%	TOTAL OTHER INCOME (EXPENSE)	(478)	(478)	100%	(478)	100%	(1,146)	(1,146)
41,514	64,621	64%	57,366	72%	NET INCOME	(12,977)	30,588	-42%	61,856	-21%	5,524	9,643
4,156	4,978	83%	4,848	86%	Paid Rounds	16,624	19,186	87%	18,405	90%	43,894	43,316
416	413	101%	413	101%	Annual Pass Rounds	1,794	1,695	106%	1,695	106%	4,795	4,262
243	268	91%	268	91%	Other Rounds	1,235	1,212	102%	1,212	102%	2,783	3,047
4,815	5,659	85%	5,529	87%	Total Rounds	19,653	22,093	89%	21,312	92%	51,472	50,625
58	54	106%	52	111%	Revenue/Paid Rounds	56	52	109%	49	115%	52	623
50	48	104%	46	109%	Revenue/Total Rounds	48	45	106%	42	113%	45	531

The Golf Club at Cypress Head

For the Month Ending February 29, 2024

	02/28/23	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24
REVENUES													
Green Fees & Cart Fees	202,987.87	215,490.49	193,774.07	152,982.45	129,068.67	130,571.95	99,504.03	103,049.03	132,793.69	117,320.82	155,131.80	157,914.22	199,662.20
Merchandise	31,512.42	31,817.76	26,833.45	32,725.04	34,350.55	24,446.20	27,611.03	21,755.93	30,272.41	17,828.09	17,287.31	29,579.36	25,565.08
Other Pro Shop	6,604.00	4,505.00	2,976.50	3,060.00	2,035.00	1,563.00	1,700.39	1,340.00	2,044.39	1,096.66	1,794.39	3,218.00	5,298.78
Range	7,756.67	8,744.83	7,745.13	6,551.80	6,283.24	5,076.88	4,383.83	4,510.31	4,124.45	3,591.96	5,358.83	4,719.32	6,542.87
Other Operating Revenues	4,441.06	4,778.04	3,995.63	3,396.74	3,231.72	3,196.76	2,553.89	2,623.07	2,927.69	2,531.89	2,939.85	3,249.49	3,764.70
TOTAL REVENUE	253,302.02	265,336.12	235,324.78	198,716.03	174,969.18	164,854.79	135,753.17	133,278.34	172,162.63	142,369.42	182,512.18	198,680.39	240,833.63
COST OF SALES													
Merchandise	23,645.30	21,473.04	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19
TOTAL COGS	23,645.30	21,473.04	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19
COGS - Merchandise %	75.0%	67.5%	67.4%	78.9%	72.4%	67.3%	71.6%	60.8%	58.3%	99.4%	95.6%	50.2%	71.4%
PAYROLL													
Course and Grounds	41,234.88	39,656.83	36,721.96	39,379.74	36,084.94	37,380.16	40,270.77	38,904.15	40,911.93	40,017.82	39,012.23	41,733.77	39,770.32
Carts, Range, Starters, Etc.	12,162.64	15,935.90	16,569.79	15,122.18	15,121.41	14,481.80	13,883.29	14,103.01	15,698.59	12,006.85	14,286.58	16,255.20	16,166.47
Pro Shop	11,008.79	12,447.03	11,852.05	11,781.65	11,619.61	11,132.34	11,696.64	12,610.75	12,983.02	12,052.42	11,954.46	13,617.60	14,668.39
General and Administrative	15,566.50	17,303.45	16,471.00	16,256.82	16,675.81	16,496.47	16,925.57	35,538.54	18,185.01	17,710.28	20,725.26	17,825.47	18,442.15
Marketing	4,553.32	3,702.16	2,476.00	1,154.73	2,078.81	715.70	127.10	2,874.06	6,887.53	6,326.90	9,608.16	7,104.33	10,218.74
TOTAL PAYROLL	84,526.13	89,045.37	84,090.80	83,695.12	81,580.58	80,206.47	82,903.37	104,030.51	94,666.08	88,114.27	95,586.69	96,536.37	99,266.07
OPERATING EXPENSES													
Course and Grounds	32,884.10	29,630.97	27,235.88	38,080.90	26,451.23	23,658.31	33,689.52	23,080.05	32,473.09	22,667.56	27,606.37	24,656.02	26,789.69
Carts, Range, Starters, Etc.	14,509.57	10,386.39	9,778.26	9,691.04	10,693.49	10,065.89	12,613.48	10,873.00	9,222.11	6,651.34	10,549.89	8,228.13	7,859.49
Pro Shop	5,915.29	2,068.60	1,503.88	0.00	242.63	585.57	75.61	799.35	4,602.73	706.37	2,798.88	2,031.08	6,002.20
General and Administrative	27,848.02	28,772.72	24,549.16	28,348.77	23,005.64	26,061.35	25,351.68	35,867.52	28,092.93	31,421.20	33,367.23	29,882.31	34,006.78
Marketing	112.46	566.18	6,400.23	2,481.75	3,967.87	5,503.70	1,294.11	1,509.27	675.87	3,100.00	2,378.62	710.07	444.65
TOTAL OPERATING EXPENSE	81,269.44	71,424.86	69,467.41	78,602.46	64,360.86	65,874.82	73,024.40	72,129.19	75,066.73	64,546.47	76,700.99	65,507.61	75,102.81
TOTAL EXPENSES	189,440.87	181,943.27	171,643.59	188,122.28	170,804.17	162,542.78	175,690.95	189,397.00	187,377.68	170,389.95	188,810.71	176,886.90	192,632.07
EBITDA	63,861.15	83,392.85	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56

The Golf Club at Cypress Head

For the Month Ending February 29, 2024

	02/28/23	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24
EBITDA	63,861.15	83,392.85	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56
MANAGEMENT FEES	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)
Interest Expense - Debt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Expense - Leases	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FINANCING ACTIVITY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHER INCOME (EXPENSE)													
Non-Operating Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfers from County	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Depreciation & Amortization	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
Incentive Compensation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Partnership Income/(Loss)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Gain/(Loss) On Disposal Of Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Expenses / Capital Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Taxes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER INCOME (EXPE	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
NET INCOME	57,365.62	76,897.32	57,185.66	4,098.22	(2,330.52)	(4,183.52)	(46,433.31)	(62,614.19)	(21,902.58)	(34,708.06)	(12,986.06)	15,105.96	41,514.03
Paid Rounds	4,848.00	5,285.00	4,537.00	3,928.00	3,889.00	3,619.00	2,669.00	2,765.00	3,148.00	2,746.00	3,009.00	3,565.00	4,156.00
Annual Pass Rounds	413.00	414.00	406.00	351.00	325.00	298.00	336.00	338.00	369.00	308.00	361.00	340.00	416.00
Other Rounds	268.00	295.00	247.00	254.00	282.00	236.00	258.00	240.00	219.00	208.00	315.00	250.00	243.00
Total Rounds	5,529.00	5,994.00	5,190.00	4,533.00	4,496.00	4,153.00	3,263.00	3,343.00	3,736.00	3,262.00	3,685.00	4,155.00	4,815.00
Revenue/Paid Rounds	52.25	50.21	51.87	50.59	44.99	45.55	50.86	48.20	54.69	51.85	60.66	55.73	57.95
Revenue/Total Rounds	45.81	44.27	45.34	43.84	38.92	39.70	41.60	39.87	46.08	43.64	49.53	47.82	50.02
	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The Golf Club at Cypress Head
Course Cash Flow Report
February 29, 2024

	February	*YTD*
EBITDA	$48,201.56	$20,460.94
Management Fee Expense	(6,592.00)	(32,960.00)
Depreciation & Amortization	(95.53)	(477.65)
Net Income	41,514.03	(12,976.71)
Working Capital Changes		
Inventory	(2,007.45)	(32,889.22)
Receivables	(284.61)	40,381.94
Payables	34,618.46	102,174.31
Due to from the City	608.80	1,538.67
Prepaids	14,439.61	3,506.16
Accrued Liabilities	5,100.03	23,053.37
Other Liabilities	(16,944.47)	(62,572.15)
Depreciation & Amortization	95.53	477.65
Operating Cash Flow	77,139.93	62,694.02
Investing Cash Flows		
Financing Cash Flow		
Net Cash Flows	77,139.93	62,694.02
Beginning Cash	335,253.34	349,699.25
Net Cash Flows	77,139.93	62,694.02
Ending Cash	412,393.27	412,393.27

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

General Ledger

Ranges: From: To:
Date: 2/1/2024 2/29/2024
Account: First Last

Sorted By: Account
Include: Posting, Unit
Print Currency In: Functional (Z-US$)

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	10020-5950-900	Cash - Course Depository NEW	$257,463.85	$239,361.44	$159,860.82	$79,500.62	$336,964.47
	10050-5950-900	Cash - Course Payroll BMO	$76,439.49	$70,000.00	$72,360.69	($2,360.69)	$74,078.80
	10100-5950-900	Cash - Course Other	$850.00	$0.00	$0.00	$0.00	$850.00
	10180-5950-900	Cash - Pro Shop Bank	$500.00	$0.00	$0.00	$0.00	$500.00
	11160-5950-900	A/R Member	$6,608.39	$8,001.85	$7,717.24	$284.61	$6,893.00
	12000-5950-900	Inventory - Merchandise	$130,241.49	$39,194.49	$37,187.04	$2,007.45	$132,248.94
	13020-5950-900	Prepaid Insurance	$26,746.80	$8,893.20	$18,106.61	($9,213.41)	$17,533.39
	13040-5950-900	Prepaid Exp - Other	$40,626.48	$3,667.00	$8,893.20	($5,226.20)	$35,400.28
	20100-5950-900	Machinery & Equipment	$5,550.40	$0.00	$0.00	$0.00	$5,550.40
	20160-5950-900	Buildings and Improvements	$30,597.54	$0.00	$0.00	$0.00	$30,597.54
	22040-5950-900	Accum. Deprec - Mach & Equip	($5,086.86)	$0.00	$23.12	($23.12)	($5,109.98)
	22080-5950-900	Accum. Deprec - Buildings	($27,556.27)	$0.00	$72.41	($72.41)	($27,628.68)
	30000-5950-900	Accts Pay - Trade	($118,911.38)	$55,919.36	$90,537.82	($34,618.46)	($153,529.84)
	30040-5950-900	Accts Pay - Other	($209,582.55)	$17,285.11	$17,893.91	($608.80)	($210,191.35)
	31000-5950-900	Accrued Expenses	($305.00)	$305.00	$403.00	($98.00)	($403.00)
	31020-5950-900	Accrued Payroll	($65,290.54)	$94,900.81	$97,940.05	($3,039.24)	($68,329.78)
	31080-5950-900	Accrued Tips Payable	($223.05)	$446.10	$547.05	($100.95)	($324.00)
	31220-5950-900	Accrued Sales Tax	($12,238.43)	$12,238.43	$14,100.27	($1,861.84)	($14,100.27)
	31400-5950-900	Accrued City Surcharge	$0.00	$3,764.70	$3,764.70	$0.00	$0.00
	32000-5950-900	Deferred Rev - Rainchecks	($8,471.94)	$1,486.09	$985.99	$500.10	($7,971.84)
	32020-5950-900	Deferred Rev - Outing Deposits	($12,992.22)	$0.00	$255.33	($255.33)	($13,247.55)
	32040-5950-900	Deferred Rev - Legacy GF Passes	($22,041.40)	$2,755.26	$0.00	$2,755.26	($19,286.14)
	32050-5950-900	Deferred Revenue - Cypress GF Passes	($31,616.26)	$3,952.15	$2,236.50	$1,715.65	($29,900.61)
	32070-5950-900	Deferred Rev - Gift Cards	($50,391.70)	$6,174.81	$1,403.25	$4,771.56	($45,620.14)
	32100-5950-900	Deferred Rev - Credit Books	($10,612.68)	$1,075.99	$1,655.00	($579.01)	($11,191.69)
	32120-5950-900	Deferred Rev - Trail Fee Pass	($54,793.13)	$8,036.24	$0.00	$8,036.24	($46,756.89)
	49020-5950-900	Retained Earnings - Current	($1.77)	$0.00	$0.00	$0.00	($1.77)
	50000-5950-100	Green Fees - Annual Pass	($24,840.83)	$0.00	$6,707.41	($6,707.41)	($31,548.24)
	5002A-5950-100	Green Fee - Annual	$0.00	$72.26	$72.26	$0.00	$0.00
	5003A-5950-100	Green Fee - Group	($36,370.43)	$0.00	$22,708.77	($22,708.77)	($59,079.20)
	50040-5950-100	Green Fees - Member	($169.14)	$255.60	$441.19	($185.59)	($354.73)
	5006A-5950-100	Green Fee - Junior	($907.20)	$20.12	$1,402.81	($1,382.69)	($2,289.89)
	50070-5950-100	Green Fees - (surcharge)	($11,645.15)	$3,764.70	$7,529.40	($3,764.70)	($15,409.85)
	5007A-5950-100	Green Fee - League	($156.24)	$0.00	$301.20	($301.20)	($457.44)
	5010A-5950-100	Green Fee - Non-Resident (Standard)	($53,901.07)	$0.00	$33,003.74	($33,003.74)	($86,904.81)
	5012A-5950-100	Green Fee - Outing	($26,923.29)	$12.58	$5,851.44	($5,838.86)	($32,762.15)
	5014A-5950-100	Green Fee - Resident	($116,587.39)	$6,143.92	$41,136.63	($34,992.71)	($151,580.10)
	5015A-5950-100	Green Fee - Senior	($77,147.87)	$0.00	$22,543.35	($22,543.35)	($99,691.22)
	5016A-5950-100	Green Fee - Staff	($1.88)	$28.18	$28.18	$0.00	($1.88)
	5019A-5950-100	Green Fee - Wholesale	($3,820.98)	$11.26	$177.60	($166.34)	($3,987.32)
	50500-5950-200	Cart Fee 18	($178,304.33)	$0.00	$60,030.60	($60,030.60)	($238,334.93)
	50520-5950-200	Cart Fee - Annual Trail	($32,384.73)	$0.00	$8,036.24	($8,036.24)	($40,420.97)
	52090-5950-600	Handicap Fee	($1,045.00)	$0.00	$2,710.00	($2,710.00)	($3,755.00)
	52150-5950-600	Lessons	($3,744.66)	$0.00	$1,970.00	($1,970.00)	($5,714.66)
	52280-5950-600	Rental Clubs	($3,363.78)	$0.00	$618.78	($618.78)	($3,982.56)
	52310-5950-600	Retail	($94,967.17)	$0.00	$25,565.08	($25,565.08)	($120,532.25)
	53050-5950-220	Range Pass Revenue	($17,794.56)	$0.00	$6,542.87	($6,542.87)	($24,337.43)
	56120-5950-100	City Surcharge R & R	($11,648.92)	$0.00	$3,764.70	($3,764.70)	($15,413.62)
	60000-5950-600	COGS - Merchandise - Accessories	$66,740.03	$36,761.12	$18,497.93	$18,263.19	$85,003.22
	70000-5950-100	Gross Payroll - Salaried	$46,392.10	$23,400.35	$12,522.13	$10,878.22	$57,270.32
	70000-5950-600	Gross Payroll - Salaried	$16,313.76	$8,609.94	$4,263.39	$4,346.55	$20,660.31
	70000-5950-900	Gross Payroll - Salaried	$56,813.72	$28,704.65	$15,248.22	$13,456.43	$70,270.15
	70000-5950-950	Gross Payroll - Salaried	$25,645.24	$15,085.21	$6,419.72	$8,665.49	$34,310.73

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	70010-5950-100	Gross Payroll - Hourly	$91,667.00	$45,917.54	$26,168.93	$19,748.61	$111,415.61
	70010-5950-200	Gross Payroll - Hourly	$52,881.23	$32,609.60	$18,486.32	$14,123.28	$67,004.51
	70010-5950-600	Gross Payroll - Hourly	$25,811.68	$16,722.55	$9,457.36	$7,265.19	$33,076.87
	70010-5950-900	Gross Payroll - Hourly	$721.84	$149.36	$83.60	$65.76	$787.60
	71000-5950-100	Payroll Tax - FICA	$10,227.22	$5,128.02	$2,866.97	$2,261.05	$12,488.27
	71000-5950-200	Payroll Tax - FICA	$4,165.82	$2,520.67	$1,440.28	$1,080.39	$5,246.21
	71000-5950-600	Payroll Tax - FICA	$3,060.10	$1,861.45	$1,013.66	$847.79	$3,907.89
	71000-5950-900	Payroll Tax - FICA	$5,331.99	$2,006.40	$1,065.74	$940.66	$6,272.65
	71000-5950-950	Payroll Tax - FICA	$1,897.14	$1,111.39	$466.98	$644.41	$2,541.55
	71010-5950-100	Payroll Tax - UC	$309.28	$290.74	$96.59	$194.15	$503.43
	71010-5950-200	Payroll Tax - UC	$291.51	$182.90	$61.02	$121.88	$413.39
	71010-5950-600	Payroll Tax - UC	$106.90	$137.49	$42.58	$94.91	$201.81
	71010-5950-900	Payroll Tax - UC	$106.22	$41.27	$20.56	$20.71	$126.93
	71010-5950-950	Payroll Tax - UC	$95.33	$13.08	$6.54	$6.54	$101.87
	71020-5950-100	Payroll Tax - WC	$2,381.76	$873.53	$0.00	$873.53	$3,255.29
	71020-5950-200	Payroll Tax - WC	$885.11	$386.56	$0.00	$386.56	$1,271.67
	71020-5950-600	Payroll Tax - WC	$717.46	$316.06	$0.00	$316.06	$1,033.52
	71020-5950-900	Payroll Tax - WC	$1,328.38	$370.78	$0.00	$370.78	$1,699.16
	71020-5950-950	Payroll Tax - WC	$444.82	$183.19	$0.00	$183.19	$628.01
	71030-5950-100	Benefits	$10,698.39	$15,238.70	$9,423.94	$5,814.76	$16,513.15
	71030-5950-200	Benefits	$23.55	$1,562.06	$1,107.70	$454.36	$477.91
	71030-5950-600	Benefits	$4,597.60	$3,419.79	$1,621.90	$1,797.89	$6,395.49
	71030-5950-900	Benefits	$10,143.87	$6,663.19	$3,075.38	$3,587.81	$13,731.68
	71030-5950-950	Benefits	$1,844.39	$1,081.72	$362.61	$719.11	$2,563.50
	80110-5950-200	Cart Supplies	$278.72	$6.00	$0.00	$6.00	$284.72
	80120-5950-100	Chemicals	$2,981.55	$650.22	$0.00	$650.22	$3,631.77
	80170-5950-100	Course Accessories	$1,334.69	$204.47	$0.00	$204.47	$1,539.16
	80230-5950-100	Fertilizer	$17,695.40	$1,283.00	$0.00	$1,283.00	$18,978.40
	80250-5950-100	Flowers/Decor	$59.82	$0.00	$0.00	$0.00	$59.82
	80270-5950-100	Fuel	$5,747.34	$1,552.83	$0.00	$1,552.83	$7,300.17
	80280-5950-100	Fungicides	$3,226.52	$1,258.58	$0.00	$1,258.58	$4,485.10
	80320-5950-100	Herbicides	$6,031.61	$6,801.35	$0.00	$6,801.35	$12,832.96
	80370-5950-100	Insecticides	$3,454.50	$1,062.29	$0.00	$1,062.29	$4,516.79
	80380-5950-900	Janitorial Supplies	$1,280.06	$0.00	$0.00	$0.00	$1,280.06
	80420-5950-900	Laundry/Uniforms	$41.50	$0.00	$0.00	$0.00	$41.50
	80520-5950-900	Office Supplies	$1,898.09	$414.61	$0.00	$414.61	$2,312.70
	80590-5950-600	Printing	$1,597.80	$0.00	$0.00	$0.00	$1,597.80
	80630-5950-220	Range Expenses	$1,181.94	$0.00	$0.00	$0.00	$1,181.94
	80690-5950-100	Sand/Topdress	$3,894.02	$403.00	$0.00	$403.00	$4,297.02
	80710-5950-100	Seeds/Trees	$3,520.00	$0.00	$0.00	$0.00	$3,520.00
	80780-5950-200	Supplies	$356.82	$0.00	$0.00	$0.00	$356.82
	80780-5950-600	Supplies	$3,472.34	$0.00	$0.00	$0.00	$3,472.34
	80810-5950-600	Tournament Expense	$3,419.22	$1,029.07	$973.87	$55.20	$3,474.42
	81010-5950-900	Alarm System	$568.00	$142.00	$0.00	$142.00	$710.00
	81090-5950-200	Cart Repairs	$46.87	$0.00	$0.00	$0.00	$46.87
	81130-5950-900	Computer Service	$4,682.28	$4,200.91	$45.00	$4,155.91	$8,838.19
	81140-5950-900	Contract Cleaning	$4,075.00	$1,000.00	$0.00	$1,000.00	$5,075.00
	81200-5950-900	Guest Relations	$1,659.56	$3,380.73	$0.00	$3,380.73	$5,040.29
	81220-5950-600	Handicap Expense	$465.00	$5,947.00	$0.00	$5,947.00	$6,412.00
	81250-5950-100	Irrigation	$525.00	$175.00	$0.00	$175.00	$700.00
	81270-5950-600	Lesson Expense	$583.20	$0.00	$0.00	$0.00	$583.20
	81300-5950-900	Pest Control	$17.92	$0.00	$0.00	$0.00	$17.92
	81340-5950-100	Repair & Maint - Paths	$2,901.18	$0.00	$0.00	$0.00	$2,901.18
	81350-5950-100	Repair & Maint - Equipment	$5,457.88	$1,065.01	$0.00	$1,065.01	$6,522.89
	81350-5950-220	Repair & Maint - Equipment	$1,532.43	$0.00	$0.00	$0.00	$1,532.43
	81350-5950-900	Repair & Maint - Equipment	$5.50	$1,845.66	$0.00	$1,845.66	$1,851.16
	81360-5950-100	Repair & Maint - Building	$830.47	$349.59	$0.00	$349.59	$1,180.06
	81360-5950-900	Repair & Maint - Building	$5,905.84	$123.97	$0.00	$123.97	$6,029.81
	82000-5950-200	Cart Lease	$28,564.00	$7,141.00	$0.00	$7,141.00	$35,705.00
	82020-5950-100	Equipment Lease	$39,780.00	$9,945.00	$0.00	$9,945.00	$49,725.00

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	82060-5950-900	Off-Site Storage	$824.00	$206.00	$0.00	$206.00	$1,030.00
	83000-5950-100	Utlities - Electric	$1,103.00	$240.59	$0.00	$240.59	$1,343.59
	83000-5950-200	Utilities - Electric	$2,690.69	$712.49	$0.00	$712.49	$3,403.18
	83020-5950-100	Utlities - Other	$6,790.01	$1,437.43	$0.00	$1,437.43	$8,227.44
	83020-5950-900	Utilities - Other	$8,613.38	$2,600.12	$305.00	$2,295.12	$10,908.50
	83030-5950-900	Utilities - Telephone/Fax	$795.32	$199.19	$0.00	$199.19	$994.51
	83050-5950-100	Utlities - Water	$980.54	$361.33	$0.00	$361.33	$1,341.87
	84040-5950-950	Adv/Promo - Mktg/Bus Dev	$6,864.56	$444.65	$0.00	$444.65	$7,309.21
	85020-5950-900	Bank Charges	$1,172.58	$456.95	$0.00	$456.95	$1,629.53
	85050-5950-900	Cash Short/(Over)	($640.37)	$143.52	$191.81	($48.29)	($688.66)
	85060-5950-900	Cell Phone	$960.00	$240.00	$0.00	$240.00	$1,200.00
	85070-5950-900	City Surcharge R & R	$11,648.92	$3,764.70	$0.00	$3,764.70	$15,413.62
	85120-5950-900	Credit Card Discounts	$18,913.60	$5,049.28	$0.00	$5,049.28	$23,962.88
	85150-5950-900	Dues & Subscriptions	$539.99	$0.00	$0.00	$0.00	$539.99
	85160-5950-100	Education & Training	$465.00	$0.00	$0.00	$0.00	$465.00
	85160-5950-600	Education & Training	$601.50	$0.00	$0.00	$0.00	$601.50
	85190-5950-100	Employee Relations	$535.64	$0.00	$0.00	$0.00	$535.64
	85190-5950-900	Employee Relations	$7,224.01	$415.29	$739.13	($323.84)	$6,900.17
	85200-5950-100	Employee Testing	$88.87	$0.00	$0.00	$0.00	$88.87
	85280-5950-900	Insurance Expense	$36,853.64	$9,213.41	$0.00	$9,213.41	$46,067.05
	85320-5950-900	Member Relations	$321.32	$0.00	$0.00	$0.00	$321.32
	85390-5950-900	O/S - Accounting	$12,500.00	$0.00	$0.00	$0.00	$12,500.00
	85480-5950-900	Payroll Processing Fee	$1,994.13	$499.93	$0.00	$499.93	$2,494.06
	85490-5950-900	Postage/Shipping	$625.74	$125.89	$12.40	$113.49	$739.23
	85610-5950-900	Tax/Licenses/Fees	($120.00)	$0.00	$30.00	($30.00)	($150.00)
	85720-5950-900	Travel - Other	$403.66	$1,307.96	$0.00	$1,307.96	$1,711.62
	90000-5950-900	Management Fee	$26,368.00	$6,592.00	$0.00	$6,592.00	$32,960.00
	98020-5950-900	Deprec - Mach & Equip	$92.48	$23.12	$0.00	$23.12	$115.60
	98040-5950-900	Deprec - Buildings	$289.64	$72.41	$0.00	$72.41	$362.05
	R002A-5950-100	Rounds - Annual	13,965.00	416.00	0.00	416.00	14,381.00
	R003A-5950-100	Rounds - Group	16,719.00	708.00	0.00	708.00	17,427.00
	R005A-5950-100	Rounds - Green Fee - Hotel	44.00	0.00	0.00	0.00	44.00
	R006A-5950-100	Rounds - Green Fee - Junior	2,032.00	123.00	1.00	122.00	2,154.00
	R007A-5950-100	Rounds - Green Fee - League	15,054.00	10.00	0.00	10.00	15,064.00
	R010A-5950-100	Rounds - Green Fee - Non-Resident (Standard)	9,335.00	815.00	0.00	815.00	10,150.00
	R011A-5950-100	Rounds - Green Fee - Non-Revenue	894.00	9.00	0.00	9.00	903.00
	R012A-5950-100	Rounds - Green Fee - Outing	10,104.00	163.00	0.00	163.00	10,267.00
	R014A-5950-100	Rounds - Resident	61,660.00	1,669.00	0.00	1,669.00	63,329.00
	R015A-5950-100	Rounds - Green Fee - Senior	24,964.00	663.00	0.00	663.00	25,627.00
	R016A-5950-100	Rounds - Green Fee - Staff	5,341.00	160.00	0.00	160.00	5,501.00
	R017A-5950-100	Rounds - Green Fee - Trade	3,560.00	74.00	0.00	74.00	3,634.00
	R018A-5950-100	Rounds - Green Fee - Twilight	31.00	0.00	0.00	0.00	31.00
	R019A-5950-100	Rounds - Green Fee - Wholesale	560.00	6.00	0.00	6.00	566.00
	RCMWD-5950-100	Rounds - Complimentary - Weekday	15,846.00	0.00	0.00	0.00	15,846.00
	REMWD-5950-100	Rounds - Employee - Weekday	21,589.00	0.00	0.00	0.00	21,589.00
	RMBWD-5950-100	Rounds - Member - Weekday	80,170.00	0.00	0.00	0.00	80,170.00
	RPKWD-5950-100	Rounds - Peak - Weekday	450,023.00	0.00	0.00	0.00	450,023.00
	RPKWE-5950-100	Rounds - Peak - Weekend	5,071.00	0.00	0.00	0.00	5,071.00

	Accounts	Beginning Balance	Debit	Credit	Net Change	Ending Balance
Grand Totals:	**161**	**$0.00**	**$923,203.51**	**$923,203.51**	**$0.00**	**$0.00**

The Golf Club at Cypress Head

For the Five Months Ending February 29, 2024

	02/29/24	09/30/23	02/28/23
ASSETS			
CURRENT ASSETS:			
Cash			
Cash - Depository	336,964	297,893	354,984
Cash - Payroll	74,079	50,456	50,772
Cash - Manual Checks	850	850	850
Cash - Housebank & Other	500	500	500
Total Cash	412,393	349,699	407,106
Accounts Receivable			
A/R Member	6,893	47,275	244
Total Accounts Recievable	6,893	47,275	244
Other Current Assets			
Inventory - Merchandise	132,249	99,360	79,846
Prepaid Insurance	17,533	45,051	15,225
Prepaid Exp - Other	35,400	11,388	18,137
Total Other Current Assets	185,183	155,800	113,208
TOTAL CURRENT ASSETS	604,469	552,774	520,558
PROPERTY, PLANT AND EQUIPMENT:			
Buildings & Improvements	30,598	30,598	30,598
Machinery & Equipment	5,550	5,550	5,550
Property Plant and Equipment	36,148	36,148	36,148
Accumulated Depreciation	(32,739)	(32,261)	(31,592)
TOTAL PROPERTY, PLANT AND EQUIPMENT	3,409	3,887	4,556
TOTAL ASSETS	607,878	556,661	525,114

The Golf Club at Cypress Head

For the Five Months Ending February 29, 2024

	02/29/24	09/30/23	02/28/23
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accts Pay - Trade	153,530	51,356	108,418
Accts Pay - Other	210,191	208,653	123,992
Accrued Expenses	403	2,415	1,749
Accrued Payroll	68,654	50,567	54,352
Accrued Taxes	14,100	7,122	15,494
Deferred Revenue	173,975	236,547	159,054
TOTAL CURRENT LIBILITIES	620,853	556,659	463,058
TOTAL LIABILITIES	620,853	556,659	463,058
STOCKHOLDER'S EQUITY			
Retained Earnings	(12,975)	2	62,055
Net Retained Earnings	(12,975)	2	62,055
Stockholders Equity	(12,975)	2	62,055
TOTAL STOCKHOLDER'S EQUITY	(12,975)	2	62,055
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	607,878	556,661	525,114

The Golf Club at Cypress Head
Summary of All Units
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
131,595	148,887	88%	138,682	95%	Green Fees	484,067	551,948	88%	504,121	96%	1,227,781	1,145,979
68,067	70,881	96%	64,306	106%	Cart Fee	278,756	284,942	98%	249,789	112%	666,486	641,284
2,710	3,500	77%	3,404	80%	Handicap Fee	3,755	4,100	92%	3,999	94%	6,430	5,307
1,970	2,300	86%	2,205	89%	Lessons	5,715	11,000	52%	8,576	67%	31,400	15,126
619	1,000	62%	995	62%	Rental Clubs	3,983	3,850	103%	2,595	153%	7,800	10,199
25,565	31,850	80%	31,512	81%	Retail	120,532	89,800	134%	86,776	139%	225,501	320,072
6,543	8,300	79%	7,757	84%	Range	24,337	31,156	78%	25,512	95%	83,261	67,633
3,765	4,541	83%	4,441	85%	City Surcharge R & R	15,414	18,566	83%	17,065	90%	44,187	39,189
240,834	271,259	89%	253,302	95%	Total Revenues	936,558	995,362	94%	898,433	104%	2,292,847	2,244,791
					COST OF GOODS SOLD							
18,263	22,295	82%	23,645	77%	COGS - Merchandise	85,003	62,860	135%	62,705	136%	157,851	224,711
18,263	22,295	82%	23,645	77%	Total COGS	85,003	62,860	135%	62,705	136%	157,851	224,711
222,570	248,964	89%	229,657	97%	GROSS MARGIN	851,555	932,502	91%	835,728	102%	2,134,996	2,020,080
71.44%	70.00%	102.05%	75.03%	95.21%	COGS - Merchandise %	70.52%	70.00%	100.75%	72.26%	97.60%	70.00%	860.87%
					PAYROLL							
37,347	34,713	108%	36,276	103%	Gross Payroll - Salaried	182,512	173,563	105%	147,844	123%	416,550	404,183
41,203	47,388	87%	36,208	114%	Gross Payroll - Hourly	212,285	253,954	84%	190,055	112%	618,341	506,553
78,550	82,101	96%	72,484	108%	S/T Wages	394,796	427,516	92%	337,899	117%	1,034,892	910,736
5,774	6,281	92%	5,391	107%	Payroll Tax - FICA	30,457	32,705	93%	24,965	122%	79,169	67,397
438	516	85%	442	99%	Payroll Tax - UC	1,347	1,375	98%	1,069	126%	2,816	2,720
2,130	1,617	132%	1,317	162%	Payroll Tax - WC	7,888	8,422	94%	6,036	131%	20,986	17,747
12,374	6,829	181%	4,892	253%	Benefits	39,682	34,159	116%	27,145	146%	83,261	81,121
20,717	15,243	136%	12,043	172%	S/T Adders	79,373	76,661	104%	59,215	134%	186,231	168,986
99,266	97,343	102%	84,526	117%	TOTAL PAYROLL	474,169	504,177	94%	397,114	119%	1,221,123	1,079,722
					OPERATING EXPENSES							
6	200	3%	201	3%	Cart Supplies	285	600	47%	548	52%	950	471
650	800	81%	0	0%	Chemicals	3,632	4,000	91%	2,358	154%	9,600	9,955
204	1,600	13%	350	58%	Course Accessories	1,539	4,200	37%	1,895	81%	7,400	9,936
1,283	2,200	58%	3,542	36%	Fertilizer	18,978	27,200	70%	19,608	97%	61,100	56,756
0	0	0%	0	0%	Flowers/Decor	60	1,500	4%	787	8%	1,500	1,719
1,553	1,000	155%	785	198%	Fuel	7,300	6,600	111%	7,103	103%	20,300	19,823
1,259	0	0%	275	458%	Fungicides	4,485	2,650	169%	1,267	354%	4,650	5,859
6,801	7,000	97%	14,548	47%	Herbicides	12,833	11,900	108%	19,257	67%	32,600	32,904
1,062	0	0%	0	0%	Insecticides	4,517	400	1129%	245	1842%	11,800	11,526
0	1,400	0%	1,394	0%	Janitorial Supplies	1,280	3,600	36%	3,263	39%	7,450	4,763
0	70	0%	65	0%	Laundry/Uniforms	42	1,450	3%	1,331	3%	2,405	266
415	750	55%	635	65%	Office Supplies	2,313	3,750	62%	3,712	62%	6,750	6,766
0	0	0%	0	0%	Printing	1,598	0	0%	0	0%	0	2,703
0	4,000	0%	3,750	0%	Range Balls	0	6,000	0%	5,792	0%	9,000	3,250
0	0	0%	0	0%	Range Equipment	0	660	0%	672	0%	1,710	1,002
0	200	0%	207	0%	Range Expenses	1,182	850	139%	832	142%	2,300	3,022
403	1,200	34%	1,168	35%	Sand/Topdress	4,297	3,900	110%	4,961	87%	12,900	14,063
0	1,500	0%	0	0%	Seeds/Trees	3,520	7,000	50%	5,560	63%	8,500	4,970
0	400	0%	0	0%	Small Tools	0	1,200	0%	493	0%	2,400	0
0	0	0%	11	0%	Staff/Volunteer Uniforms	0	500	0%	261	0%	500	614
0	150	0%	137	0%	Supplies	3,829	5,100	75%	5,031	76%	7,550	7,453
55	0	0%	0	0%	Tournament Expense	3,474	110	3159%	47	7457%	1,500	5,138
142	150	95%	121	118%	Alarm System	710	1,100	65%	928	77%	2,150	1,671
0	1,000	0%	1,074	0%	Cart Repairs	47	1,600	3%	1,346	3%	1,950	629
4,156	800	519%	1,003	414%	Computer Service	8,838	4,000	221%	2,220	398%	9,600	14,086
1,000	700	143%	650	154%	Contract Cleaning	5,075	3,500	145%	3,293	154%	8,400	10,550
3,381	0	0%	0	0%	Guest Relations	5,040	8,500	59%	8,235	61%	8,700	5,064
5,947	5,800	103%	5,778	103%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
175	900	19%	925	19%	Irrigation	700	4,500	16%	3,994	18%	10,800	3,185
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
0	0	0%	171	0%	Repair & Maint - Paths	2,901	1,500	193%	171	1692%	3,000	3,063
2,911	2,050	142%	2,154	135%	Repair & Maint - Equipment	9,906	13,150	75%	14,440	69%	28,070	30,677
474	120	395%	111	427%	Repair & Maint - Building	7,210	1,920	376%	1,867	386%	5,920	20,751
7,141	8,577	83%	8,577	83%	Cart Lease	35,705	42,885	83%	42,885	83%	102,924	95,744
9,945	7,166	139%	7,140	139%	Equipment Lease	49,725	35,830	139%	35,700	139%	85,992	99,705
206	250	82%	206	100%	Off-Site Storage	1,030	1,250	82%	1,030	100%	3,000	2,472
953	970	98%	972	98%	Utilities - Electric	4,747	4,400	108%	4,431	107%	11,440	11,892
3,733	3,950	94%	3,655	102%	Utilities - Other	19,136	18,750	102%	17,389	110%	46,200	49,443
199	200	100%	244	82%	Utilities - Telephone/Fax	995	1,000	99%	1,041	96%	2,400	2,311
361	216	167%	220	164%	Utilities - Water	1,342	1,080	124%	1,179	114%	2,592	2,780
445	1,300	34%	112	395%	Advertising & Promotion	7,309	7,700	95%	4,981	147%	28,800	29,032
457	450	102%	422	108%	Bank Charges	1,630	1,850	88%	1,736	94%	4,400	3,526
(48)	0	0%	(187)	26%	Cash Short/(Over)	(689)	0	0%	(372)	185%	0	(582)

The Golf Club at Cypress Head
Summary of All Units
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
240	270	89%	240	100%	Cell Phone	1,200	1,330	90%	1,200	100%	3,220	2,780
3,765	4,541	83%	4,441	85%	City Surcharge R & R	15,414	18,566	83%	17,065	90%	44,187	39,189
5,049	5,000	101%	5,078	99%	Credit Card Discounts	23,963	19,800	121%	19,437	123%	42,800	59,066
0	0	0%	0	0%	Donations	0	0	0%	(10)	0%	0	(48)
0	0	0%	0	0%	Dues & Subscriptions	540	2,050	26%	2,037	27%	3,300	1,142
0	0	0%	80	0%	Education & Training	1,067	430	248%	510	209%	740	2,492
(324)	250	-130%	(244)	133%	Employee Relations	7,436	2,400	310%	862	863%	6,400	15,461
0	32	0%	0	0%	Employee Testing	89	32	278%	66	135%	64	171
9,213	8,500	108%	7,675	120%	Insurance Expense	46,067	42,500	108%	38,376	120%	102,000	104,341
0	50	0%	(846)	0%	Member Relations	321	250	129%	(1,282)	-25%	600	(2,657)
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	2,000	0%	2,000	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
500	450	111%	462	108%	Payroll Processing Fee	2,494	2,050	122%	2,093	119%	5,170	5,823
113	180	63%	179	64%	Postage/Shipping	739	1,030	72%	1,016	73%	2,180	1,756
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(150)	0	0%	(80)	187%	200	(285)
0	150	0%	134	0%	Travel - Meals	0	550	0%	246	0%	850	0
1,308	1,800	73%	1,684	78%	Travel - Other	1,712	3,650	47%	9,787	17%	4,000	2,750
0	20	0%	0	0%	Employee Meals	0	100	0%	25	0%	240	0
75,103	80,312	94%	81,269	92%	TOTAL OPERATING EXPENSES	356,925	364,298	98%	344,406	104%	828,099	851,809
48,202	71,309	68%	63,861	75%	EBITDA	20,461	64,026	32%	94,207	22%	85,774	88,549
6,592	6,592	100%	6,400	103%	Management Fee	32,960	32,960	100%	31,874	103%	79,104	77,760
6,592	6,592	100%	6,400	103%	Management Fees	32,960	32,960	100%	31,874	103%	79,104	77,760
23	23	100%	23	100%	Deprec - Mach & Equip	116	116	100%	116	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	362	362	100%	362	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	478	478	100%	478	100%	1,146	1,146
41,514	64,621	64%	57,366	72%	NET INCOME	(12,977)	30,588	-42%	61,856	-21%	5,524	9,643

The Golf Club at Cypress Head
Course & Grounds
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
131,595	148,887	88%	138,682	95%	Green Fees	484,067	551,948	88%	504,121	96%	1,227,781	1,145,979
3,765	4,541	83%	4,441	85%	City Surcharge R & R	15,414	18,566	83%	17,065	90%	44,187	39,189
135,360	153,428	88%	143,123	95%	Total Revenues	499,480	570,514	88%	521,186	96%	1,271,968	1,185,169
135,360	153,428	88%	143,123	95%	GROSS MARGIN	499,480	570,514	88%	521,186	96%	1,271,968	1,185,169
					PAYROLL							
10,878	11,378	96%	16,753	65%	Gross Payroll - Salaried	57,270	56,891	101%	53,915	106%	136,539	135,326
19,749	25,336	78%	19,570	101%	Gross Payroll - Hourly	111,416	135,030	83%	112,680	99%	328,670	262,111
30,627	36,714	83%	36,323	84%	S/T Wages	168,686	191,922	88%	166,595	101%	465,209	397,437
2,261	2,809	81%	2,737	83%	Payroll Tax - FICA	12,488	14,682	85%	12,402	101%	35,588	29,358
194	252	77%	204	95%	Payroll Tax - UC	503	597	84%	451	112%	819	773
874	723	121%	602	145%	Payroll Tax - WC	3,255	3,781	86%	2,981	109%	9,434	7,849
5,815	3,024	192%	1,368	425%	Benefits	16,513	15,132	109%	9,210	179%	36,892	34,427
9,143	6,808	134%	4,912	186%	S/T Adders	32,760	34,192	96%	25,042	131%	82,733	72,407
39,770	43,522	91%	41,235	96%	TOTAL PAYROLL	201,446	226,113	89%	191,638	105%	547,942	469,845
					OPERATING EXPENSES							
650	800	81%	0	0%	Chemicals	3,632	4,000	91%	2,358	154%	9,600	9,955
204	1,600	13%	350	58%	Course Accessories	1,539	4,200	37%	1,895	81%	7,400	9,936
1,283	2,200	58%	3,542	36%	Fertilizer	18,978	27,200	70%	19,608	97%	61,100	56,756
0	0	0%	0	0%	Flowers/Decor	60	1,500	4%	787	8%	1,500	1,719
1,553	1,000	155%	785	198%	Fuel	7,300	6,600	111%	7,103	103%	20,300	19,823
1,259	0	0%	275	458%	Fungicides	4,485	2,650	169%	1,267	354%	4,650	5,859
6,801	7,000	97%	14,548	47%	Herbicides	12,833	11,900	108%	19,257	67%	32,600	32,904
1,062	0	0%	0	0%	Insecticides	4,517	400	1129%	245	1842%	11,800	11,526
403	1,200	34%	1,168	35%	Sand/Topdress	4,297	3,900	110%	4,961	87%	12,900	14,063
0	1,500	0%	0	0%	Seeds/Trees	3,520	7,000	50%	5,560	63%	8,500	4,970
0	400	0%	0	0%	Small Tools	0	1,200	0%	493	0%	2,400	0
0	0	0%	11	0%	Staff/Volunteer Uniforms	0	500	0%	261	0%	500	614
175	900	19%	925	19%	Irrigation	700	4,500	16%	3,994	18%	10,800	3,185
0	0	0%	171	0%	Repair & Maint - Paths	2,901	1,500	193%	171	1692%	3,000	3,063
1,065	1,800	59%	1,918	56%	Repair & Maint - Equipment	6,523	9,000	72%	10,940	60%	21,600	24,125
350	0	0%	0	0%	Repair & Maint - Building	1,180	500	236%	704	168%	1,000	2,130
9,945	7,166	139%	7,140	139%	Equipment Lease	49,725	35,830	139%	35,700	139%	85,992	99,705
241	270	89%	272	88%	Utilities - Electric	1,344	1,350	100%	1,395	96%	3,240	3,600
1,437	1,750	82%	1,478	97%	Utilities - Other	8,227	8,750	94%	7,617	108%	21,000	21,457
361	216	167%	220	164%	Utilities - Water	1,342	1,080	124%	1,179	114%	2,592	2,780
0	0	0%	80	0%	Education & Training	465	430	108%	510	91%	740	790
0	100	0%	0	0%	Employee Relations	536	300	179%	178	301%	600	1,037
0	32	0%	32	0%	Employee Testing	89	32	278%	66	135%	64	171
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
0	0	0%	0	0%	Tax/Licenses/Fees	0	0	0%	0	0%	200	0
26,790	27,934	96%	32,916	81%	TOTAL OPERATING EXPENSES	134,193	134,322	100%	126,251	106%	330,078	336,020
68,800	81,973	84%	68,972	100%	EBITDA	163,842	210,079	78%	203,297	81%	393,949	379,304
68,800	81,973	84%	68,972	100%	NET INCOME	163,842	210,079	78%	203,297	81%	393,949	379,304

The Golf Club at Cypress Head
Maintenance
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					OPERATING EXPENSES							
0	0	0%	(32)	0%	Employee Testing	0	0	0%	0	0%	0	0
0	0	0%	(32)	0%	TOTAL OPERATING EXPENSES	0	0	0%	0	0%	0	0
0	0	0%	32	0%	EBITDA	0	0	0%	0	0%	0	0
0	0	0%	32	0%	NET INCOME	0	0	0%	0	0%	0	0

The Golf Club at Cypress Head
Carts
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
68,067	70,881	96%	64,306	106%	Cart Fee	278,756	284,942	98%	249,789	112%	666,486	641,284
68,067	70,881	96%	64,306	106%	Total Revenues	278,756	284,942	98%	249,789	112%	666,486	641,284
68,067	70,881	96%	64,306	106%	GROSS MARGIN	278,756	284,942	98%	249,789	112%	666,486	641,284
					PAYROLL							
14,123	14,532	97%	11,103	127%	Gross Payroll - Hourly	67,005	78,369	85%	50,403	133%	191,643	161,803
14,123	14,532	97%	11,103	127%	S/T Wages	67,005	78,369	85%	50,403	133%	191,643	161,803
1,080	1,112	97%	862	125%	Payroll Tax - FICA	5,246	5,995	88%	3,978	132%	14,661	12,728
122	131	93%	98	125%	Payroll Tax - UC	413	341	121%	293	141%	1,221	1,270
387	286	135%	215	180%	Payroll Tax - WC	1,272	1,544	82%	872	146%	3,887	3,186
454	8	5409%	(115)	-395%	Benefits	478	45	1055%	(295)	-162%	110	644
2,043	1,537	133%	1,060	193%	S/T Adders	7,409	7,926	93%	4,848	153%	19,879	17,828
16,166	16,069	101%	12,163	133%	TOTAL PAYROLL	74,414	86,295	86%	55,251	135%	211,522	179,631
					OPERATING EXPENSES							
6	200	3%	201	3%	Cart Supplies	285	600	47%	548	52%	950	471
0	0	0%	0	0%	Supplies	357	2,500	14%	2,537	14%	3,250	2,102
0	1,000	0%	1,074	0%	Cart Repairs	47	1,600	3%	1,346	3%	1,950	629
7,141	8,577	83%	8,577	83%	Cart Lease	35,705	42,885	83%	42,885	83%	102,924	95,744
712	700	102%	700	102%	Utilities - Electric	3,403	3,050	112%	3,036	112%	8,200	8,292
7,859	10,477	75%	10,553	74%	TOTAL OPERATING EXPENSES	39,797	50,635	79%	50,352	79%	117,274	107,238
44,041	44,335	99%	41,591	106%	EBITDA	164,546	148,012	111%	144,187	114%	337,691	354,415
44,041	44,335	99%	41,591	106%	NET INCOME	164,546	148,012	111%	144,187	114%	337,691	354,415

The Golf Club at Cypress Head
Range
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
6,543	8,300	79%	7,757	84%	Range	24,337	31,156	78%	25,512	95%	83,261	67,633
6,543	8,300	79%	7,757	84%	Total Revenues	24,337	31,156	78%	25,512	95%	83,261	67,633
6,543	8,300	79%	7,757	84%	GROSS MARGIN	24,337	31,156	78%	25,512	95%	83,261	67,633
					OPERATING EXPENSES							
0	4,000	0%	3,750	0%	Range Balls	0	6,000	0%	5,792	0%	9,000	3,250
0	0	0%	0	0%	Range Equipment	0	660	0%	672	0%	1,710	1,002
0	200	0%	207	0%	Range Expenses	1,182	850	139%	832	142%	2,300	3,022
0	0	0%	0	0%	Repair & Maint - Equipment	1,532	3,200	48%	3,200	48%	3,300	2,100
0	4,200	0%	3,957	0%	TOTAL OPERATING EXPENSES	2,714	10,710	25%	10,496	26%	16,310	9,374
6,543	4,100	160%	3,800	172%	EBITDA	21,623	20,446	106%	15,016	144%	66,951	58,259
6,543	4,100	160%	3,800	172%	NET INCOME	21,623	20,446	106%	15,016	144%	66,951	58,259

The Golf Club at Cypress Head
Golf Shop
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
2,710	3,500	77%	3,404	80%	Handicap Fee	3,755	4,100	92%	3,999	94%	6,430	5,307
1,970	2,300	86%	2,205	89%	Lessons	5,715	11,000	52%	8,576	67%	31,400	15,126
619	1,000	62%	995	62%	Rental Clubs	3,983	3,850	103%	2,595	153%	7,800	10,199
25,565	31,850	80%	31,512	81%	Retail	120,532	89,800	134%	86,776	139%	225,501	320,072
30,864	38,650	80%	38,116	81%	Total Revenues	133,984	108,750	123%	101,946	131%	271,131	350,704
					COST OF GOODS SOLD							
18,263	22,295	82%	23,645	77%	COGS - Merchandise	85,003	62,860	135%	62,705	136%	157,851	224,711
18,263	22,295	82%	23,645	77%	Total COGS	85,003	62,860	135%	62,705	136%	157,851	224,711
12,601	16,355	77%	14,471	87%	GROSS MARGIN	48,981	45,890	107%	39,241	125%	113,280	125,993
71.44%	70.00%	102.05%	75.03%	95.21%	COGS - Merchandise %	70.52%	70.00%	100.75%	72.26%	97.60%	70.00%	860.87%
					PAYROLL							
4,347	3,605	121%	3,931	111%	Gross Payroll - Salaried	20,660	18,025	115%	14,104	146%	43,260	49,539
7,265	7,280	100%	5,474	133%	Gross Payroll - Hourly	33,077	39,260	84%	26,710	124%	94,900	74,402
11,612	10,885	107%	9,404	123%	S/T Wages	53,737	57,285	94%	40,815	132%	138,160	123,941
848	833	102%	716	118%	Payroll Tax - FICA	3,908	4,382	89%	3,111	126%	10,569	9,490
95	96	99%	79	120%	Payroll Tax - UC	202	213	95%	157	129%	504	423
316	214	147%	191	165%	Payroll Tax - WC	1,034	1,129	92%	723	143%	2,801	2,431
1,798	606	297%	618	291%	Benefits	6,395	3,030	211%	3,263	196%	7,385	12,131
3,057	1,749	175%	1,605	191%	S/T Adders	11,539	8,754	132%	7,254	159%	21,260	24,475
14,668	12,634	116%	11,009	133%	TOTAL PAYROLL	65,276	66,039	99%	48,069	136%	159,420	148,416
					OPERATING EXPENSES							
0	100	0%	0	0%	Office Supplies	0	300	0%	0	0%	600	138
0	0	0%	0	0%	Printing	1,598	0	0%	0	0%	0	2,688
0	150	0%	137	0%	Supplies	3,472	2,600	134%	2,494	139%	4,300	5,352
55	0	0%	0	0%	Tournament Expense	3,474	110	3159%	47	7457%	1,500	5,138
5,947	5,800	103%	5,778	103%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	0	0%	0	0%	Repair & Maint - Building	0	200	0%	0	0%	400	0
0	0	0%	0	0%	Education & Training	602	0	0%	0	0%	0	602
6,002	6,050	99%	5,915	101%	TOTAL OPERATING EXPENSES	16,141	9,585	168%	8,574	188%	14,245	21,417
(8,070)	(2,329)	346%	(2,453)	329%	EBITDA	(32,436)	(29,734)	109%	(17,402)	186%	(60,384)	(43,840)
(8,070)	(2,329)	346%	(2,453)	329%	NET INCOME	(32,436)	(29,734)	109%	(17,402)	186%	(60,384)	(43,840)

The Golf Club at Cypress Head
G & A
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
13,456	14,229	95%	11,507	117%	Gross Payroll - Salaried	70,270	71,146	99%	60,721	116%	170,751	180,165
66	240	27%	61	108%	Gross Payroll - Hourly	788	1,294	61%	262	301%	3,129	1,229
13,522	14,469	93%	11,568	117%	S/T Wages	71,058	72,441	98%	60,983	117%	173,880	181,394
941	1,107	85%	765	123%	Payroll Tax - FICA	6,273	5,542	113%	4,000	157%	13,302	12,278
21	15	141%	38	54%	Payroll Tax - UC	127	138	92%	112	114%	154	131
371	285	130%	229	162%	Payroll Tax - WC	1,699	1,427	119%	1,101	154%	3,525	3,525
3,588	2,567	140%	2,967	121%	Benefits	13,732	12,834	107%	14,726	93%	31,280	31,229
4,920	3,974	124%	3,999	123%	S/T Adders	21,830	19,941	109%	19,939	109%	48,262	47,162
18,442	18,443	100%	15,567	118%	TOTAL PAYROLL	92,888	92,382	101%	80,922	115%	222,142	228,556
					OPERATING EXPENSES							
0	1,400	0%	1,394	0%	Janitorial Supplies	1,280	3,600	36%	3,263	39%	7,450	4,763
0	70	0%	65	0%	Laundry/Uniforms	42	1,450	3%	1,331	3%	2,405	266
415	650	64%	635	65%	Office Supplies	2,313	3,450	67%	3,712	62%	6,150	6,628
0	0	0%	0	0%	Printing	0	0	0%	0	0%	0	16
142	150	95%	121	118%	Alarm System	710	1,100	65%	928	77%	2,150	1,671
4,156	800	519%	1,003	414%	Computer Service	8,838	4,000	221%	2,220	398%	9,600	14,086
1,000	700	143%	650	154%	Contract Cleaning	5,075	3,500	145%	3,293	154%	8,400	10,550
3,381	0	0%	0	0%	Guest Relations	5,040	8,500	59%	8,235	61%	8,700	5,064
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
1,846	250	738%	236	782%	Repair & Maint - Equipment	1,851	950	195%	300	617%	3,170	4,452
124	120	103%	111	112%	Repair & Maint - Building	6,030	1,220	494%	1,163	519%	4,520	18,621
206	250	82%	206	100%	Off-Site Storage	1,030	1,250	82%	1,030	100%	3,000	2,472
2,295	2,200	104%	2,177	105%	Utilities - Other	10,909	10,000	109%	9,772	112%	25,200	27,986
199	200	100%	244	82%	Utilities - Telephone/Fax	995	1,000	99%	1,041	96%	2,400	2,311
457	450	102%	422	108%	Bank Charges	1,630	1,850	88%	1,736	94%	4,400	3,526
(48)	0	0%	(187)	26%	Cash Short/(Over)	(689)	0	0%	(372)	185%	0	(582)
240	270	89%	240	100%	Cell Phone	1,200	1,330	90%	1,200	100%	3,220	2,780
3,765	4,541	83%	4,441	85%	City Surcharge R & R	15,414	18,566	83%	17,065	90%	44,187	39,189
5,049	5,000	101%	5,078	99%	Credit Card Discounts	23,963	19,800	121%	19,437	123%	42,800	59,066
0	0	0%	0	0%	Donations	0	0	0%	(10)	0%	0	(48)
0	0	0%	0	0%	Dues & Subscriptions	540	2,050	26%	2,037	27%	3,300	1,142
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	0	1,100
(324)	150	-216%	(244)	133%	Employee Relations	6,900	2,100	329%	684	1009%	5,800	14,424
9,213	8,500	108%	7,675	120%	Insurance Expense	46,067	42,500	108%	38,376	120%	102,000	104,341
0	50	0%	(846)	0%	Member Relations	321	250	129%	(1,282)	-25%	600	(2,657)
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	2,000	0%	2,000	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
500	450	111%	462	108%	Payroll Processing Fee	2,494	2,050	122%	2,093	119%	5,170	5,823
113	180	63%	179	64%	Postage/Shipping	739	1,030	72%	1,016	73%	2,180	1,756
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(150)	0	0%	(80)	187%	0	(285)
0	150	0%	134	0%	Travel - Meals	0	550	0%	246	0%	850	0
1,308	1,800	73%	1,684	78%	Travel - Other	1,712	3,650	47%	9,787	17%	4,000	2,750
0	20	0%	0	0%	Employee Meals	0	100	0%	25	0%	240	0
34,007	30,351	112%	27,848	122%	TOTAL OPERATING EXPENSES	156,770	151,346	104%	143,753	109%	321,392	348,727
(52,449)	(48,794)	107%	(43,415)	121%	EBITDA	(249,659)	(243,728)	102%	(224,675)	111%	(543,534)	(577,283)
6,592	6,592	100%	6,400	103%	Management Fee	32,960	32,960	100%	31,874	103%	79,104	77,760
6,592	6,592	100%	6,400	103%	Management Fees	32,960	32,960	100%	31,874	103%	79,104	77,760
23	23	100%	23	100%	Deprec - Mach & Equip	116	116	100%	116	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	362	362	100%	362	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	478	478	100%	478	100%	1,146	1,146
(59,136)	(55,481)	107%	(49,910)	118%	NET INCOME	(283,096)	(277,165)	102%	(257,026)	110%	(623,784)	(656,189)

The Golf Club at Cypress Head
Marketing
For the Five Months Ending February 29, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
8,665	5,500	158%	4,086	212%	Gross Payroll - Salaried	34,311	27,500	125%	19,103	180%	66,000	39,153
0	0	0%	0	0%	Gross Payroll - Hourly	0	0	0%	0	0%	0	7,008
8,665	5,500	158%	4,086	212%	S/T Wages	34,311	27,500	125%	19,103	180%	66,000	46,161
644	421	153%	310	208%	Payroll Tax - FICA	2,542	2,104	121%	1,474	172%	5,049	3,543
7	23	29%	23	28%	Payroll Tax - UC	102	86	119%	57	178%	117	123
183	108	169%	80	228%	Payroll Tax - WC	628	542	116%	358	175%	1,338	756
719	624	115%	54	1332%	Benefits	2,564	3,118	82%	242	1058%	7,594	2,690
1,553	1,175	132%	468	332%	S/T Adders	5,835	5,849	100%	2,132	274%	14,098	7,113
10,219	6,675	153%	4,553	224%	TOTAL PAYROLL	40,146	33,349	120%	21,235	189%	80,098	53,274
					OPERATING EXPENSES							
445	1,300	34%	112	395%	Advertising & Promotion	7,309	7,700	95%	4,981	147%	28,800	29,032
445	1,300	34%	112	395%	TOTAL OPERATING EXPENSES	7,309	7,700	95%	4,981	147%	28,800	29,032
(10,663)	(7,975)	134%	(4,666)	229%	EBITDA	(47,455)	(41,049)	116%	(26,216)	181%	(108,898)	(82,307)
(10,663)	(7,975)	134%	(4,666)	229%	NET INCOME	(47,455)	(41,049)	116%	(26,216)	181%	(108,898)	(82,307)

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May 13, 2024

Robin Fenwick
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Dear Ms. Fenwick,

The following is the financial and operational summary report for February 2024 at Cypress Head Golf Club. These numbers reflect only the Golf portion for the month and year to date.

FINANCIAL SUMMARY FOR GOLF MONTH ENDING FEBRUARY 2024									
	Current				Year to Date				
Revenue	Actual	Budget	Variance vs. Budget		Actual	Budget	Prior Year	Variance vs. Budget	
Green Fees	$ 131,595	$ 148,887	$ (17,292)		$ 484,067	$ 551,948	$ 504,121	$ (67,881)	
Cart Fees	$ 68,067	$ 70,881	$ (2,814)		$ 278,756	$ 284,942	$ 249,789	$ (6,186)	
Range	$ 6,543	$ 8,300	$ (1,757)		$ 24,337	$ 31,156	$ 25,512	$ (6,819)	
Pro- Shop Revenues	$ 30,864	$ 38,650	$ (7,786)		$ 133,984	$ 108,750	$ 101,946	$ 25,234	
City Surcharge R/R	$ 3,765	$ 4,541	$ (776)		$ 15,414	$ 18,566	$ 17,065	$ (3,152)	
Total Revenue	$ 240,834	$ 271,259	$ (30,425)		$ 936,558	$ 995,362	$ 898,433	$ (58,804)	
Cost of Sales	$ 18,263	$ 22,295	$ (4,032)		$ 85,003	$ 62,860	$ 62,705	$ 22,143	
Merchandise	$ 18,263	$ 22,295	$ (4,032)	96%	$ 85,003	$ 62,860	$ 62,705	$ 22,143	79%
Gross Margin	$ 222,571	$ 248,964	$ (26,393)		$ 851,555	$ 932,502	$ 835,728	$ (80,947)	
Total Payroll	$ 99,266	$ 97,343	$ 1,923		$ 474,169	$ 504,177	$ 397,114	$ (30,008)	
Total Operating Expenses	$ 75,103	$ 80,312	$ (5,209)		$ 356,925	$ 364,298	$ 344,406	$ (7,373)	
EBITDA	$ 48,202	$ 71,309	$ (23,107)		$ 20,461	$ 64,027	$ 94,208	$ (43,566)	
Other Expenses	$ 6,688	$ 6,688	$ -		$ 33,342	$ 33,342	$ 32,256	$ -	
Management Fee	$ 6,592	$ 6,592	$ -		$ 32,960	$ 32,960	$ 31,874	$ -	
Interest Expense	$ -	$ -	$ -		$ -	$ -	$ -	$ -	
Depreciation	$ 96	$ 96	$ -		$ 382	$ 382	$ 382	$ -	
Net Cash From Ops	$ 41,514	$ 64,621	$ (23,107)		$ (12,881)	$ 30,685	$ 61,952	$ (43,566)	
Rounds									
Total Rounds	4,815	5,659	(844)		19,653	22,093	21,312	(2,440)	
Paid Rounds	4,156	4,978	(822)		16,624	19,186	18,405	(2,562)	
Avg. GF/CF Total rounds	$41.47	$38.84	$ 2.63		$38.81	$37.88	$35.37	$ 0.93	
Avg. GF/CF Paid rounds	$48.04	$44.15	$ 3.89		$45.89	$43.62	$40.96	$ 2.27	
Avg. Merchandise/round	$6.41	$6.83	$ (0.42)		$6.82	$4.92	$4.78	$ 1.90	

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Overview:

Total revenues for February finished $30.4K shy of budget for the month. With 2.49" of rain recorded in February and below average temperatures, the golf course realized 3 unplayable days, and 4 others significantly affected by intermittent weather and cart paths only. The average high temperatures were 70 degrees with average lows of 51.6. Daytona 500 weekend was so wet they postponed the race to Monday. Total revenues came in at $240.8K, $12.5K less than prior year. We played 4,815 total rounds to a budget of 5,659 (under by 844).

- Total Payroll for the month was $99.3K, over by $2K. Total Operating Expenses were $75.1K, under by $5.2K.
- Rounds were shy of budget by 15%, range revenue ($6.5K) missed budget by 21%, with several days of closure due to wet conditions.
- While we missed monthly EBITDA and Net Income projections by $23.1K, we are only $43.6K behind YTD projections. Considering the horrible weather we have endured over the last 4 months, this is a number we can come back from.

CAPEX Projects:

Our CAPEX plan for 2024 has been submitted. We are working on getting our replacement equipment schedule dialed in as the supply chain remains very back logged.

- We have gotten quotes for the cart path work and are aiming for a June start for the front 9 project.
- We have 3 different contractors targeted regarding the bunker renovations with an estimated start in February 2024. We have 1 quote, awaiting a 2nd from a site visit, and still yet to meet with the 3rd. UPDATE: Our 3rd contractor just completed a site visit and submitted a no-quote.
- We also have $26K in driving range netting repairs and are trying to get some quotes submitted for this. We have 2 quotes in hand that are more than the $26K.

Tee Sheet Activity:

- There were 4,815 total rounds for the month which included 4,156 paid rounds, 416 Annual Pass rounds and 243 other rounds. These numbers fall 15% shy of budget and 13% less than year.
- Many of our snowbird groups continue to play so our tee sheet utilization is high on good weather days.
- Dynamic pricing continues to be turned off as we evaluate its effectiveness in this market.
- Starters and Players earned a 9.9 Staff Experience rating in February.

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FEBRUARY 2024 and YTD Rounds Mix

Type	Actual	Budget	Month-PY	YTD	YTD-Budg	YTD - PY
PAID	4,156	4,978	4,848	16,624	19,186	18,405
ANNUAL	416	413	413	1,794	1,695	1,695
OTHER	243	268	268	1,235	1,212	1,212
TOTAL ROUNDS	4,815	5,659	5,529	19,653	22,093	21,312

Course & Grounds

- Our Superintendent, Darren Bache continues to follow the agronomic program that he developed for Cypress Head, and along with his guidance, Cypress Head is ranked as the Best Golf Course for both Flagler and Volusia Counties.
- We saw 2.49” of rain in February, on an already wet golf course. Even with all the wet, cool weather challenges, our turf conditions, and especially our greens, are the best in our area.
- We are currently working on some large drainage projects on #6 and behind the maintenance building by 9 tee and the range.

Golf Shop/Carts

- We generated $30.8K in Golf Shop sales (under budget by $7.8K).
- We continue to follow all regular maintenance procedures regarding the cart fleet which includes registering monthly totals for battery amperage and mileage. We currently have all carts operational.
- Cart revenue fell short of budget by $2.8K.
- The staff at Cypress Head Golf Course continues to offer individual lessons as well as group lessons. Our teaching professionals recorded $1,970 in lessons in February.

- The MGA and the WGA have continued their league play for the month and we have seen an increase in players as a result of incredible course conditions and an influx of new home purchases in the area. The MGA averaged 76 players in February, the WGA 18-holers, about 36, and the WGA 9-holers averaged 38 players.

- February was a slow month for tournament activity. We hosted the Florida junior Tour, hosting some of the country's best juniors, ages 9-12. We also hosted some small outings and leagues in February with 320 players, generating $12.3K in revenue and rave reviews from the participants.

Marketing and Sales:

- Cypress Head was voted as a top 25 public course in Florida by GolfPass, an affiliate of GolfNow.

- The website has been revamped and is much more streamlined and updated.

- We have installed Noteefy, an automated tee time assistant to assist golfers find their preferred times and help us fill in late cancellations.

- Cypress Head continues to be active members of the Port Orange South Daytona Chamber of Commerce, Daytona Chamber of Commerce, SEV Chamber and Rotary International.

- Outside tournament bookings are very strong as we are booking for Fall 2024 and beyond currently.

- We continue to maintain our database of emails with approximately 15,061 unique e-mail addresses (+280 from prior month). Our Facebook followers are at 1,591 (up 13) and Instagram is up to 483 (up 5) followers.

- Nightly surveys continued to be strong in February, highlighted by 150 surveys being submitted and an NPS of 81.0 (Please see table below).

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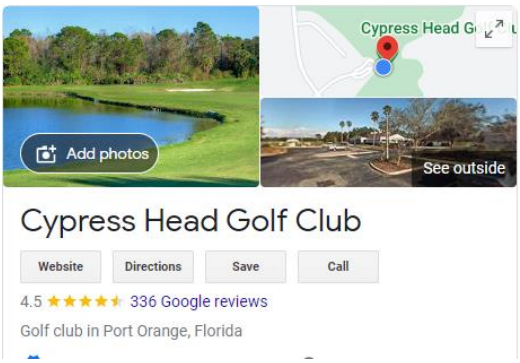
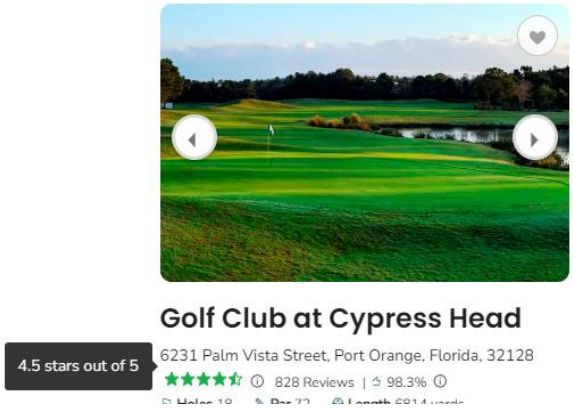
	Last Month					
	Week of 01/28	Week of 02/04	Week of 02/11	Week of 02/18	Week of 02/25	Total
# of responses	21	34	39	28	28	150
Net Promoter Score						
Property NPS	81.0	76.5	87.2	85.7	85.7	83.3
Key Metrics						
Likelihood to Return	9.7	9.0	9.5	9.8	9.4	9.5
Overall Experience Satisfaction	9.3	9.0	9.5	9.5	9.3	9.3
Service Satisfaction	9.8	9.7	9.8	9.8	9.5	9.7
Value Perception	9.2	8.4	8.6	9.4	8.6	8.8

Google Ratings



GolfAdvisor Ratings



GOLFERS' CHOICE
GOLFPASS
2024
TOP 25
FLORIDA COURSES

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KemperSports Leadership Conference 2024

- Jeff Dayton attended the conference held in Chicago Feb.26-29. On behalf of the team at Cypress Head, Jeff collected the Par Club award for making budget and the True Service Award for maintaining an NPS of at least 70.0. This marks the 6th consecutive year that the team has made budget.

- During the conference, the team collaborated with other colleagues within the company on various topics, including True Service 3.0, Team Building, Insurance, and Stress Relief.

- We enjoyed industry insight and discussion from Roger Steele (#MakeGolfCool) and Roy Williams, Hall of Fame basketball coach.

- The week included a Charity Event, where we assembled bears, rocking chairs, and rocking horses for disadvantaged children.

Insights:

- The Golf Advisory Board met on March 5th and seems very pleased in the direction of the property. They continue to support Jeff Dayton and Darren Bache.

Year to Date Summary

The super El Nino weather pattern continued to wreak havoc in February. With cooler temps and persistent rainfall, we failed to make budget for the fourth month in a row. With our fourth off month in a row, we have only fallen behind of our YTD target by $43.6K. We feel strongly that as Spring weather approaches, our course and facility are prime for a comeback.

Respectfully Submitted,

Jeff Dayton, PGA

General Manager
Cypress Head Golf Club

Matt Lindley

Vice President Operations
KemperSports Management

The Golf Club at Cypress Head

For the Six Months Ending March 31, 2024

	03/31/24	09/30/23	03/31/23
ASSETS			
CURRENT ASSETS:			
Cash			
Cash - Depository	410,215	297,893	422,848
Cash - Payroll	33,324	50,456	20,721
Cash - Manual Checks	850	850	850
Cash - Housebank & Other	500	500	500
Total Cash	444,889	349,699	444,919
Accounts Receivable			
A/R Member	118	47,275	415
Total Accounts Recievable	118	47,275	415
Other Current Assets			
Inventory - Merchandise	140,395	99,360	86,046
Prepaid Insurance	26,869	45,051	22,242
Prepaid Exp - Other	30,507	11,388	20,176
Total Other Current Assets	197,771	155,800	128,465
TOTAL CURRENT ASSETS	642,779	552,774	573,799
PROPERTY, PLANT AND EQUIPMENT:			
Buildings & Improvements	30,598	30,598	30,598
Machinery & Equipment	5,550	5,550	5,550
Property Plant and Equipment	36,148	36,148	36,148
Accumulated Depreciation	(32,834)	(32,261)	(31,688)
TOTAL PROPERTY, PLANT AND EQUIPMENT	3,314	3,887	4,460
TOTAL ASSETS	646,092	556,661	578,259

The Golf Club at Cypress Head

For the Six Months Ending March 31, 2024

	03/31/24	09/30/23	03/31/23
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accts Pay - Trade	142,667	51,356	103,531
Accts Pay - Other	209,887	208,653	124,296
Accrued Expenses	4,509	2,415	74
Accrued Payroll	36,857	50,567	29,204
Accrued Taxes	16,955	7,122	15,681
Deferred Revenue	159,990	236,547	166,521
TOTAL CURRENT LIBILITIES	570,864	556,659	439,307
TOTAL LIABILITIES	570,864	556,659	439,307
STOCKHOLDER'S EQUITY			
Retained Earnings	75,228	2	138,952
Net Retained Earnings	75,228	2	138,952
Stockholders Equity	75,228	2	138,952
TOTAL STOCKHOLDER'S EQUITY	75,228	2	138,952
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	646,092	556,661	578,259

The Golf Club at Cypress Head
Summary of All Units
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
155,197	162,773	95%	147,881	105%	Green Fees	639,263	714,721	89%	652,002	98%	1,227,781	1,153,295
81,769	76,414	107%	67,610	121%	Cart Fee	360,525	361,355	100%	317,399	114%	666,486	655,444
2,600	1,200	217%	1,140	228%	Handicap Fee	6,355	5,300	120%	5,139	124%	6,430	6,767
1,970	2,500	79%	2,475	80%	Lessons	7,685	13,500	57%	11,051	70%	31,400	14,621
1,454	1,000	145%	890	163%	Rental Clubs	5,437	4,850	112%	3,485	156%	7,800	10,763
30,767	31,950	96%	31,818	97%	Retail	151,299	121,750	124%	118,594	128%	225,501	319,021
7,861	9,685	81%	8,745	90%	Range	32,198	40,841	79%	34,257	94%	83,261	66,750
4,509	4,878	92%	4,778	94%	City Surcharge R & R	19,922	23,444	85%	21,843	91%	44,187	38,920
286,127	290,400	99%	265,336	108%	Total Revenues	1,222,685	1,285,762	95%	1,163,769	105%	2,292,847	2,265,581
					COST OF GOODS SOLD							
18,708	22,365	84%	21,473	87%	COGS - Merchandise	103,711	85,225	122%	84,178	123%	157,851	221,946
18,708	22,365	84%	21,473	87%	Total COGS	103,711	85,225	122%	84,178	123%	157,851	221,946
267,419	268,035	100%	243,863	110%	GROSS MARGIN	1,118,974	1,200,537	93%	1,079,591	104%	2,134,996	2,043,635
60.81%	70.00%	86.86%	67.49%	90.10%	COGS - Merchandise %	68.55%	70.00%	97.92%	70.98%	96.57%	70.00%	854.19%
					PAYROLL							
36,841	34,713	106%	31,139	118%	Gross Payroll - Salaried	219,352	208,275	105%	178,983	123%	416,550	409,885
50,181	52,465	96%	44,335	113%	Gross Payroll - Hourly	262,466	306,419	86%	234,390	112%	618,341	512,400
87,022	87,178	100%	75,474	115%	S/T Wages	481,818	514,694	94%	413,373	117%	1,034,892	922,284
6,476	6,669	97%	5,488	118%	Payroll Tax - FICA	36,932	39,374	94%	30,453	121%	79,169	68,385
453	318	143%	392	116%	Payroll Tax - UC	1,801	1,693	106%	1,461	123%	2,816	2,781
1,490	1,803	83%	1,933	77%	Payroll Tax - WC	9,377	10,225	92%	7,969	118%	20,986	17,304
1,548	6,833	23%	5,759	27%	Benefits	41,230	40,992	101%	32,904	125%	83,261	76,910
9,967	15,624	64%	13,572	73%	S/T Adders	89,340	92,285	97%	72,787	123%	186,231	165,381
96,989	102,801	94%	89,045	109%	TOTAL PAYROLL	571,158	606,979	94%	486,160	117%	1,221,123	1,087,665
					OPERATING EXPENSES							
118	50	237%	36	328%	Cart Supplies	403	650	62%	584	69%	950	553
530	800	66%	530	100%	Chemicals	4,162	4,800	87%	2,888	144%	9,600	9,955
271	0	0%	99	274%	Course Accessories	1,810	4,200	43%	1,994	91%	7,400	10,108
10,508	11,600	91%	12,033	87%	Fertilizer	29,486	38,800	76%	31,642	93%	61,100	55,231
0	0	0%	680	0%	Flowers/Decor	60	1,500	4%	1,467	4%	1,500	1,039
973	2,000	49%	2,213	44%	Fuel	8,273	8,600	96%	9,315	89%	20,300	18,584
229	0	0%	0	0%	Fungicides	4,714	2,650	178%	1,267	372%	4,650	6,088
3,047	1,000	305%	832	366%	Herbicides	15,880	12,900	123%	20,089	79%	32,600	35,119
1,062	800	133%	784	135%	Insecticides	5,579	1,200	465%	1,029	542%	11,800	11,804
786	800	98%	743	106%	Janitorial Supplies	2,066	4,400	47%	4,007	52%	7,450	4,806
0	180	0%	174	0%	Laundry/Uniforms	42	1,630	3%	1,504	3%	2,405	92
502	400	126%	215	233%	Office Supplies	2,815	4,150	68%	3,927	72%	6,750	7,053
0	0	0%	16	0%	Printing	1,598	0	0%	16	10308%	0	2,688
3,250	0	0%	0	0%	Range Balls	3,250	6,000	54%	5,792	56%	9,000	6,500
0	800	0%	0	0%	Range Equipment	0	1,460	0%	672	0%	1,710	1,002
0	750	0%	726	0%	Range Expenses	1,182	1,600	74%	1,557	76%	2,300	2,296
0	0	0%	0	0%	Sand/Topdress	4,297	3,900	110%	4,961	87%	12,900	14,063
0	0	0%	0	0%	Seeds/Trees	3,520	7,000	50%	5,560	63%	8,500	4,970
40	0	0%	0	0%	Small Tools	40	1,200	3%	493	8%	2,400	40
0	0	0%	144	0%	Staff/Volunteer Uniforms	0	500	0%	405	0%	500	470
1,458	1,050	139%	1,054	138%	Supplies	5,287	6,150	86%	6,085	87%	7,550	7,857
875	1,300	67%	1,271	69%	Tournament Expense	4,349	1,410	308%	1,317	330%	1,500	4,742
292	150	195%	121	242%	Alarm System	1,002	1,250	80%	1,048	96%	2,150	1,842
0	50	0%	57	0%	Cart Repairs	47	1,650	3%	1,403	3%	1,950	572
1,181	800	148%	420	281%	Computer Service	10,019	4,800	209%	2,640	380%	9,600	14,847
1,000	700	143%	650	154%	Contract Cleaning	6,075	4,200	145%	3,943	154%	8,400	10,900
378	50	756%	23	1617%	Guest Relations	5,418	8,550	63%	8,258	66%	8,700	5,418
0	0	0%	0	0%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
1,872	900	208%	363	515%	Irrigation	2,572	5,400	48%	4,358	59%	10,800	4,694
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
0	0	0%	0	0%	Repair & Maint - Paths	2,901	1,500	193%	171	1692%	3,000	3,063
1,721	2,180	79%	2,244	77%	Repair & Maint - Equipment	11,627	15,330	76%	16,685	70%	28,070	30,154
155	1,100	14%	1,086	14%	Repair & Maint - Building	7,365	3,020	244%	2,953	249%	5,920	19,820
7,141	8,577	83%	8,577	83%	Cart Lease	42,846	51,462	83%	51,462	83%	102,924	94,308
9,945	7,166	139%	7,140	139%	Equipment Lease	59,670	42,996	139%	42,840	139%	85,992	102,510
206	250	82%	206	100%	Off-Site Storage	1,236	1,500	82%	1,236	100%	3,000	2,472
1,000	1,020	98%	998	100%	Utilities - Electric	5,747	5,420	106%	5,429	106%	11,440	11,895
3,653	3,950	92%	3,881	94%	Utilities - Other	22,788	22,700	100%	21,270	107%	46,200	49,214
199	200	100%	197	101%	Utilities - Telephone/Fax	1,194	1,200	99%	1,238	96%	2,400	2,313
304	216	141%	212	143%	Utilities - Water	1,646	1,296	127%	1,392	118%	2,592	2,872
1,492	1,300	115%	566	264%	Advertising & Promotion	8,802	9,000	98%	5,547	159%	28,800	29,958
432	350	123%	397	109%	Bank Charges	2,061	2,200	94%	2,133	97%	4,400	3,561
(172)	0	0%	(79)	218%	Cash Short/(Over)	(861)	0	0%	(451)	191%	0	(675)

The Golf Club at Cypress Head
Summary of All Units
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
240	270	89%	240	100%	Cell Phone	1,440	1,600	90%	1,440	100%	3,220	2,780
4,509	4,878	92%	4,778	94%	City Surcharge R & R	19,922	23,444	85%	21,843	91%	44,187	38,920
6,023	6,000	100%	6,023	100%	Credit Card Discounts	29,986	25,800	116%	25,460	118%	42,800	59,065
0	0	0%	0	0%	Donations	0	0	0%	(10)	0%	0	(48)
0	0	0%	0	0%	Dues & Subscriptions	540	2,050	26%	2,037	27%	3,300	1,142
75	160	47%	160	47%	Education & Training	1,142	590	193%	670	170%	740	2,407
77	2,800	3%	3,159	2%	Employee Relations	7,513	5,200	144%	4,021	187%	6,400	12,379
0	0	0%	0	0%	Employee Testing	89	32	278%	66	135%	64	171
9,213	8,500	108%	7,675	120%	Insurance Expense	55,280	51,000	108%	46,051	120%	102,000	105,879
35	50	70%	(4)	-795%	Member Relations	356	300	119%	(1,287)	-28%	600	(2,618)
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	0	0%	0	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
524	570	92%	565	93%	Payroll Processing Fee	3,018	2,620	115%	2,658	114%	5,170	5,782
214	250	86%	246	87%	Postage/Shipping	953	1,280	74%	1,262	76%	2,180	1,724
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(180)	0	0%	(110)	164%	200	(285)
0	0	0%	0	0%	Travel - Meals	0	550	0%	246	0%	850	0
211	50	422%	4	6017%	Travel - Other	1,923	3,700	52%	9,790	20%	4,000	2,958
0	20	0%	0	0%	Employee Meals	0	120	0%	25	0%	240	0
75,540	74,037	102%	71,425	106%	TOTAL OPERATING EXPENSES	432,464	438,335	99%	415,831	104%	828,099	855,923
94,890	91,197	104%	83,393	114%	EBITDA	115,351	155,223	74%	177,600	65%	85,774	100,047
6,592	6,592	100%	6,400	103%	Management Fee	39,552	39,552	100%	38,274	103%	79,104	77,952
6,592	6,592	100%	6,400	103%	Management Fees	39,552	39,552	100%	38,274	103%	79,104	77,952
23	23	100%	23	100%	Deprec - Mach & Equip	139	139	100%	139	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	434	434	100%	434	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	573	573	100%	573	100%	1,146	1,146
88,203	84,509	104%	76,897	115%	NET INCOME	75,226	115,098	65%	138,753	54%	5,524	20,949

The Golf Club at Cypress Head
Course & Grounds
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
155,197	162,773	95%	147,881	105%	Green Fees	639,263	714,721	89%	652,002	98%	1,227,781	1,153,295
4,509	4,878	92%	4,778	94%	City Surcharge R & R	19,922	23,444	85%	21,843	91%	44,187	38,920
159,705	167,651	95%	152,659	105%	Total Revenues	659,186	738,165	89%	673,845	98%	1,271,968	1,192,215
159,705	167,651	95%	152,659	105%	GROSS MARGIN	659,186	738,165	89%	673,845	98%	1,271,968	1,192,215
					PAYROLL							
11,628	11,378	102%	11,290	103%	Gross Payroll - Salaried	68,899	68,270	101%	65,205	106%	136,539	135,665
24,302	28,051	87%	22,435	108%	Gross Payroll - Hourly	135,717	163,081	83%	135,115	100%	328,670	263,978
35,930	39,429	91%	33,724	107%	S/T Wages	204,616	231,350	88%	200,320	102%	465,209	399,643
2,667	3,016	88%	2,458	108%	Payroll Tax - FICA	15,155	17,698	86%	14,860	102%	35,588	29,567
164	99	165%	165	99%	Payroll Tax - UC	667	696	96%	615	108%	819	772
590	816	72%	881	67%	Payroll Tax - WC	3,845	4,596	84%	3,861	100%	9,434	7,559
(443)	3,028	-15%	2,429	-18%	Benefits	16,070	18,159	88%	11,638	138%	36,892	31,555
2,977	6,959	43%	5,932	50%	S/T Adders	35,738	41,150	87%	30,975	115%	82,733	69,452
38,908	46,387	84%	39,657	98%	TOTAL PAYROLL	240,354	272,501	88%	231,294	104%	547,942	469,095
					OPERATING EXPENSES							
530	800	66%	530	100%	Chemicals	4,162	4,800	87%	2,888	144%	9,600	9,955
271	0	0%	99	274%	Course Accessories	1,810	4,200	43%	1,994	91%	7,400	10,108
10,508	11,600	91%	12,033	87%	Fertilizer	29,486	38,800	76%	31,642	93%	61,100	55,231
0	0	0%	680	0%	Flowers/Decor	60	1,500	4%	1,467	4%	1,500	1,039
973	2,000	49%	2,213	44%	Fuel	8,273	8,600	96%	9,315	89%	20,300	18,584
229	0	0%	0	0%	Fungicides	4,714	2,650	178%	1,267	372%	4,650	6,088
3,047	1,000	305%	832	366%	Herbicides	15,880	12,900	123%	20,089	79%	32,600	35,119
1,062	800	133%	784	135%	Insecticides	5,579	1,200	465%	1,029	542%	11,800	11,804
0	0	0%	0	0%	Sand/Topdress	4,297	3,900	110%	4,961	87%	12,900	14,063
0	0	0%	0	0%	Seeds/Trees	3,520	7,000	50%	5,560	63%	8,500	4,970
40	0	0%	0	0%	Small Tools	40	1,200	3%	493	8%	2,400	40
0	0	0%	144	0%	Staff/Volunteer Uniforms	0	500	0%	405	0%	500	470
1,872	900	208%	363	515%	Irrigation	2,572	5,400	48%	4,358	59%	10,800	4,694
0	0	0%	0	0%	Repair & Maint - Paths	2,901	1,500	193%	171	1692%	3,000	3,063
731	1,800	41%	1,866	39%	Repair & Maint - Equipment	7,254	10,800	67%	12,806	57%	21,600	22,990
200	0	0%	150	133%	Repair & Maint - Building	1,380	500	276%	854	161%	1,000	2,180
9,945	7,166	139%	7,140	139%	Equipment Lease	59,670	42,996	139%	42,840	139%	85,992	102,510
253	270	94%	264	96%	Utilities - Electric	1,597	1,620	99%	1,659	96%	3,240	3,590
1,394	1,750	80%	1,761	79%	Utilities - Other	9,621	10,500	92%	9,377	103%	21,000	21,090
304	216	141%	212	143%	Utilities - Water	1,646	1,296	127%	1,392	118%	2,592	2,872
75	160	47%	160	47%	Education & Training	540	590	92%	670	81%	740	705
0	0	0%	400	0%	Employee Relations	536	300	179%	578	93%	600	637
0	0	0%	0	0%	Employee Testing	89	32	278%	66	135%	64	171
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
0	0	0%	0	0%	Tax/Licenses/Fees	0	0	0%	0	0%	200	0
31,434	28,462	110%	29,631	106%	TOTAL OPERATING EXPENSES	165,626	162,784	102%	155,882	106%	330,078	337,822
89,364	92,802	96%	83,371	107%	EBITDA	253,206	302,881	84%	286,669	88%	393,949	385,297
89,364	92,802	96%	83,371	107%	NET INCOME	253,206	302,881	84%	286,669	88%	393,949	385,297

The Golf Club at Cypress Head
Carts
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
81,769	76,414	107%	67,610	121%	Cart Fee	360,525	361,355	100%	317,399	114%	666,486	655,444
81,769	76,414	107%	67,610	121%	Total Revenues	360,525	361,355	100%	317,399	114%	666,486	655,444
81,769	76,414	107%	67,610	121%	GROSS MARGIN	360,525	361,355	100%	317,399	114%	666,486	655,444
					PAYROLL							
17,079	16,089	106%	14,179	120%	Gross Payroll - Hourly	84,084	94,458	89%	64,582	130%	191,643	164,703
17,079	16,089	106%	14,179	120%	S/T Wages	84,084	94,458	89%	64,582	130%	191,643	164,703
1,338	1,231	109%	1,114	120%	Payroll Tax - FICA	6,585	7,226	91%	5,092	129%	14,661	12,952
194	145	134%	160	121%	Payroll Tax - UC	607	486	125%	453	134%	1,221	1,303
285	333	86%	350	81%	Payroll Tax - WC	1,556	1,877	83%	1,222	127%	3,887	3,120
(398)	9	-4285%	133	-300%	Benefits	79	55	145%	(163)	-49%	110	113
1,418	1,718	83%	1,757	81%	S/T Adders	8,827	9,643	92%	6,605	134%	19,879	17,489
18,497	17,807	104%	15,936	116%	TOTAL PAYROLL	92,911	104,101	89%	71,187	131%	211,522	182,192
					OPERATING EXPENSES							
118	50	237%	36	328%	Cart Supplies	403	650	62%	584	69%	950	553
105	250	42%	256	41%	Supplies	462	2,750	17%	2,794	17%	3,250	1,950
0	50	0%	57	0%	Cart Repairs	47	1,650	3%	1,403	3%	1,950	572
7,141	8,577	83%	8,577	83%	Cart Lease	42,846	51,462	83%	51,462	83%	102,924	94,308
747	750	100%	734	102%	Utilities - Electric	4,150	3,800	109%	3,770	110%	8,200	8,305
8,111	9,677	84%	9,661	84%	TOTAL OPERATING EXPENSES	47,908	60,312	79%	60,012	80%	117,274	105,688
55,161	48,930	113%	42,013	131%	EBITDA	219,707	196,942	112%	186,200	118%	337,691	367,563
55,161	48,930	113%	42,013	131%	NET INCOME	219,707	196,942	112%	186,200	118%	337,691	367,563

The Golf Club at Cypress Head
Range
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
7,861	9,685	81%	8,745	90%	Range	32,198	40,841	79%	34,257	94%	83,261	66,750
7,861	9,685	81%	8,745	90%	Total Revenues	32,198	40,841	79%	34,257	94%	83,261	66,750
7,861	9,685	81%	8,745	90%	GROSS MARGIN	32,198	40,841	79%	34,257	94%	83,261	66,750
					OPERATING EXPENSES							
3,250	0	0%	0	0%	Range Balls	3,250	6,000	54%	5,792	56%	9,000	6,500
0	800	0%	0	0%	Range Equipment	0	1,460	0%	672	0%	1,710	1,002
0	750	0%	726	0%	Range Expenses	1,182	1,600	74%	1,557	76%	2,300	2,296
0	0	0%	0	0%	Repair & Maint - Equipment	1,532	3,200	48%	3,200	48%	3,300	2,100
3,250	1,550	210%	726	448%	TOTAL OPERATING EXPENSES	5,964	12,260	49%	11,221	53%	16,310	11,899
4,611	8,135	57%	8,019	57%	EBITDA	26,234	28,581	92%	23,035	114%	66,951	54,851
4,611	8,135	57%	8,019	57%	NET INCOME	26,234	28,581	92%	23,035	114%	66,951	54,851

The Golf Club at Cypress Head
Golf Shop
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
2,600	1,200	217%	1,140	228%	Handicap Fee	6,355	5,300	120%	5,139	124%	6,430	6,767
1,970	2,500	79%	2,475	80%	Lessons	7,685	13,500	57%	11,051	70%	31,400	14,621
1,454	1,000	145%	890	163%	Rental Clubs	5,437	4,850	112%	3,485	156%	7,800	10,763
30,767	31,950	96%	31,818	97%	Retail	151,299	121,750	124%	118,594	128%	225,501	319,021
36,791	36,650	100%	36,323	101%	Total Revenues	170,776	145,400	117%	138,269	124%	271,131	351,173
					COST OF GOODS SOLD							
18,708	22,365	84%	21,473	87%	COGS - Merchandise	103,711	85,225	122%	84,178	123%	157,851	221,946
18,708	22,365	84%	21,473	87%	Total COGS	103,711	85,225	122%	84,178	123%	157,851	221,946
18,083	14,285	127%	14,850	122%	GROSS MARGIN	67,065	60,175	111%	54,091	124%	113,280	129,227
60.81%	70.00%	86.86%	67.49%	90.10%	COGS - Merchandise %	68.55%	70.00%	97.92%	70.98%	96.57%	70.00%	854.19%
					PAYROLL							
4,830	3,605	134%	4,641	104%	Gross Payroll - Salaried	25,491	21,630	118%	18,745	136%	43,260	49,728
8,747	8,060	109%	6,045	145%	Gross Payroll - Hourly	41,824	47,320	88%	32,755	128%	94,900	77,104
13,577	11,665	116%	10,686	127%	S/T Wages	67,314	68,950	98%	51,500	131%	138,160	126,832
1,020	892	114%	809	126%	Payroll Tax - FICA	4,928	5,275	93%	3,920	126%	10,569	9,701
95	67	142%	67	142%	Payroll Tax - UC	297	280	106%	224	133%	504	451
234	241	97%	264	88%	Payroll Tax - WC	1,267	1,370	93%	988	128%	2,801	2,401
835	606	138%	621	134%	Benefits	7,230	3,636	199%	3,884	186%	7,385	12,344
2,183	1,807	121%	1,761	124%	S/T Adders	13,722	10,561	130%	9,015	152%	21,260	24,897
15,760	13,472	117%	12,447	127%	TOTAL PAYROLL	81,036	79,511	102%	60,516	134%	159,420	151,729
					OPERATING EXPENSES							
0	0	0%	0	0%	Office Supplies	0	300	0%	0	0%	600	138
0	0	0%	0	0%	Printing	1,598	0	0%	0	0%	0	2,688
1,353	800	169%	798	170%	Supplies	4,825	3,400	142%	3,291	147%	4,300	5,907
875	1,300	67%	1,271	69%	Tournament Expense	4,349	1,410	308%	1,317	330%	1,500	4,742
0	0	0%	0	0%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	100	0%	0	0%	Repair & Maint - Building	0	300	0%	0	0%	400	0
0	0	0%	0	0%	Education & Training	602	0	0%	0	0%	0	602
2,228	2,200	101%	2,069	108%	TOTAL OPERATING EXPENSES	18,369	11,785	156%	10,643	173%	14,245	21,576
96	(1,387)	-7%	334	29%	EBITDA	(32,340)	(31,121)	104%	(17,068)	189%	(60,384)	(44,078)
96	(1,387)	-7%	334	29%	NET INCOME	(32,340)	(31,121)	104%	(17,068)	189%	(60,384)	(44,078)

The Golf Club at Cypress Head
G & A
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
14,250	14,229	100%	13,512	105%	Gross Payroll - Salaried	84,520	85,376	99%	74,233	114%	170,751	180,903
54	266	20%	49	111%	Gross Payroll - Hourly	841	1,560	54%	310	271%	3,129	1,234
14,304	14,495	99%	13,560	105%	S/T Wages	85,361	86,936	98%	74,543	115%	173,880	182,137
1,000	1,109	90%	857	117%	Payroll Tax - FICA	7,273	6,651	109%	4,857	150%	13,302	12,421
1	2	39%	0	221%	Payroll Tax - UC	128	140	91%	112	114%	154	131
246	300	82%	356	69%	Payroll Tax - WC	1,945	1,727	113%	1,457	134%	3,525	3,415
1,061	2,567	41%	2,530	42%	Benefits	14,793	15,401	96%	17,256	86%	31,280	29,760
2,308	3,978	58%	3,743	62%	S/T Adders	24,139	23,919	101%	23,682	102%	48,262	45,728
16,612	18,473	90%	17,303	96%	TOTAL PAYROLL	109,500	110,854	99%	98,226	111%	222,142	227,865
					OPERATING EXPENSES							
786	800	98%	743	106%	Janitorial Supplies	2,066	4,400	47%	4,007	52%	7,450	4,806
0	180	0%	174	0%	Laundry/Uniforms	42	1,630	3%	1,504	3%	2,405	92
502	400	126%	215	233%	Office Supplies	2,815	3,850	73%	3,927	72%	6,150	6,915
0	0	0%	16	0%	Printing	0	0	0%	16	0%	0	0
292	150	195%	121	242%	Alarm System	1,002	1,250	80%	1,048	96%	2,150	1,842
1,181	800	148%	420	281%	Computer Service	10,019	4,800	209%	2,640	380%	9,600	14,847
1,000	700	143%	650	154%	Contract Cleaning	6,075	4,200	145%	3,943	154%	8,400	10,900
378	50	756%	23	1617%	Guest Relations	5,418	8,550	63%	8,258	66%	8,700	5,418
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
990	380	261%	379	261%	Repair & Maint - Equipment	2,841	1,330	214%	679	419%	3,170	5,063
(45)	1,000	-5%	936	-5%	Repair & Maint - Building	5,985	2,220	270%	2,099	285%	4,520	17,640
206	250	82%	206	100%	Off-Site Storage	1,236	1,500	82%	1,236	100%	3,000	2,472
2,259	2,200	103%	2,121	107%	Utilities - Other	13,167	12,200	108%	11,893	111%	25,200	28,124
199	200	100%	197	101%	Utilities - Telephone/Fax	1,194	1,200	99%	1,238	96%	2,400	2,313
432	350	123%	397	109%	Bank Charges	2,061	2,200	94%	2,133	97%	4,400	3,561
(172)	0	0%	(79)	218%	Cash Short/(Over)	(861)	0	0%	(451)	191%	0	(675)
240	270	89%	240	100%	Cell Phone	1,440	1,600	90%	1,440	100%	3,220	2,780
4,509	4,878	92%	4,778	94%	City Surcharge R & R	19,922	23,444	85%	21,843	91%	44,187	38,920
6,023	6,000	100%	6,023	100%	Credit Card Discounts	29,986	25,800	116%	25,460	118%	42,800	59,065
0	0	0%	0	0%	Donations	0	0	0%	(10)	0%	0	(48)
0	0	0%	0	0%	Dues & Subscriptions	540	2,050	26%	2,037	27%	3,300	1,142
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	0	1,100
77	2,800	3%	2,759	3%	Employee Relations	6,978	4,900	142%	3,443	203%	5,800	11,742
9,213	8,500	108%	7,675	120%	Insurance Expense	55,280	51,000	108%	46,051	120%	102,000	105,879
35	50	70%	(4)	-795%	Member Relations	356	300	119%	(1,287)	-28%	600	(2,618)
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	0	0%	0	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
524	570	92%	565	93%	Payroll Processing Fee	3,018	2,620	115%	2,658	114%	5,170	5,782
214	250	86%	246	87%	Postage/Shipping	953	1,280	74%	1,262	76%	2,180	1,724
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(180)	0	0%	(110)	164%	0	(285)
0	0	0%	0	0%	Travel - Meals	0	550	0%	246	0%	850	0
211	50	422%	4	6017%	Travel - Other	1,923	3,700	52%	9,790	20%	4,000	2,958
0	20	0%	0	0%	Employee Meals	0	120	0%	25	0%	240	0
29,025	30,848	94%	28,773	101%	TOTAL OPERATING EXPENSES	185,795	182,194	102%	172,525	108%	321,392	348,979
(45,637)	(49,321)	93%	(46,076)	99%	EBITDA	(295,295)	(293,048)	101%	(270,751)	109%	(543,534)	(576,844)
6,592	6,592	100%	6,400	103%	Management Fee	39,552	39,552	100%	38,274	103%	79,104	77,952
6,592	6,592	100%	6,400	103%	Management Fees	39,552	39,552	100%	38,274	103%	79,104	77,952
23	23	100%	23	100%	Deprec - Mach & Equip	139	139	100%	139	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	434	434	100%	434	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	573	573	100%	573	100%	1,146	1,146
(52,324)	(56,008)	93%	(52,572)	100%	NET INCOME	(335,421)	(333,174)	101%	(309,598)	108%	(623,784)	(655,942)

The Golf Club at Cypress Head
Marketing
For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
6,132	5,500	111%	1,697	361%	Gross Payroll - Salaried	40,443	33,000	123%	20,800	194%	66,000	43,589
0	0	0%	1,628	0%	Gross Payroll - Hourly	0	0	0%	1,628	0%	0	5,380
6,132	5,500	111%	3,324	184%	S/T Wages	40,443	33,000	123%	22,427	180%	66,000	48,969
451	421	107%	250	180%	Payroll Tax - FICA	2,992	2,525	119%	1,724	174%	5,049	3,743
0	5	0%	0	0%	Payroll Tax - UC	102	90	113%	57	178%	117	123
135	114	119%	82	164%	Payroll Tax - WC	763	656	116%	441	173%	1,338	809
494	624	79%	45	1090%	Benefits	3,057	3,741	82%	288	1063%	7,594	3,139
1,080	1,163	93%	378	286%	S/T Adders	6,914	7,011	99%	2,510	275%	14,098	7,815
7,212	6,663	108%	3,702	195%	TOTAL PAYROLL	47,357	40,011	118%	24,937	190%	80,098	56,784
					OPERATING EXPENSES							
1,492	1,300	115%	566	264%	Advertising & Promotion	8,802	9,000	98%	5,547	159%	28,800	29,958
1,492	1,300	115%	566	264%	TOTAL OPERATING EXPENSES	8,802	9,000	98%	5,547	159%	28,800	29,958
(8,704)	(7,963)	109%	(4,268)	204%	EBITDA	(56,159)	(49,011)	115%	(30,485)	184%	(108,898)	(86,742)
(8,704)	(7,963)	109%	(4,268)	204%	NET INCOME	(56,159)	(49,011)	115%	(30,485)	184%	(108,898)	(86,742)

The Golf Club at Cypress Head
Course Cash Flow Report
March 31, 2024

	March	*YTD*
EBITDA	**$94,890.47**	**$115,351.41**
Management Fee Expense	**(6,592.00)**	**(39,552.00)**
Depreciation & Amortization	**(95.53)**	**(573.18)**
Net Income	**88,202.94**	**75,226.23**
Working Capital Changes		
Inventory	**(8,146.50)**	**(41,035.72)**
Receivables	**6,775.00**	**47,156.94**
Payables	**(10,862.71)**	**91,311.60**
Due to from the City	**(304.36)**	**1,234.31**
Prepaids	**(4,442.19)**	**(936.03)**
Accrued Liabilities	**(24,836.37)**	**(1,783.00)**
Other Liabilities	**(13,985.20)**	**(76,557.35)**
Depreciation & Amortization	**95.53**	**573.18**
Operating Cash Flow	**32,496.14**	**95,190.16**
Investing Cash Flows		
Financing Cash Flow		
Net Cash Flows	**32,496.14**	**95,190.16**
Beginning Cash	**412,393.27**	**349,699.25**
Net Cash Flows	**32,496.14**	**95,190.16**
Ending Cash	**444,889.41**	**444,889.41**

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

General Ledger

Ranges: From: To:
Date: 3/1/2024 3/31/2024
Account: First Last

Sorted By: Account
Include: Posting, Unit
Print Currency In: Functional (Z-US$)

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	10020-5950-900	Cash - Course Depository NEW	$336,964.47	$298,589.86	$225,339.01	$73,250.85	$410,215.32
	10050-5950-900	Cash - Course Payroll BMO	$74,078.80	$70,000.00	$110,754.71	($40,754.71)	$33,324.09
	10100-5950-900	Cash - Course Other	$850.00	$0.00	$0.00	$0.00	$850.00
	10180-5950-900	Cash - Pro Shop Bank	$500.00	$0.00	$0.00	$0.00	$500.00
	11160-5950-900	A/R Member	$6,893.00	$13,056.81	$19,831.81	($6,775.00)	$118.00
	12000-5950-900	Inventory - Merchandise	$132,248.94	$26,854.32	$18,707.82	$8,146.50	$140,395.44
	13020-5950-900	Prepaid Insurance	$17,533.39	$18,549.00	$9,213.41	$9,335.59	$26,868.98
	13040-5950-900	Prepaid Exp - Other	$35,400.28	$1,290.00	$6,183.40	($4,893.40)	$30,506.88
	20100-5950-900	Machinery & Equipment	$5,550.40	$0.00	$0.00	$0.00	$5,550.40
	20160-5950-900	Buildings and Improvements	$30,597.54	$0.00	$0.00	$0.00	$30,597.54
	22040-5950-900	Accum. Deprec - Mach & Equip	($5,109.98)	$0.00	$23.12	($23.12)	($5,133.10)
	22080-5950-900	Accum. Deprec - Buildings	($27,628.68)	$0.00	$72.41	($72.41)	($27,701.09)
	30000-5950-900	Accts Pay - Trade	($153,529.84)	$117,881.77	$107,019.06	$10,862.71	($142,667.13)
	30040-5950-900	Accts Pay - Other	($210,191.35)	$17,893.91	$17,589.55	$304.36	($209,886.99)
	31000-5950-900	Accrued Expenses	($403.00)	$403.00	$4,508.71	($4,105.71)	($4,508.71)
	31020-5950-900	Accrued Payroll	($68,329.78)	$55,761.82	$24,288.72	$31,473.10	($36,856.68)
	31080-5950-900	Accrued Tips Payable	($324.00)	$696.00	$372.00	$324.00	$0.00
	31220-5950-900	Accrued Sales Tax	($14,100.27)	$14,100.27	$16,955.29	($2,855.02)	($16,955.29)
	31400-5950-900	Accrued City Surcharge	$0.00	$4,508.71	$4,508.71	$0.00	$0.00
	32000-5950-900	Deferred Rev - Rainchecks	($7,971.84)	$1,285.14	$2,245.20	($960.06)	($8,931.90)
	32020-5950-900	Deferred Rev - Outing Deposits	($13,247.55)	$0.00	$1,996.22	($1,996.22)	($15,243.77)
	32040-5950-900	Deferred Rev - Legacy GF Passes	($19,286.14)	$2,755.26	$0.00	$2,755.26	($16,530.88)
	32050-5950-900	Deferred Revenue - Cypress GF Passes	($29,900.61)	$4,271.65	$0.00	$4,271.65	($25,628.96)
	32070-5950-900	Deferred Rev - Gift Cards	($45,620.14)	$3,612.17	$885.00	$2,727.17	($42,892.97)
	32100-5950-900	Deferred Rev - Credit Books	($11,191.69)	$1,446.35	$1,774.19	($327.84)	($11,519.53)
	32120-5950-900	Deferred Rev - Trail Fee Pass	($46,756.89)	$9,425.11	$1,909.87	$7,515.24	($39,241.65)
	49020-5950-900	Retained Earnings - Current	($1.77)	$0.00	$0.00	$0.00	($1.77)
	50000-5950-100	Green Fees - Annual Pass	($31,548.24)	$0.00	$7,026.91	($7,026.91)	($38,575.15)
	5003A-5950-100	Green Fee - Group	($59,079.20)	$0.00	$15,887.38	($15,887.38)	($74,966.58)
	50040-5950-100	Green Fees - Member	($354.73)	$0.00	$0.00	$0.00	($354.73)
	5006A-5950-100	Green Fee - Junior	($2,289.89)	$0.00	$478.88	($478.88)	($2,768.77)
	50070-5950-100	Green Fees - (surcharge)	($15,409.85)	$4,508.71	$9,020.30	($4,511.59)	($19,921.44)
	5007A-5950-100	Green Fee - League	($457.44)	$0.00	$7,450.12	($7,450.12)	($7,907.56)
	5010A-5950-100	Green Fee - Non-Resident (Standard)	($86,904.81)	$0.00	$42,690.10	($42,690.10)	($129,594.91)
	5011A-5950-100	Green Fee - Non-Revenue	$0.00	$0.00	$36.00	($36.00)	($36.00)
	5012A-5950-100	Green Fee - Outing	($32,762.15)	$0.00	$7,330.26	($7,330.26)	($40,092.41)
	5014A-5950-100	Green Fee - Resident	($151,580.10)	$7,049.81	$43,786.80	($36,736.99)	($188,317.09)
	5015A-5950-100	Green Fee - Senior	($99,691.22)	$0.00	$33,048.42	($33,048.42)	($132,739.64)
	5016A-5950-100	Green Fee - Staff	($1.88)	$0.00	$0.00	$0.00	($1.88)
	5019A-5950-100	Green Fee - Wholesale	($3,987.32)	$0.00	$0.00	$0.00	($3,987.32)
	50500-5950-200	Cart Fee 18	($238,334.93)	$0.00	$72,343.92	($72,343.92)	($310,678.85)
	50520-5950-200	Cart Fee - Annual Trail	($40,420.97)	$0.00	$9,425.11	($9,425.11)	($49,846.08)
	52090-5950-600	Handicap Fee	($3,755.00)	$0.00	$2,600.00	($2,600.00)	($6,355.00)
	52150-5950-600	Lessons	($5,714.66)	$0.00	$1,970.00	($1,970.00)	($7,684.66)
	52280-5950-600	Rental Clubs	($3,982.56)	$0.00	$1,454.39	($1,454.39)	($5,436.95)
	52310-5950-600	Retail	($120,532.25)	$0.00	$30,766.90	($30,766.90)	($151,299.15)
	53050-5950-220	Range Pass Revenue	($24,337.43)	$0.00	$7,860.89	($7,860.89)	($32,198.32)
	56120-5950-100	City Surcharge R & R	($15,413.62)	$0.00	$4,508.71	($4,508.71)	($19,922.33)
	60000-5950-600	COGS - Merchandise - Accessories	$85,003.22	$18,707.82	$0.00	$18,707.82	$103,711.04
	70000-5950-100	Gross Payroll - Salaried	$57,270.32	$19,130.65	$7,502.21	$11,628.44	$68,898.76
	70000-5950-600	Gross Payroll - Salaried	$20,660.31	$7,375.17	$2,544.93	$4,830.24	$25,490.55
	70000-5950-900	Gross Payroll - Salaried	$70,270.15	$23,541.42	$9,291.46	$14,249.96	$84,520.11
	70000-5950-950	Gross Payroll - Salaried	$34,310.73	$11,516.86	$5,384.62	$6,132.24	$40,442.97

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	70010-5950-100	Gross Payroll - Hourly	$111,415.61	$37,213.08	$12,911.40	$24,301.68	$135,717.29
	70010-5950-200	Gross Payroll - Hourly	$67,004.51	$26,769.06	$9,689.92	$17,079.14	$84,083.65
	70010-5950-600	Gross Payroll - Hourly	$33,076.87	$13,264.53	$4,517.88	$8,746.65	$41,823.52
	70010-5950-900	Gross Payroll - Hourly	$787.60	$119.52	$65.80	$53.72	$841.32
	71000-5950-100	Payroll Tax - FICA	$12,488.27	$4,187.41	$1,520.69	$2,666.72	$15,154.99
	71000-5950-200	Payroll Tax - FICA	$5,246.21	$2,079.56	$741.25	$1,338.31	$6,584.52
	71000-5950-600	Payroll Tax - FICA	$3,907.89	$1,539.70	$520.05	$1,019.65	$4,927.54
	71000-5950-900	Payroll Tax - FICA	$6,272.65	$1,669.41	$668.94	$1,000.47	$7,273.12
	71000-5950-950	Payroll Tax - FICA	$2,541.55	$853.30	$402.67	$450.63	$2,992.18
	71010-5950-100	Payroll Tax - UC	$503.43	$163.66	$0.00	$163.66	$667.09
	71010-5950-200	Payroll Tax - UC	$413.39	$193.57	$0.00	$193.57	$606.96
	71010-5950-600	Payroll Tax - UC	$201.81	$95.04	$0.00	$95.04	$296.85
	71010-5950-900	Payroll Tax - UC	$126.93	$0.93	$0.00	$0.93	$127.86
	71010-5950-950	Payroll Tax - UC	$101.87	$0.00	$0.00	$0.00	$101.87
	71020-5950-100	Payroll Tax - WC	$3,255.29	$590.00	$0.00	$590.00	$3,845.29
	71020-5950-200	Payroll Tax - WC	$1,271.67	$284.63	$0.00	$284.63	$1,556.30
	71020-5950-600	Payroll Tax - WC	$1,033.52	$233.86	$0.00	$233.86	$1,267.38
	71020-5950-900	Payroll Tax - WC	$1,699.16	$246.22	$0.00	$246.22	$1,945.38
	71020-5950-950	Payroll Tax - WC	$628.01	$134.99	$0.00	$134.99	$763.00
	71030-5950-100	Benefits	$16,513.15	$8,565.78	$9,008.74	($442.96)	$16,070.19
	71030-5950-200	Benefits	$477.91	$786.68	$1,185.15	($398.47)	$79.44
	71030-5950-600	Benefits	$6,395.49	$2,462.75	$1,628.25	$834.50	$7,229.99
	71030-5950-900	Benefits	$13,731.68	$5,095.56	$4,034.73	$1,060.83	$14,792.51
	71030-5950-950	Benefits	$2,563.50	$856.54	$362.61	$493.93	$3,057.43
	80110-5950-200	Cart Supplies	$284.72	$118.32	$0.00	$118.32	$403.04
	80120-5950-100	Chemicals	$3,631.77	$530.00	$0.00	$530.00	$4,161.77
	80170-5950-100	Course Accessories	$1,539.16	$270.83	$0.00	$270.83	$1,809.99
	80230-5950-100	Fertilizer	$18,978.40	$10,508.01	$0.00	$10,508.01	$29,486.41
	80250-5950-100	Flowers/Decor	$59.82	$0.00	$0.00	$0.00	$59.82
	80270-5950-100	Fuel	$7,300.17	$973.17	$0.00	$973.17	$8,273.34
	80280-5950-100	Fungicides	$4,485.10	$228.69	$0.00	$228.69	$4,713.79
	80320-5950-100	Herbicides	$12,832.96	$3,046.80	$0.00	$3,046.80	$15,879.76
	80370-5950-100	Insecticides	$4,516.79	$1,062.29	$0.00	$1,062.29	$5,579.08
	80380-5950-900	Janitorial Supplies	$1,280.06	$786.38	$0.00	$786.38	$2,066.44
	80420-5950-900	Laundry/Uniforms	$41.50	$0.00	$0.00	$0.00	$41.50
	80520-5950-900	Office Supplies	$2,312.70	$502.23	$0.00	$502.23	$2,814.93
	80590-5950-600	Printing	$1,597.80	$0.00	$0.00	$0.00	$1,597.80
	80610-5950-220	Range Balls	$0.00	$3,250.00	$0.00	$3,250.00	$3,250.00
	80630-5950-220	Range Expenses	$1,181.94	$0.00	$0.00	$0.00	$1,181.94
	80690-5950-100	Sand/Topdress	$4,297.02	$403.00	$403.00	$0.00	$4,297.02
	80710-5950-100	Seeds/Trees	$3,520.00	$0.00	$0.00	$0.00	$3,520.00
	80730-5950-100	Small Tools	$0.00	$39.98	$0.00	$39.98	$39.98
	80780-5950-200	Supplies	$356.82	$104.80	$0.00	$104.80	$461.62
	80780-5950-600	Supplies	$3,472.34	$1,352.99	$0.00	$1,352.99	$4,825.33
	80810-5950-600	Tournament Expense	$3,474.42	$954.00	$79.00	$875.00	$4,349.42
	81010-5950-900	Alarm System	$710.00	$292.00	$0.00	$292.00	$1,002.00
	81090-5950-200	Cart Repairs	$46.87	$0.00	$0.00	$0.00	$46.87
	81130-5950-900	Computer Service	$8,838.19	$1,180.91	$0.00	$1,180.91	$10,019.10
	81140-5950-900	Contract Cleaning	$5,075.00	$1,000.00	$0.00	$1,000.00	$6,075.00
	81200-5950-900	Guest Relations	$5,040.29	$378.16	$0.00	$378.16	$5,418.45
	81220-5950-600	Handicap Expense	$6,412.00	$0.00	$0.00	$0.00	$6,412.00
	81250-5950-100	Irrigation	$700.00	$1,872.49	$0.00	$1,872.49	$2,572.49
	81270-5950-600	Lesson Expense	$583.20	$0.00	$0.00	$0.00	$583.20
	81300-5950-900	Pest Control	$17.92	$0.00	$0.00	$0.00	$17.92
	81340-5950-100	Repair & Maint - Paths	$2,901.18	$0.00	$0.00	$0.00	$2,901.18
	81350-5950-100	Repair & Maint - Equipment	$6,522.89	$730.69	$0.00	$730.69	$7,253.58
	81350-5950-220	Repair & Maint - Equipment	$1,532.43	$0.00	$0.00	$0.00	$1,532.43
	81350-5950-900	Repair & Maint - Equipment	$1,851.16	$990.00	$0.00	$990.00	$2,841.16
	81360-5950-100	Repair & Maint - Building	$1,180.06	$199.74	$0.00	$199.74	$1,379.80
	81360-5950-900	Repair & Maint - Building	$6,029.81	$450.00	$495.00	($45.00)	$5,984.81

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	82000-5950-200	Cart Lease	$35,705.00	$7,141.00	$0.00	$7,141.00	$42,846.00
	82020-5950-100	Equipment Lease	$49,725.00	$9,945.00	$0.00	$9,945.00	$59,670.00
	82060-5950-900	Off-Site Storage	$1,030.00	$206.00	$0.00	$206.00	$1,236.00
	83000-5950-100	Utlities - Electric	$1,343.59	$253.49	$0.00	$253.49	$1,597.08
	83000-5950-200	Utilities - Electric	$3,403.18	$746.80	$0.00	$746.80	$4,149.98
	83020-5950-100	Utlities - Other	$8,227.44	$1,393.84	$0.00	$1,393.84	$9,621.28
	83020-5950-900	Utilities - Other	$10,908.50	$2,258.69	$0.00	$2,258.69	$13,167.19
	83030-5950-900	Utilities - Telephone/Fax	$994.51	$199.19	$0.00	$199.19	$1,193.70
	83050-5950-100	Utlities - Water	$1,341.87	$303.72	$0.00	$303.72	$1,645.59
	84040-5950-950	Adv/Promo - Mktg/Bus Dev	$7,309.21	$1,492.31	$0.00	$1,492.31	$8,801.52
	85020-5950-900	Bank Charges	$1,629.53	$505.29	$73.33	$431.96	$2,061.49
	85050-5950-900	Cash Short/(Over)	($688.66)	$552.77	$724.80	($172.03)	($860.69)
	85060-5950-900	Cell Phone	$1,200.00	$240.00	$0.00	$240.00	$1,440.00
	85070-5950-900	City Surcharge R & R	$15,413.62	$4,508.71	$0.00	$4,508.71	$19,922.33
	85120-5950-900	Credit Card Discounts	$23,962.88	$6,022.69	$0.00	$6,022.69	$29,985.57
	85150-5950-900	Dues & Subscriptions	$539.99	$0.00	$0.00	$0.00	$539.99
	85160-5950-100	Education & Training	$465.00	$75.00	$0.00	$75.00	$540.00
	85160-5950-600	Education & Training	$601.50	$0.00	$0.00	$0.00	$601.50
	85190-5950-100	Employee Relations	$535.64	$0.00	$0.00	$0.00	$535.64
	85190-5950-900	Employee Relations	$6,900.17	$77.46	$0.00	$77.46	$6,977.63
	85200-5950-100	Employee Testing	$88.87	$0.00	$0.00	$0.00	$88.87
	85280-5950-900	Insurance Expense	$46,067.05	$9,213.41	$0.00	$9,213.41	$55,280.46
	85320-5950-900	Member Relations	$321.32	$35.00	$0.00	$35.00	$356.32
	85390-5950-900	O/S - Accounting	$12,500.00	$0.00	$0.00	$0.00	$12,500.00
	85480-5950-900	Payroll Processing Fee	$2,494.06	$523.53	$0.00	$523.53	$3,017.59
	85490-5950-900	Postage/Shipping	$739.23	$252.74	$38.48	$214.26	$953.49
	85610-5950-900	Tax/Licenses/Fees	($150.00)	$0.00	$30.00	($30.00)	($180.00)
	85720-5950-900	Travel - Other	$1,711.62	$211.19	$0.00	$211.19	$1,922.81
	90000-5950-900	Management Fee	$32,960.00	$6,592.00	$0.00	$6,592.00	$39,552.00
	98020-5950-900	Deprec - Mach & Equip	$115.60	$23.12	$0.00	$23.12	$138.72
	98040-5950-900	Deprec - Buildings	$362.05	$72.41	$0.00	$72.41	$434.46
	R002A-5950-100	Rounds - Annual	14,381.00	425.00	0.00	425.00	14,806.00
	R003A-5950-100	Rounds - Group	17,427.00	608.00	0.00	608.00	18,035.00
	R005A-5950-100	Rounds - Green Fee - Hotel	44.00	0.00	0.00	0.00	44.00
	R006A-5950-100	Rounds - Green Fee - Junior	2,154.00	99.00	0.00	99.00	2,253.00
	R007A-5950-100	Rounds - Green Fee - League	15,064.00	325.00	0.00	325.00	15,389.00
	R010A-5950-100	Rounds - Green Fee - Non-Resident (Standard)	10,150.00	1,064.00	0.00	1,064.00	11,214.00
	R011A-5950-100	Rounds - Green Fee - Non-Revenue	903.00	38.00	0.00	38.00	941.00
	R012A-5950-100	Rounds - Green Fee - Outing	10,267.00	258.00	0.00	258.00	10,525.00
	R014A-5950-100	Rounds - Resident	63,329.00	1,765.00	0.00	1,765.00	65,094.00
	R015A-5950-100	Rounds - Green Fee - Senior	25,627.00	940.00	0.00	940.00	26,567.00
	R016A-5950-100	Rounds - Green Fee - Staff	5,501.00	195.00	0.00	195.00	5,696.00
	R017A-5950-100	Rounds - Green Fee - Trade	3,634.00	85.00	0.00	85.00	3,719.00
	R018A-5950-100	Rounds - Green Fee - Twilight	31.00	0.00	0.00	0.00	31.00
	R019A-5950-100	Rounds - Green Fee - Wholesale	566.00	0.00	0.00	0.00	566.00
	RCMWD-5950-100	Rounds - Complimentary - Weekday	15,846.00	0.00	0.00	0.00	15,846.00
	REMWD-5950-100	Rounds - Employee - Weekday	21,589.00	0.00	0.00	0.00	21,589.00
	RMBWD-5950-100	Rounds - Member - Weekday	80,170.00	0.00	0.00	0.00	80,170.00
	RPKWD-5950-100	Rounds - Peak - Weekday	450,023.00	0.00	0.00	0.00	450,023.00
	RPKWE-5950-100	Rounds - Peak - Weekend	5,071.00	0.00	0.00	0.00	5,071.00

	Accounts	Beginning Balance	Debit	Credit	Net Change	Ending Balance
Grand Totals:	**163**	**$0.00**	**$945,688.21**	**$945,688.21**	**$0.00**	**$0.00**

The Golf Club at Cypress Head
Course Cash Flow Report
For the Year Ended March 31, 2024

	OCT Actual	NOV Actual	DEC Actual	JAN Actual	FEB Actual	MAR Actual	APR Actual	MAY Actual	JUN Actual	JUL Actual	AUG Actual	SEP Actual
EBITDA	(15,215)	(28,021)	(6,299)	21,793	48,202	94,890	0	0	0	0	0	0
Management Fee Expense	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	0	0	0	0	0	0
Depreciation & Amortization	(96)	(96)	(96)	(96)	(96)	(96)	0	0	0	0	0	0
Net Income	(21,903)	(34,708)	(12,986)	15,106	41,514	88,203	0	0	0	0	0	0
Working Capital Changes												
Inventory	(14,763)	3,053	1,069	(20,240)	(2,007)	(8,147)	0	0	0	0	0	0
Receivables	38,209	5,687	2,684	(5,913)	(285)	6,775	0	0	0	0	0	0
Prepaid Expenses	9,683	(30,551)	(2,078)	12,013	14,440	(4,442)	0	0	0	0	0	0
Payables	31,140	10,179	(723)	26,959	34,618	(10,863)	0	0	0	0	0	0
Due to from the City	(148)	1,332	50	(304)	609	(304)	0	0	0	0	0	0
Accrued Expenses	10,560	4,778	(9,427)	12,042	5,100	(24,836)	0	0	0	0	0	0
Deferred Revenues	(15,018)	(10,866)	(7,321)	(12,423)	(16,944)	(13,985)	0	0	0	0	0	0
Depreciation & Amortization	96	96	96	96	96	96	0	0	0	0	0	0
Operating Cash Flow	37,855	(51,000)	(28,637)	27,336	77,140	32,496	0	0	0	0	0	0
Investing Activities												
Financing Activites												
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	32,496	0	0	0	0	0	0
Beginning Cash	349,699	387,555	336,554	307,917	335,253	412,393	444,889	488,674	488,674	488,674	488,674	488,674
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	32,496	0	0	0	0	0	0
Ending Cash	387,555	336,554	307,917	335,253	412,393	444,889	444,889	488,674	488,674	488,674	488,674	488,674

The Golf Club at Cypress Head

For the Month Ending March 31, 2024

	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24	03/31/24
REVENUES													
Green Fees & Cart Fees	215,490.49	193,774.07	152,982.45	129,068.67	130,571.95	99,504.03	103,049.03	132,793.69	117,320.82	155,131.80	157,914.22	199,662.20	236,965.68
Merchandise	31,817.76	26,833.45	32,725.04	34,350.55	24,446.20	27,611.03	21,755.93	30,272.41	17,828.09	17,287.31	29,579.36	25,565.08	30,766.90
Other Pro Shop	4,505.00	2,976.50	3,060.00	2,035.00	1,563.00	1,700.39	1,340.00	2,044.39	1,096.66	1,794.39	3,218.00	5,298.78	6,024.39
Range	8,744.83	7,745.13	6,551.80	6,283.24	5,076.88	4,383.83	4,510.31	4,124.45	3,591.96	5,358.83	4,719.32	6,542.87	7,860.89
Other Operating Revenues	4,778.04	3,995.63	3,396.74	3,231.72	3,196.76	2,553.89	2,623.07	2,927.69	2,531.89	2,939.85	3,249.49	3,764.70	4,508.71
TOTAL REVENUE	265,336.12	235,324.78	198,716.03	174,969.18	164,854.79	135,753.17	133,278.34	172,162.63	142,369.42	182,512.18	198,680.39	240,833.63	286,126.57
COST OF SALES													
Merchandise	21,473.04	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19	18,707.82
TOTAL COGS	21,473.04	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19	18,707.82
COGS - Merchandise %	67.5%	67.4%	78.9%	72.4%	67.3%	71.6%	60.8%	58.3%	99.4%	95.6%	50.2%	71.4%	60.8%
PAYROLL													
Course and Grounds	39,656.83	36,721.96	39,379.74	36,084.94	37,380.16	40,270.77	38,904.15	40,911.93	40,017.82	39,012.23	41,733.77	39,770.32	38,907.54
Carts, Range, Starters, Etc.	15,935.90	16,569.79	15,122.18	15,121.41	14,481.80	13,883.29	14,103.01	15,698.59	12,006.85	14,286.58	16,255.20	16,166.47	18,497.18
Pro Shop	12,447.03	11,852.05	11,781.65	11,619.61	11,132.34	11,696.64	12,610.75	12,983.02	12,052.42	11,954.46	13,617.60	14,668.39	15,759.94
General and Administrative	17,303.45	16,471.00	16,256.82	16,675.81	16,496.47	16,925.57	35,538.54	18,185.01	17,710.28	20,725.26	17,825.47	18,442.15	16,612.13
Marketing	3,702.16	2,476.00	1,154.73	2,078.81	715.70	127.10	2,874.06	6,887.53	6,326.90	9,608.16	7,104.33	10,218.74	7,211.79
TOTAL PAYROLL	89,045.37	84,090.80	83,695.12	81,580.58	80,206.47	82,903.37	104,030.51	94,666.08	88,114.27	95,586.69	96,536.37	99,266.07	96,988.58
OPERATING EXPENSES													
Course and Grounds	29,630.97	27,235.88	38,080.90	26,451.23	23,658.31	33,689.52	23,080.05	32,473.09	22,667.56	27,606.37	24,656.02	26,789.69	31,433.74
Carts, Range, Starters, Etc.	10,386.39	9,778.26	9,691.04	10,693.49	10,065.89	12,613.48	10,873.00	9,222.11	6,651.34	10,549.89	8,228.13	7,859.49	11,360.92
Pro Shop	2,068.60	1,503.88	0.00	242.63	585.57	75.61	799.35	4,602.73	706.37	2,798.88	2,031.08	6,002.20	2,227.99
General and Administrative	28,772.72	24,549.16	28,348.77	23,005.64	26,061.35	25,351.68	35,867.52	28,092.93	31,421.20	33,367.23	29,882.31	34,006.78	29,024.74
Marketing	566.18	6,400.23	2,481.75	3,967.87	5,503.70	1,294.11	1,509.27	675.87	3,100.00	2,378.62	710.07	444.65	1,492.31
TOTAL OPERATING EXPENSE	71,424.86	69,467.41	78,602.46	64,360.86	65,874.82	73,024.40	72,129.19	75,066.73	64,546.47	76,700.99	65,507.61	75,102.81	75,539.70
TOTAL EXPENSES	181,943.27	171,643.59	188,122.28	170,804.17	162,542.78	175,690.95	189,397.00	187,377.68	170,389.95	188,810.71	176,886.90	192,632.07	191,236.10
EBITDA	83,392.85	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56	94,890.47

The Golf Club at Cypress Head

For the Month Ending March 31, 2024

	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24	03/31/24
EBITDA	83,392.85	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56	94,890.47
MANAGEMENT FEES	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)
Interest Expense - Debt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Expense - Leases	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FINANCING ACTIVITY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHER INCOME (EXPENSE)													
Non-Operating Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfers from County	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Depreciation & Amortization	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
Incentive Compensation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Partnership Income/(Loss)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Gain/(Loss) On Disposal Of Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Expenses / Capital Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Taxes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER INCOME (EXPE	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
NET INCOME	76,897.32	57,185.66	4,098.22	(2,330.52)	(4,183.52)	(46,433.31)	(62,614.19)	(21,902.58)	(34,708.06)	(12,986.06)	15,105.96	41,514.03	88,202.94
Paid Rounds	5,285.00	4,537.00	3,928.00	3,889.00	3,619.00	2,669.00	2,765.00	3,148.00	2,746.00	3,009.00	3,565.00	4,156.00	5,059.00
Annual Pass Rounds	414.00	406.00	351.00	325.00	298.00	336.00	338.00	369.00	308.00	361.00	340.00	416.00	425.00
Other Rounds	295.00	247.00	254.00	282.00	236.00	258.00	240.00	219.00	208.00	315.00	250.00	243.00	318.00
Total Rounds	5,994.00	5,190.00	4,533.00	4,496.00	4,153.00	3,263.00	3,343.00	3,736.00	3,262.00	3,685.00	4,155.00	4,815.00	5,802.00
Revenue/Paid Rounds	50.21	51.87	50.59	44.99	45.55	50.86	48.20	54.69	51.85	60.66	55.73	57.95	56.56
Revenue/Total Rounds	44.27	45.34	43.84	38.92	39.70	41.60	39.87	46.08	43.64	49.53	47.82	50.02	49.32
	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The Golf Club at Cypress Head

For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
236,966	239,187	99%	215,490	110%	Green Fees & Cart Fees	999,788	1,076,077	93%	969,401	103%	1,894,268	1,808,739
30,767	31,950	96%	31,818	97%	Merchandise	151,299	121,750	124%	118,594	128%	225,501	319,021
6,024	4,700	128%	4,505	134%	Other Pro Shop	19,477	23,650	82%	19,675	99%	45,630	32,152
7,861	9,685	81%	8,745	90%	Range	32,198	40,841	79%	34,257	94%	83,261	66,750
4,509	4,878	92%	4,778	94%	Other Operating Revenues	19,922	23,444	85%	21,843	91%	44,187	38,920
286,127	290,400	99%	265,336	108%	TOTAL REVENUE	1,222,685	1,285,762	95%	1,163,769	105%	2,292,847	2,265,581
					COST OF SALES							
18,708	22,365	84%	21,473	87%	Merchandise	103,711	85,225	122%	84,178	123%	157,851	221,946
18,708	22,365	84%	21,473	87%	TOTAL COGS	103,711	85,225	122%	84,178	123%	157,851	221,946
60.8%	70.0%	86.9%	67.5%	90.1%	COGS - Merchandise %	68.5%	70.0%	97.9%	71.0%	96.6%	70.0%	854.2%
					PAYROLL							
38,908	46,387	84%	39,657	98%	Course and Grounds	240,354	272,501	88%	231,294	104%	547,942	469,095
18,497	17,807	104%	15,936	116%	Carts, Range, Starters, Etc.	92,911	104,101	89%	71,187	131%	211,522	182,192
15,760	13,472	117%	12,447	127%	Pro Shop	81,036	79,511	102%	60,516	134%	159,420	151,729
16,612	18,473	90%	17,303	96%	General and Administrative	109,500	110,854	99%	98,226	111%	222,142	227,865
7,212	6,663	108%	3,702	195%	Marketing	47,357	40,011	118%	24,937	190%	80,098	56,784
96,989	102,801	94%	89,045	109%	TOTAL PAYROLL	571,158	606,979	94%	486,160	117%	1,221,123	1,087,665
					OPERATING EXPENSES							
31,434	28,462	110%	29,631	106%	Course and Grounds	165,626	162,784	102%	155,882	106%	330,078	337,822
11,361	11,227	101%	10,386	109%	Carts, Range, Starters, Etc.	53,872	72,572	74%	71,234	76%	133,584	117,587
2,228	2,200	101%	2,069	108%	Pro Shop	18,369	11,785	156%	10,643	173%	14,245	21,576
29,025	30,848	94%	28,773	101%	General and Administrative	185,795	182,194	102%	172,525	108%	321,392	348,979
1,492	1,300	115%	566	264%	Marketing	8,802	9,000	98%	5,547	159%	28,800	29,958
75,540	74,037	102%	71,425	106%	TOTAL OPERATING EXPENSES	432,464	438,335	99%	415,831	104%	828,099	855,923
191,236	199,203	96%	181,943	105%	TOTAL EXPENSES	1,107,333	1,130,539	98%	986,169	112%	2,207,072	2,165,534
94,890	91,197	104%	83,393	114%	EBITDA	115,351	155,223	74%	177,600	65%	85,774	100,047

The Golf Club at Cypress Head

For the Six Months Ending March 31, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
94,890	91,197	104%	83,393	114%	EBITDA	115,351	155,223	74%	177,600	65%	85,774	100,047
(6,592)	(6,592)	100%	(6,400)	103%	MANAGEMENT FEES	(39,552)	(39,552)	100%	(38,274)	103%	(79,104)	(77,952)
					OTHER INCOME (EXPENSE)							
(96)	(96)	100%	(96)	100%	Depreciation & Amortization	(573)	(573)	100%	(573)	100%	(1,146)	(1,146)
(96)	(96)	100%	(96)	100%	TOTAL OTHER INCOME (EXPENSE)	(573)	(573)	100%	(573)	100%	(1,146)	(1,146)
88,203	84,509	104%	76,897	115%	NET INCOME	75,226	115,098	65%	138,753	54%	5,524	20,949
5,059	5,444	93%	5,285	96%	Paid Rounds	21,683	24,630	88%	23,690	92%	43,894	43,090
425	414	103%	414	103%	Annual Pass Rounds	2,219	2,109	105%	2,109	105%	4,795	4,273
318	295	108%	295	108%	Other Rounds	1,553	1,507	103%	1,507	103%	2,783	3,070
5,802	6,153	94%	5,994	97%	Total Rounds	25,455	28,246	90%	27,306	93%	51,472	50,433
57	53	106%	50	113%	Revenue/Paid Rounds	56	52	108%	49	115%	52	629
49	47	104%	44	111%	Revenue/Total Rounds	48	46	106%	43	113%	45	536

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May 13, 2024

Robin Fenwick
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Dear Ms. Fenwick,

The following is the financial and operational summary report for March 2024 at Cypress Head Golf Club. These numbers reflect only the Golf portion for the month and year to date.

FINANCIAL SUMMARY FOR GOLF MONTH ENDING MARCH 2024									
	Current				Year to Date				
Revenue	Actual	Budget	Variance vs. Budget		Actual	Budget	Prior Year	Variance vs. Budget	
Green Fees	$ 155,197	$ 162,773	$ (7,576)		$ 639,263	$ 714,721	$ 652,002	$ (75,458)	
Cart Fees	$ 81,769	$ 76,414	$ 5,355		$ 360,525	$ 361,355	$ 317,399	$ (830)	
Range	$ 7,861	$ 9,685	$ (1,824)		$ 32,198	$ 40,841	$ 34,257	$ (8,643)	
Pro- Shop Revenues	$ 36,791	$ 36,650	$ 141		$ 170,776	$ 145,400	$ 138,269	$ 25,376	
City Surcharge R/R	$ 4,509	$ 4,878	$ (369)		$ 19,922	$ 23,444	$ 21,843	$ (3,522)	
Total Revenue	**$ 286,127**	**$ 290,400**	**$ (4,273)**		**$ 1,222,684**	**$ 1,285,761**	**$ 1,163,770**	**$ (63,077)**	
Cost of Sales	$ 18,708	$ 22,365	$ (3,657)		$ 103,711	$ 85,225	$ 84,178	$ 18,486	
Merchandise	$ 18,708	$ 22,365	$ (3,657)	61%	$ 103,711	$ 85,225	$ 84,178	$ 18,486	68%
Gross Margin	**$ 267,419**	**$ 268,035**	**$ (616)**		**$ 1,118,973**	**$ 1,200,536**	**$ 1,079,592**	**$ (81,563)**	
Total Payroll	$ 96,989	$ 102,801	$ (5,812)		$ 571,158	$ 606,979	$ 486,160	$ (35,821)	
Total Operating Expenses	$ 75,540	$ 74,037	$ 1,503		$ 432,464	$ 438,335	$ 415,831	$ (5,871)	
EBITDA	**$ 94,890**	**$ 91,197**	$ 3,693		**$ 115,351**	**$ 155,222**	**$ 177,601**	$ (39,871)	
Other Expenses	**$ 6,688**	**$ 6,688**	**$ -**		**$ 40,125**	**$ 40,125**	**$ 38,847**	**$ -**	
Management Fee	$ 6,592	$ 6,592	$ -		$ 39,552	$ 39,552	$ 38,274	$ -	
Interest Expense	$ -	$ -	$ -		$ -	$ -	$ -	$ -	
Depreciation	$ 96	$ 96	$ -		$ 573	$ 573	$ 573	$ -	
Net Cash From Ops	**$ 88,202**	**$ 84,509**	**$ 3,693**		**$ 75,226**	**$ 115,097**	**$ 138,754**	**$ (39,871)**	
Rounds									
Total Rounds	**5,802**	**6,153**	**(351)**		**25,455**	**28,246**	**27,306**	**(2,791)**	
Paid Rounds	**5,059**	**5,444**	**(385)**		**21,683**	**2,630**	**2,690**	**19,053**	
Avg. GF/CF Total rounds	**$40.84**	**$38.87**	**$ 1.97**		**$39.28**	**$38.10**	**$35.50**	**$ 1.18**	
Avg. GF/CF Paid rounds	**$46.84**	**$43.94**	**$ 2.90**		**$46.11**	**$409.15**	**$360.37**	**$ (363.05)**	
Avg. Merchandise/round	**$6.34**	**$5.96**	**$ 0.38**		**$6.71**	**$5.15**	**$5.06**	**$ 1.56**	

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Overview:

Total revenues for March finished $4K shy of budget for the month. With 2" of rain recorded in March and untimely cool spurts, the golf course realized 4 unplayable days, and 3 others significantly affected by intermittent weather and cart paths only. Easter Sunday saw a lighter tee sheet as families chose other things to do. Average high temperatures were 76.6 degrees with average lows of 61.1. Total revenues came in at $286.1K, under budget by $4.3K but $20.8K more than prior year. We played 5,802 total rounds to a budget of 6,153 (under by 351).

- Total Payroll for the month was $97K, under by $5.8K. Total Operating Expenses were $75.5K, over by $1.5K.

- Rounds were shy of budget by 6%, range revenue ($7.9K) missed budget by 19%, with several days of cart path only and range closure due to wet conditions.

- We managed to exceed EBITDA and Net Income projections by $3.7K. YTD, we are only $39.9K behind YTD projections. Considering the horrible weather we have endured over the winter, it was nice to flip the script and exceed budget again.

CAPEX Projects:

Our CAPEX plan for 2024 has been submitted. We are working on getting our replacement equipment schedule dialed in as the supply chain remains very back logged.

- We have gotten quotes for the cart path work and are aiming for a June start for the front 9 project.
- We have 3 different contractors targeted regarding the bunker renovations with an estimated start in March 2024. We have 1 quote, awaiting a 2nd from a site visit, and still yet to meet with the 3rd. UPDATE: Our 3rd contractor just completed a site visit and submitted a no-quote.
- We also have $26K in driving range netting repairs and are close to gathering all quotes being submitted for this. We have 3 quotes in hand that are more than the $26K.

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Tee Sheet Activity:

- There were 5,802 total rounds for the month which included 5,059 paid rounds, 425 Annual Pass rounds and 318 other rounds. These numbers fall 6% shy of budget and 3% less than year.
- Many of our snowbird groups continue to play so our tee sheet utilization is high on good weather days.
- Dynamic pricing was sill turned off in march but will be turned on again in April for all Non-resident play only.
- Starters and Players earned a 9.8 Staff Experience rating in March.

MARCH 2024 and YTD Rounds Mix

Type	Actual	Budget	Month-PY	YTD	YTD-Budg	YTD - PY
PAID	5,059	5,444	5,285	21,683	24,630	23,690
ANNUAL	425	414	414	2,219	2,109	2,109
OTHER	318	295	295	1,553	1,507	1,507
TOTAL ROUNDS	5,802	6,153	5,994	25,455	28,246	27,306

Course & Grounds

- Our Superintendent, Darren Bache continues to follow the agronomic program that he developed for Cypress Head, and along with his guidance, Cypress Head is ranked as the Best Golf Course in Volusia County and #20 Public course in Florida according to GolfNow/GolfPass.
- We saw 2” of rain in March, on an already wet golf course. Even with all the wet, cool weather challenges, our turf conditions, and especially our greens, are the best in our area.
- The drainage issue on #6 has been repaired and the next stage is by #9 tee and the back of the driving range.

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Golf Operations

- We generated $36.8K in Golf Shop sales (on budget).
- We just received 2 new utility carts for the golf staff. We currently have all golf carts operational.
- Cart revenue ($81.8K) exceeded budget by $5.3K.
- The staff at Cypress Head Golf Course continues to offer individual lessons as well as group lessons. Our teaching professionals recorded $1,970 in lessons in March.
- The MGA and the WGA have continued their league play for the month and we have seen an increase in players as a result of incredible course conditions and an influx of new home purchases in the area. The MGA averaged 74 players in March, the WGA 18-holers, about 34, and the WGA 9-holers averaged 37 players.
- March was a decent month for tournament activity. We hosted one large event and several smaller outings and leagues in March. With 810 total tournament/outing players, we generated $32.5K in revenue and rave reviews from the participants.

Marketing and Sales:

- Cypress Head was voted as a top 25 public course in Florida by GolfPass, an affiliate of GolfNow. We are utilizing this badge in our campaigns.
- The website has been revamped and is much more streamlined and updated.
- We have installed Noteefy, an automated tee time assistant to assist golfers find their preferred times and help us fill in late cancellations.
- Cypress Head continues to be active members of the Port Orange South Daytona Chamber of Commerce, Daytona Chamber of Commerce, SEV Chamber and Rotary International.
- Outside tournament bookings are very solid as we have 3 large events in April and 2 more in May before it begins to slow down some for the Summer months.
- We continue to maintain our database of emails with approximately 13,116 unique e-mail addresses (-1,945 from prior month). Our Facebook followers are at 1,594 (up 3) and Instagram is up to 491 (up 8) followers.

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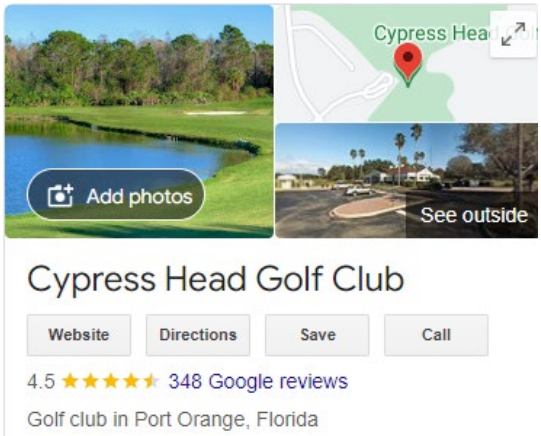
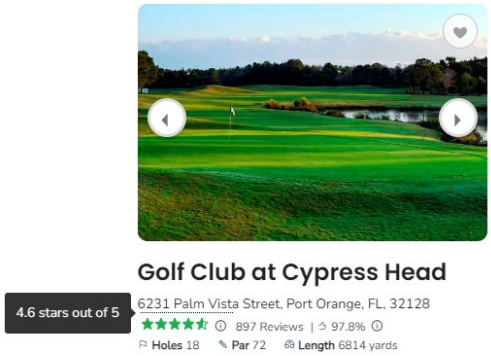
- Nightly surveys continued to be strong in March, highlighted by 148 surveys being submitted and an NPS of 91.9 (Please see table below).

	Last Month						
	Week of 02/25	Week of 03/03	Week of 03/10	Week of 03/17	Week of 03/24	Week of 03/31	Total
# of responses	7	22	39	29	47	4	148
Net Promoter Score							
Property NPS	100.0	95.5	89.7	89.7	91.5	100.0	91.9
Key Metrics							
Likelihood to Return	9.7	9.9	9.7	9.8	9.7	9.8	9.8
Overall Experience Satisfaction	9.7	9.6	9.6	9.5	9.6	9.7	9.6
Service Satisfaction	10.0	9.6	9.8	9.8	9.7	10.0	9.7
Value Perception	10.0	9.3	9.3	9.5	9.1	9.5	9.3

Google Ratings



GolfAdvisor Ratings



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Insights

- In addition to making #20 for Top Florida Public courses in GolfPass, Cypress head continues to lead many categories in KemperSports with regards to delivering True Service. See our Property Wins below.
- Companywide we are gearing up to begin True Service 3.0, a more updated version of our very successful training model.

Property Wins

Most surveys at 3,093:
Desert Willow Golf Resort

Highest Likelihood to Return Score at 9.8:
Cypress Head Golf Club, The Golf Club at Eagle Pointe

Highest Overall Experience SAT Score at 9.4:
Blackhawk Golf Course, Cypress Head Golf Club, Sand Creek Station, Skyway Golf Course at Lincoln Park West

Highest Service Experience SAT Score at 9.7:
Cypress Head Golf Club, Sand Creek Station, Shady Rest Golf and Country Club, The Wilderness at Lake Jackson

Highest Check-In SAT Score at 9.8:
Sand Creek Station

Highest Golf Course Staff Helpfulness Score at 9.8:
Cypress Head Golf Club

HIGHEST SERVICE EXPERIENCE SATISFACTION

9.7 Cypress Head Golf Club, Sand Creek Station, Shady Rest Golf and Country Club, The Wilderness at Lake Jackson

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Year to Date Summary

The super El Nino weather pattern was less intense in March. With cooler temps and less rainfall, we made budget for the first time since October. With 6 months in the books, we are behind of our YTD target by $39.9K. We are confident that we will continue to gain ground in the coming months and our goal is to be back on track by the end of Q3.

April will be spent dialing in the FY25 budget as well as the CIP budget.

Respectfully Submitted,

Jeff Dayton, PGA

General Manager
Cypress Head Golf Club

Matt Lindley

Vice President Operations
KemperSports Management

The Golf Club at Cypress Head
Comparative Income Statement
For the Seven Months Ending April 30, 2024

	MTD Prior Year	YTD Prior Year	Audited Prior Year	Percent of Total	MTD Actual	YTD Actual	Annual Budget	Percent of Total
REVENUES								
Green Fees & Cart Fees	193,774	1,163,175	1,778,351	65%	201,528	1,201,316	1,894,268	63%
Merchandise	26,833	145,427	286,316	51%	45,649	196,948	225,501	87%
Other Pro Shop	2,977	22,651	32,350	70%	3,778	23,255	45,630	51%
Range	7,745	42,002	68,808	61%	8,649	40,847	83,261	49%
Other Operating Revenues	3,996	25,838	40,841	63%	3,927	23,849	44,187	54%
TOTAL REVENUE	235,325	1,399,094	2,206,665	63%	263,531	1,486,216	2,292,847	65%
COST OF SALES								
Merchandise	18,085	102,263	202,413	51%	30,458	134,169	157,851	85%
TOTAL COGS	18,085	102,263	202,413	51%	30,458	134,169	157,851	85%
COGS - Merchandise %	67.4%	70.3%	70.7%	99.5%	66.7%	68.1%	70.0%	97.3%
PAYROLL								
Course and Grounds	36,722	268,016	460,036	58%	41,749	282,103	547,942	51%
Carts, Range, Starters, Etc.	16,570	87,757	160,468	55%	19,834	112,745	211,522	53%
Pro Shop	11,852	72,368	131,209	55%	14,857	95,893	159,420	60%
General and Administrative	16,471	114,697	216,590	53%	17,416	126,917	222,142	57%
Marketing	2,476	27,413	34,364	80%	8,417	55,775	80,098	70%
TOTAL PAYROLL	84,091	570,250	1,002,667	57%	102,274	673,432	1,221,123	55%
OPERATING EXPENSES								
Course and Grounds	27,236	183,118	328,078	56%	31,255	196,881	330,078	60%
Carts, Range, Starters, Etc.	9,778	81,012	134,949	60%	9,330	63,202	133,584	47%
Pro Shop	1,504	12,147	13,850	88%	326	18,695	14,245	131%
General and Administrative	24,549	197,075	335,710	59%	31,007	216,802	321,392	67%
Marketing	6,400	11,947	26,704	45%	3,855	12,657	28,800	44%
TOTAL OPERATING EXPENSES	69,467	485,298	839,290	58%	75,773	508,237	828,099	61%
TOTAL EXPENSES	171,644	1,157,812	2,044,370	57%	208,505	1,315,838	2,207,072	60%
OTHER INCOME (EXPENSE)								
MANAGEMENT FEES	(6,400)	(44,674)	(76,674)	58%	(6,592)	(46,144)	(79,104)	58%
Depreciation & Amortization	(96)	(669)	(1,146)	58%	(96)	(669)	(1,146)	58%
TOTAL OTHER INCOME (EXPENSE)	(6,496)	(45,343)	(77,820)	58%	(6,688)	(46,813)	(80,250)	58%
NET INCOME	57,186	195,939	84,476	232%	48,339	123,565	5,524	2237%
Paid Rounds	4,537	28,227	45,097		4,469	26,152	43,894	
Annual Pass Rounds	406	2,515	4,163		405	2,624	4,795	
Other Rounds	247	1,754	3,024		290	1,843	2,783	
Total Rounds	5,190	32,496	52,284		5,164	30,619	5,142	
Revenue/Paid Rounds	52	50	49		59	57	52	
Revenue/Total Rounds	45	43	42		51	49	45	

The Golf Club at Cypress Head
Course Cash Flow Report
For the Year Ended April 30, 2024

	OCT Actual	NOV Actual	DEC Actual	JAN Actual	FEB Actual	MAR Actual	APR Actual	MAY Actual	JUN Actual	JUL Actual	AUG Actual	SEP Actual
EBITDA	(15,215)	(28,021)	(6,299)	21,793	48,202	94,890	55,027	0	0	0	0	0
Management Fee Expense	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	(6,592)	0	0	0	0	0
Depreciation & Amortization	(96)	(96)	(96)	(96)	(96)	(96)	(96)	0	0	0	0	0
Net Income	(21,903)	(34,708)	(12,986)	15,106	41,514	88,203	48,339	0	0	0	0	0
Working Capital Changes												
Inventory	(14,763)	3,053	1,069	(20,240)	(2,007)	(8,147)	8,395	0	0	0	0	0
Receivables	38,209	5,687	2,684	(5,913)	(285)	6,775	(2,220)	0	0	0	0	0
Prepaid Expenses	9,683	(30,551)	(2,078)	12,013	14,440	(4,442)	15,393	0	0	0	0	0
Payables	31,140	10,179	(723)	26,959	34,618	(10,863)	(42,098)	0	0	0	0	0
Due to from the City	(148)	1,332	50	(304)	609	(304)	0	0	0	0	0	0
Accrued Expenses	10,560	4,778	(9,427)	12,042	5,100	(24,836)	1,167	0	0	0	0	0
Deferred Revenues	(15,018)	(10,866)	(7,321)	(12,423)	(16,944)	(13,985)	(12,476)	0	0	0	0	0
Depreciation & Amortization	96	96	96	96	96	96	96	0	0	0	0	0
Operating Cash Flow	37,855	(51,000)	(28,637)	27,336	77,140	32,496	16,595	0	0	0	0	0
Investing Activities												
Financing Activites												
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	32,496	16,595	0	0	0	0	0
Beginning Cash	349,699	387,555	336,554	307,917	335,253	412,393	444,889	461,485	436,839	436,839	436,839	436,839
Net Cash Flows	37,855	(51,000)	(28,637)	27,336	77,140	32,496	16,595	0	0	0	0	0
Ending Cash	387,555	336,554	307,917	335,253	412,393	444,889	461,485	461,485	436,839	436,839	436,839	436,839

The Golf Club at Cypress Head

For the Month Ending April 30, 2024

	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24	03/31/24	04/30/24
REVENUES													
Green Fees & Cart Fees	193,774.07	152,982.45	129,068.67	130,571.95	99,504.03	103,049.03	132,793.69	117,320.82	155,131.80	157,914.22	199,662.20	236,965.68	201,528.02
Merchandise	26,833.45	32,725.04	34,350.55	24,446.20	27,611.03	21,755.93	30,272.41	17,828.09	17,287.31	29,579.36	25,565.08	30,766.90	45,649.17
Other Pro Shop	2,976.50	3,060.00	2,035.00	1,563.00	1,700.39	1,340.00	2,044.39	1,096.66	1,794.39	3,218.00	5,298.78	6,024.39	3,778.17
Range	7,745.13	6,551.80	6,283.24	5,076.88	4,383.83	4,510.31	4,124.45	3,591.96	5,358.83	4,719.32	6,542.87	7,860.89	8,649.11
Other Operating Revenues	3,995.63	3,396.74	3,231.72	3,196.76	2,553.89	2,623.07	2,927.69	2,531.89	2,939.85	3,249.49	3,764.70	4,508.71	3,926.85
TOTAL REVENUE	235,324.78	198,716.03	174,969.18	164,854.79	135,753.17	133,278.34	172,162.63	142,369.42	182,512.18	198,680.39	240,833.63	286,126.57	263,531.32
COST OF SALES													
Merchandise	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19	18,707.82	30,457.62
TOTAL COGS	18,085.38	25,824.70	24,862.73	16,461.49	19,763.18	13,237.30	17,644.87	17,729.21	16,523.03	14,842.92	18,263.19	18,707.82	30,457.62
COGS - Merchandise %	67.4%	78.9%	72.4%	67.3%	71.6%	60.8%	58.3%	99.4%	95.6%	50.2%	71.4%	60.8%	66.7%
PAYROLL													
Course and Grounds	36,721.96	39,379.74	36,084.94	37,380.16	40,270.77	38,904.15	40,911.93	40,017.82	39,012.23	41,733.77	39,770.32	38,907.54	41,749.05
Carts, Range, Starters, Etc.	16,569.79	15,122.18	15,121.41	14,481.80	13,883.29	14,103.01	15,698.59	12,006.85	14,286.58	16,255.20	16,166.47	18,497.18	19,834.24
Pro Shop	11,852.05	11,781.65	11,619.61	11,132.34	11,696.64	12,610.75	12,983.02	12,052.42	11,954.46	13,617.60	14,668.39	15,759.94	14,857.36
General and Administrative	16,471.00	16,256.82	16,675.81	16,496.47	16,925.57	35,538.54	18,185.01	17,710.28	20,725.26	17,825.47	18,442.15	16,612.13	17,416.48
Marketing	2,476.00	1,154.73	2,078.81	715.70	127.10	2,874.06	6,887.53	6,326.90	9,608.16	7,104.33	10,218.74	7,211.79	8,417.25
TOTAL PAYROLL	84,090.80	83,695.12	81,580.58	80,206.47	82,903.37	104,030.51	94,666.08	88,114.27	95,586.69	96,536.37	99,266.07	96,988.58	102,274.38
OPERATING EXPENSES													
Course and Grounds	27,235.88	38,080.90	26,451.23	23,658.31	33,689.52	23,080.05	32,473.09	22,667.56	27,606.37	24,656.02	26,789.69	31,433.74	31,255.02
Carts, Range, Starters, Etc.	9,778.26	9,691.04	10,693.49	10,065.89	12,613.48	10,873.00	9,222.11	6,651.34	10,549.89	8,228.13	7,859.49	11,360.92	9,330.33
Pro Shop	1,503.88	0.00	242.63	585.57	75.61	799.35	4,602.73	706.37	2,798.88	2,031.08	6,002.20	2,227.99	325.74
General and Administrative	24,549.16	28,348.77	23,005.64	26,061.35	25,351.68	35,867.52	28,092.93	31,421.20	33,367.23	29,882.31	34,006.78	29,024.74	31,006.61
Marketing	6,400.23	2,481.75	3,967.87	5,503.70	1,294.11	1,509.27	675.87	3,100.00	2,378.62	710.07	444.65	1,492.31	3,855.12
TOTAL OPERATING EXPENSE	69,467.41	78,602.46	64,360.86	65,874.82	73,024.40	72,129.19	75,066.73	64,546.47	76,700.99	65,507.61	75,102.81	75,539.70	75,772.82
TOTAL EXPENSES	171,643.59	188,122.28	170,804.17	162,542.78	175,690.95	189,397.00	187,377.68	170,389.95	188,810.71	176,886.90	192,632.07	191,236.10	208,504.82
EBITDA	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56	94,890.47	55,026.50

The Golf Club at Cypress Head

For the Month Ending April 30, 2024

	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/29/24	03/31/24	04/30/24
EBITDA	63,681.19	10,593.75	4,165.01	2,312.01	(39,937.78)	(56,118.66)	(15,215.05)	(28,020.53)	(6,298.53)	21,793.49	48,201.56	94,890.47	55,026.50
MANAGEMENT FEES	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,400.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)	(6,592.00)
Interest Expense - Debt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Expense - Leases	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interest Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FINANCING ACTIVITY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHER INCOME (EXPENSE)													
Non-Operating Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfers from County	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Depreciation & Amortization	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
Incentive Compensation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Partnership Income/(Loss)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Gain/(Loss) On Disposal Of Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Expenses / Capital Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Taxes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER INCOME (EXPE	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)	(95.53)
NET INCOME	57,185.66	4,098.22	(2,330.52)	(4,183.52)	(46,433.31)	(62,614.19)	(21,902.58)	(34,708.06)	(12,986.06)	15,105.96	41,514.03	88,202.94	48,338.97
Paid Rounds	4,537.00	3,928.00	3,889.00	3,619.00	2,669.00	2,765.00	3,148.00	2,746.00	3,009.00	3,565.00	4,156.00	5,059.00	4,469.00
Annual Pass Rounds	406.00	351.00	325.00	298.00	336.00	338.00	369.00	308.00	361.00	340.00	416.00	425.00	405.00
Other Rounds	247.00	254.00	282.00	236.00	258.00	240.00	219.00	208.00	315.00	250.00	243.00	318.00	290.00
Total Rounds	5,190.00	4,533.00	4,496.00	4,153.00	3,263.00	3,343.00	3,736.00	3,262.00	3,685.00	4,155.00	4,815.00	5,802.00	5,164.00
Revenue/Paid Rounds	51.87	50.59	44.99	45.55	50.86	48.20	54.69	51.85	60.66	55.73	57.95	56.56	58.97
Revenue/Total Rounds	45.34	43.84	38.92	39.70	41.60	39.87	46.08	43.64	49.53	47.82	50.02	49.32	51.03
	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The Golf Club at Cypress Head

For the Seven Months Ending April 30, 2024

	04/30/24	09/30/23	04/30/23
ASSETS			
CURRENT ASSETS:			
Cash			
Cash - Depository	432,040	297,893	447,350
Cash - Payroll	28,094	50,456	18,597
Cash - Manual Checks	850	850	850
Cash - Housebank & Other	500	500	500
Total Cash	461,485	349,699	467,297
Accounts Receivable			
A/R Member	2,338	47,275	2,826
Total Accounts Recievable	2,338	47,275	2,826
Other Current Assets			
Inventory - Merchandise	132,000	99,360	86,832
Prepaid Insurance	17,656	45,051	14,567
Prepaid Exp - Other	24,327	11,388	19,672
Total Other Current Assets	173,983	155,800	121,071
TOTAL CURRENT ASSETS	637,806	552,774	591,194
PROPERTY, PLANT AND EQUIPMENT:			
Buildings & Improvements	30,598	30,598	30,598
Machinery & Equipment	5,550	5,550	5,550
Property Plant and Equipment	36,148	36,148	36,148
Accumulated Depreciation	(32,930)	(32,261)	(31,783)
TOTAL PROPERTY, PLANT AND EQUIPMENT	3,218	3,887	4,365
TOTAL ASSETS	641,024	556,661	595,559

The Golf Club at Cypress Head

For the Seven Months Ending April 30, 2024

	04/30/24	09/30/23	04/30/23
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accts Pay - Trade	100,569	51,356	83,409
Accts Pay - Other	209,887	208,653	123,538
Accrued Expenses	0	2,415	2,108
Accrued Payroll	44,084	50,567	32,887
Accrued Taxes	15,404	7,122	13,804
Deferred Revenue	147,513	236,547	143,674
TOTAL CURRENT LIBILITIES	517,457	556,659	399,421
TOTAL LIABILITIES	517,457	556,659	399,421
STOCKHOLDER'S EQUITY			
Retained Earnings	123,567	2	196,138
Net Retained Earnings	123,567	2	196,138
Stockholders Equity	123,567	2	196,138
TOTAL STOCKHOLDER'S EQUITY	123,567	2	196,138
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	641,024	556,661	595,559

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

General Ledger

Ranges: From: To:
Date: 4/1/2024 4/30/2024
Account: First Last

Sorted By: Account
Include: Posting, Unit
Print Currency In: Functional (Z-US$)

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	10020-5950-900	Cash - Course Depository NEW	$410,215.32	$267,852.32	$246,027.22	$21,825.10	$432,040.42
	10050-5950-900	Cash - Course Payroll BMO	$33,324.09	$74,000.00	$79,229.70	($5,229.70)	$28,094.39
	10100-5950-900	Cash - Course Other	$850.00	$0.00	$0.00	$0.00	$850.00
	10180-5950-900	Cash - Pro Shop Bank	$500.00	$0.00	$0.00	$0.00	$500.00
	11160-5950-900	A/R Member	$118.00	$21,529.17	$19,309.16	$2,220.01	$2,338.01
	12000-5950-900	Inventory - Merchandise	$140,395.44	$28,532.43	$36,927.73	($8,395.30)	$132,000.14
	13020-5950-900	Prepaid Insurance	$26,868.98	$0.00	$9,213.41	($9,213.41)	$17,655.57
	13040-5950-900	Prepaid Exp - Other	$30,506.88	$0.00	$6,179.40	($6,179.40)	$24,327.48
	20100-5950-900	Machinery & Equipment	$5,550.40	$0.00	$0.00	$0.00	$5,550.40
	20160-5950-900	Buildings and Improvements	$30,597.54	$0.00	$0.00	$0.00	$30,597.54
	22040-5950-900	Accum. Deprec - Mach & Equip	($5,133.10)	$0.00	$23.12	($23.12)	($5,156.22)
	22080-5950-900	Accum. Deprec - Buildings	($27,701.09)	$0.00	$72.41	($72.41)	($27,773.50)
	30000-5950-900	Accts Pay - Trade	($142,667.13)	$137,301.59	$95,203.48	$42,098.11	($100,569.02)
	30040-5950-900	Accts Pay - Other	($209,886.99)	$17,589.55	$17,589.55	$0.00	($209,886.99)
	31000-5950-900	Accrued Expenses	($4,508.71)	$4,508.71	$0.00	$4,508.71	$0.00
	31020-5950-900	Accrued Payroll	($36,856.68)	$24,288.72	$31,269.85	($6,981.13)	($43,837.81)
	31080-5950-900	Accrued Tips Payable	$0.00	$448.00	$694.00	($246.00)	($246.00)
	31220-5950-900	Accrued Sales Tax	($16,955.29)	$16,955.29	$15,404.18	$1,551.11	($15,404.18)
	31400-5950-900	Accrued City Surcharge	$0.00	$8,435.56	$8,435.56	$0.00	$0.00
	32000-5950-900	Deferred Rev - Rainchecks	($8,931.90)	$1,085.83	$989.84	$95.99	($8,835.91)
	32020-5950-900	Deferred Rev - Outing Deposits	($15,243.77)	$0.00	$2,321.44	($2,321.44)	($17,565.21)
	32040-5950-900	Deferred Rev - Legacy GF Passes	($16,530.88)	$2,755.26	$0.00	$2,755.26	($13,775.62)
	32050-5950-900	Deferred Revenue - Cypress GF Passes	($25,628.96)	$5,241.65	$1,164.00	$4,077.65	($21,551.31)
	32070-5950-900	Deferred Rev - Gift Cards	($42,892.97)	$2,900.23	$545.00	$2,355.23	($40,537.74)
	32100-5950-900	Deferred Rev - Credit Books	($11,519.53)	$1,420.33	$1,335.00	$85.33	($11,434.20)
	32120-5950-900	Deferred Rev - Trail Fee Pass	($39,241.65)	$6,772.38	$1,042.00	$5,730.38	($33,511.27)
	32160-5950-900	Deferred Rev - Training Facility	$0.00	$0.00	$302.00	($302.00)	($302.00)
	49020-5950-900	Retained Earnings - Current	($1.77)	$0.00	$0.00	$0.00	($1.77)
	50000-5950-100	Green Fees - Annual Pass	($38,575.15)	$0.00	$6,949.33	($6,949.33)	($45,524.48)
	5003A-5950-100	Green Fee - Group	($74,966.58)	$0.00	$14,368.98	($14,368.98)	($89,335.56)
	50040-5950-100	Green Fees - Member	($354.73)	$350.24	$175.12	$175.12	($179.61)
	5006A-5950-100	Green Fee - Junior	($2,768.77)	$0.00	$375.64	($375.64)	($3,144.41)
	50070-5950-100	Green Fees - (surcharge)	($19,921.44)	$3,926.85	$7,853.70	($3,926.85)	($23,848.29)
	5007A-5950-100	Green Fee - League	($7,907.56)	$0.00	$10,494.49	($10,494.49)	($18,402.05)
	5010A-5950-100	Green Fee - Non-Resident (Standard)	($129,594.91)	$0.00	$30,649.54	($30,649.54)	($160,244.45)
	5011A-5950-100	Green Fee - Non-Revenue	($36.00)	$0.00	$0.00	$0.00	($36.00)
	5012A-5950-100	Green Fee - Outing	($40,092.41)	$0.00	$6,026.88	($6,026.88)	($46,119.29)
	5014A-5950-100	Green Fee - Resident	($188,317.09)	$7,943.21	$37,429.63	($29,486.42)	($217,803.51)
	5015A-5950-100	Green Fee - Senior	($132,739.64)	$0.00	$27,448.46	($27,448.46)	($160,188.10)
	5016A-5950-100	Green Fee - Staff	($1.88)	$0.00	$0.00	$0.00	($1.88)
	5019A-5950-100	Green Fee - Wholesale	($3,987.32)	$0.00	$1,500.55	($1,500.55)	($5,487.87)
	50500-5950-200	Cart Fee 18	($310,678.85)	$0.00	$63,703.62	($63,703.62)	($374,382.47)
	50520-5950-200	Cart Fee - Annual Trail	($49,846.08)	$0.00	$6,772.38	($6,772.38)	($56,618.46)
	52090-5950-600	Handicap Fee	($6,355.00)	$0.00	$90.00	($90.00)	($6,445.00)
	52150-5950-600	Lessons	($7,684.66)	$0.00	$2,270.00	($2,270.00)	($9,954.66)
	52280-5950-600	Rental Clubs	($5,436.95)	$0.00	$1,418.17	($1,418.17)	($6,855.12)
	52310-5950-600	Retail	($151,299.15)	$0.00	$45,649.17	($45,649.17)	($196,948.32)
	53050-5950-220	Range Pass Revenue	($32,198.32)	$302.00	$8,951.11	($8,649.11)	($40,847.43)
	56120-5950-100	City Surcharge R & R	($19,922.33)	$0.00	$3,926.85	($3,926.85)	($23,849.18)
	60000-5950-600	COGS - Merchandise - Accessories	$103,711.04	$30,457.62	$0.00	$30,457.62	$134,168.66
	70000-5950-100	Gross Payroll - Salaried	$68,898.76	$14,629.32	$3,376.00	$11,253.32	$80,152.08
	70000-5950-600	Gross Payroll - Salaried	$25,490.55	$5,599.01	$1,069.62	$4,529.39	$30,019.94
	70000-5950-900	Gross Payroll - Salaried	$84,520.11	$17,834.14	$4,110.96	$13,723.18	$98,243.29

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	70000-5950-950	Gross Payroll - Salaried	$40,442.97	$8,876.45	$1,730.77	$7,145.68	$47,588.65
	70010-5950-100	Gross Payroll - Hourly	$135,717.29	$29,338.69	$4,821.56	$24,517.13	$160,234.42
	70010-5950-200	Gross Payroll - Hourly	$84,083.65	$23,114.02	$5,177.15	$17,936.87	$102,020.52
	70010-5950-600	Gross Payroll - Hourly	$41,823.52	$10,097.71	$2,262.81	$7,834.90	$49,658.42
	70010-5950-900	Gross Payroll - Hourly	$841.32	$165.84	$13.80	$152.04	$993.36
	71000-5950-100	Payroll Tax - FICA	$15,154.99	$3,281.70	$627.10	$2,654.60	$17,809.59
	71000-5950-200	Payroll Tax - FICA	$6,584.52	$1,794.86	$396.06	$1,398.80	$7,983.32
	71000-5950-600	Payroll Tax - FICA	$4,927.54	$1,167.94	$254.94	$913.00	$5,840.54
	71000-5950-900	Payroll Tax - FICA	$7,273.12	$1,283.23	$315.55	$967.68	$8,240.80
	71000-5950-950	Payroll Tax - FICA	$2,992.18	$660.51	$132.40	$528.11	$3,520.29
	71010-5950-100	Payroll Tax - UC	$667.09	$55.79	$0.00	$55.79	$722.88
	71010-5950-200	Payroll Tax - UC	$606.96	$149.56	$0.00	$149.56	$756.52
	71010-5950-600	Payroll Tax - UC	$296.85	$48.52	$0.00	$48.52	$345.37
	71010-5950-900	Payroll Tax - UC	$127.86	$0.98	$0.00	$0.98	$128.84
	71010-5950-950	Payroll Tax - UC	$101.87	$0.00	$0.00	$0.00	$101.87
	71020-5950-100	Payroll Tax - WC	$3,845.29	$560.24	$0.00	$560.24	$4,405.53
	71020-5950-200	Payroll Tax - WC	$1,556.30	$317.64	$0.00	$317.64	$1,873.94
	71020-5950-600	Payroll Tax - WC	$1,267.38	$220.88	$0.00	$220.88	$1,488.26
	71020-5950-900	Payroll Tax - WC	$1,945.38	$245.92	$0.00	$245.92	$2,191.30
	71020-5950-950	Payroll Tax - WC	$763.00	$128.65	$0.00	$128.65	$891.65
	71030-5950-100	Benefits	$16,070.19	$6,308.67	$3,600.70	$2,707.97	$18,778.16
	71030-5950-200	Benefits	$79.44	$1,190.05	$1,158.68	$31.37	$110.81
	71030-5950-600	Benefits	$7,229.99	$2,401.84	$1,091.17	$1,310.67	$8,540.66
	71030-5950-900	Benefits	$14,792.51	$5,135.19	$2,808.51	$2,326.68	$17,119.19
	71030-5950-950	Benefits	$3,057.43	$856.55	$241.74	$614.81	$3,672.24
	80110-5950-200	Cart Supplies	$403.04	$0.00	$0.00	$0.00	$403.04
	80120-5950-100	Chemicals	$4,161.77	$530.00	$0.00	$530.00	$4,691.77
	80170-5950-100	Course Accessories	$1,809.99	$437.31	$179.88	$257.43	$2,067.42
	80230-5950-100	Fertilizer	$29,486.41	$6,146.00	$0.00	$6,146.00	$35,632.41
	80250-5950-100	Flowers/Decor	$59.82	$0.00	$0.00	$0.00	$59.82
	80270-5950-100	Fuel	$8,273.34	$933.01	$0.00	$933.01	$9,206.35
	80280-5950-100	Fungicides	$4,713.79	$0.00	$0.00	$0.00	$4,713.79
	80320-5950-100	Herbicides	$15,879.76	$4,678.59	$0.00	$4,678.59	$20,558.35
	80370-5950-100	Insecticides	$5,579.08	$1,586.90	$275.98	$1,310.92	$6,890.00
	80380-5950-900	Janitorial Supplies	$2,066.44	$1,315.19	$0.00	$1,315.19	$3,381.63
	80420-5950-900	Laundry/Uniforms	$41.50	$0.00	$0.00	$0.00	$41.50
	80520-5950-900	Office Supplies	$2,814.93	$528.98	$0.00	$528.98	$3,343.91
	80590-5950-600	Printing	$1,597.80	$47.93	$2.93	$45.00	$1,642.80
	80610-5950-220	Range Balls	$3,250.00	$0.00	$0.00	$0.00	$3,250.00
	80620-5950-220	Range Equipment	$0.00	$1,382.29	$0.00	$1,382.29	$1,382.29
	80630-5950-220	Range Expenses	$1,181.94	$0.00	$0.00	$0.00	$1,181.94
	80690-5950-100	Sand/Topdress	$4,297.02	$0.00	$0.00	$0.00	$4,297.02
	80710-5950-100	Seeds/Trees	$3,520.00	$0.00	$0.00	$0.00	$3,520.00
	80730-5950-100	Small Tools	$39.98	$0.00	$0.00	$0.00	$39.98
	80780-5950-200	Supplies	$461.62	$0.00	$0.00	$0.00	$461.62
	80780-5950-600	Supplies	$4,825.33	$0.00	$0.00	$0.00	$4,825.33
	80810-5950-600	Tournament Expense	$4,349.42	$280.74	$0.00	$280.74	$4,630.16
	81010-5950-900	Alarm System	$1,002.00	$142.00	$0.00	$142.00	$1,144.00
	81090-5950-200	Cart Repairs	$46.87	$60.00	$0.00	$60.00	$106.87
	81130-5950-900	Computer Service	$10,019.10	$1,221.91	$0.00	$1,221.91	$11,241.01
	81140-5950-900	Contract Cleaning	$6,075.00	$1,000.00	$0.00	$1,000.00	$7,075.00
	81200-5950-900	Guest Relations	$5,418.45	$173.81	$0.00	$173.81	$5,592.26
	81220-5950-600	Handicap Expense	$6,412.00	$0.00	$0.00	$0.00	$6,412.00
	81250-5950-100	Irrigation	$2,572.49	$392.99	$0.00	$392.99	$2,965.48
	81270-5950-600	Lesson Expense	$583.20	$0.00	$0.00	$0.00	$583.20
	81300-5950-900	Pest Control	$17.92	$0.00	$0.00	$0.00	$17.92
	81340-5950-100	Repair & Maint - Paths	$2,901.18	$147.25	$0.00	$147.25	$3,048.43
	81350-5950-100	Repair & Maint - Equipment	$7,253.58	$4,115.04	$15.95	$4,099.09	$11,352.67
	81350-5950-220	Repair & Maint - Equipment	$1,532.43	$0.00	$0.00	$0.00	$1,532.43
	81350-5950-900	Repair & Maint - Equipment	$2,841.16	$490.69	$0.00	$490.69	$3,331.85

TRIAL BALANCE SUMMARY FOR 2023

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	81360-5950-100	Repair & Maint - Building	$1,379.80	$0.00	$0.00	$0.00	$1,379.80
	81360-5950-900	Repair & Maint - Building	$5,984.81	$61.41	$0.00	$61.41	$6,046.22
	82000-5950-200	Cart Lease	$42,846.00	$7,141.00	$0.00	$7,141.00	$49,987.00
	82020-5950-100	Equipment Lease	$59,670.00	$10,500.00	$0.00	$10,500.00	$70,170.00
	82060-5950-900	Off-Site Storage	$1,236.00	$206.00	$0.00	$206.00	$1,442.00
	83000-5950-100	Utlities - Electric	$1,597.08	$257.28	$0.00	$257.28	$1,854.36
	83000-5950-200	Utilities - Electric	$4,149.98	$747.04	$0.00	$747.04	$4,897.02
	83020-5950-100	Utlities - Other	$9,621.28	$1,706.97	$0.00	$1,706.97	$11,328.25
	83020-5950-900	Utilities - Other	$13,167.19	$2,293.23	$0.00	$2,293.23	$15,460.42
	83030-5950-900	Utilities - Telephone/Fax	$1,193.70	$199.19	$0.00	$199.19	$1,392.89
	83050-5950-100	Utlities - Water	$1,645.59	$295.49	$0.00	$295.49	$1,941.08
	84040-5950-950	Adv/Promo - Mktg/Bus Dev	$8,801.52	$4,255.12	$400.00	$3,855.12	$12,656.64
	85020-5950-900	Bank Charges	$2,061.49	$384.50	$0.00	$384.50	$2,445.99
	85050-5950-900	Cash Short/(Over)	($860.69)	$419.21	$493.53	($74.32)	($935.01)
	85060-5950-900	Cell Phone	$1,440.00	$240.00	$0.00	$240.00	$1,680.00
	85070-5950-900	City Surcharge R & R	$19,922.33	$3,926.85	$0.00	$3,926.85	$23,849.18
	85120-5950-900	Credit Card Discounts	$29,985.57	$6,920.96	$0.00	$6,920.96	$36,906.53
	85140-5950-900	Donations	$0.00	$0.00	$50.00	($50.00)	($50.00)
	85150-5950-900	Dues & Subscriptions	$539.99	$0.00	$0.00	$0.00	$539.99
	85160-5950-100	Education & Training	$540.00	$0.00	$0.00	$0.00	$540.00
	85160-5950-600	Education & Training	$601.50	$0.00	$0.00	$0.00	$601.50
	85190-5950-100	Employee Relations	$535.64	$0.00	$0.00	$0.00	$535.64
	85190-5950-900	Employee Relations	$6,977.63	$571.98	$0.00	$571.98	$7,549.61
	85200-5950-100	Employee Testing	$88.87	$0.00	$0.00	$0.00	$88.87
	85280-5950-900	Insurance Expense	$55,280.46	$9,213.41	$0.00	$9,213.41	$64,493.87
	85320-5950-900	Member Relations	$356.32	$0.00	$0.00	$0.00	$356.32
	85390-5950-900	O/S - Accounting	$12,500.00	$0.00	$0.00	$0.00	$12,500.00
	85480-5950-900	Payroll Processing Fee	$3,017.59	$543.21	$0.00	$543.21	$3,560.80
	85490-5950-900	Postage/Shipping	$953.49	$105.31	$0.00	$105.31	$1,058.80
	85610-5950-900	Tax/Licenses/Fees	($180.00)	$0.00	$30.00	($30.00)	($210.00)
	85720-5950-900	Travel - Other	$1,922.81	$1,622.30	$0.00	$1,622.30	$3,545.11
	90000-5950-900	Management Fee	$39,552.00	$6,592.00	$0.00	$6,592.00	$46,144.00
	98020-5950-900	Deprec - Mach & Equip	$138.72	$23.12	$0.00	$23.12	$161.84
	98040-5950-900	Deprec - Buildings	$434.46	$72.41	$0.00	$72.41	$506.87
	R002A-5950-100	Rounds - Annual	14,806.00	405.00	0.00	405.00	15,211.00
	R003A-5950-100	Rounds - Group	18,035.00	556.00	0.00	556.00	18,591.00
	R005A-5950-100	Rounds - Green Fee - Hotel	44.00	0.00	0.00	0.00	44.00
	R006A-5950-100	Rounds - Green Fee - Junior	2,253.00	70.00	0.00	70.00	2,323.00
	R007A-5950-100	Rounds - Green Fee - League	15,389.00	407.00	0.00	407.00	15,796.00
	R010A-5950-100	Rounds - Green Fee - Non-Resident (Standard)	11,214.00	834.00	0.00	834.00	12,048.00
	R011A-5950-100	Rounds - Green Fee - Non-Revenue	941.00	18.00	0.00	18.00	959.00
	R012A-5950-100	Rounds - Green Fee - Outing	10,525.00	224.00	0.00	224.00	10,749.00
	R014A-5950-100	Rounds - Resident	65,094.00	1,563.00	0.00	1,563.00	66,657.00
	R015A-5950-100	Rounds - Green Fee - Senior	26,567.00	772.00	0.00	772.00	27,339.00
	R016A-5950-100	Rounds - Green Fee - Staff	5,696.00	192.00	0.00	192.00	5,888.00
	R017A-5950-100	Rounds - Green Fee - Trade	3,719.00	80.00	0.00	80.00	3,799.00
	R018A-5950-100	Rounds - Green Fee - Twilight	31.00	0.00	0.00	0.00	31.00
	R019A-5950-100	Rounds - Green Fee - Wholesale	566.00	43.00	0.00	43.00	609.00
	RCMWD-5950-100	Rounds - Complimentary - Weekday	15,846.00	0.00	0.00	0.00	15,846.00
	REMWD-5950-100	Rounds - Employee - Weekday	21,589.00	0.00	0.00	0.00	21,589.00
	RMBWD-5950-100	Rounds - Member - Weekday	80,170.00	0.00	0.00	0.00	80,170.00
	RPKWD-5950-100	Rounds - Peak - Weekday	450,023.00	0.00	0.00	0.00	450,023.00
	RPKWE-5950-100	Rounds - Peak - Weekend	5,071.00	0.00	0.00	0.00	5,071.00

	Accounts	Beginning Balance	Debit	Credit	Net Change	Ending Balance
Grand Totals:	**166**	**$0.00**	**$883,969.46**	**$883,969.46**	**$0.00**	**$0.00**

The Golf Club at Cypress Head
Course Cash Flow Report
April 30, 2024

	April	*YTD*
EBITDA	**$55,026.50**	**$170,377.91**
Management Fee Expense	**(6,592.00)**	**(46,144.00)**
Depreciation & Amortization	**(95.53)**	**(668.71)**
Net Income	**48,338.97**	**123,565.20**
Working Capital Changes		
Inventory	**8,395.30**	**(32,640.42)**
Receivables	**(2,220.01)**	**44,936.93**
Payables	**(42,098.11)**	**49,213.49**
Due to from the City		**1,234.31**
Prepaids	**15,392.81**	**14,456.78**
Accrued Liabilities	**1,167.31**	**(615.69)**
Other Liabilities	**(12,476.40)**	**(89,033.75)**
Depreciation & Amortization	**95.53**	**668.71**
Operating Cash Flow	**16,595.40**	**111,785.56**
Investing Cash Flows		
Financing Cash Flow		
Net Cash Flows	**16,595.40**	**111,785.56**
Beginning Cash	**444,889.41**	**349,699.25**
Net Cash Flows	**16,595.40**	**111,785.56**
Ending Cash	**461,484.81**	**461,484.81**

The Golf Club at Cypress Head

For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
201,528	204,759	98%	193,774	104%	Green Fees & Cart Fees	1,201,316	1,280,836	94%	1,163,175	103%	1,894,268	1,816,493
45,649	25,150	182%	26,833	170%	Merchandise	196,948	146,900	134%	145,427	135%	225,501	337,837
3,778	3,550	106%	2,977	127%	Other Pro Shop	23,255	27,200	85%	22,651	103%	45,630	32,953
8,649	8,524	101%	7,745	112%	Range	40,847	49,365	83%	42,002	97%	83,261	67,653
3,927	4,096	96%	3,996	98%	Other Operating Revenues	23,849	27,540	87%	25,838	92%	44,187	38,851
263,531	246,079	107%	235,325	112%	TOTAL REVENUE	1,486,216	1,531,841	97%	1,399,094	106%	2,292,847	2,293,788
					COST OF SALES							
30,458	17,605	173%	18,085	168%	Merchandise	134,169	102,830	130%	102,263	131%	157,851	234,318
30,458	17,605	173%	18,085	168%	TOTAL COGS	134,169	102,830	130%	102,263	131%	157,851	234,318
66.7%	70.0%	95.3%	67.4%	99.0%	COGS - Merchandise %	68.1%	70.0%	97.3%	70.3%	96.9%	70.0%	853.5%
					PAYROLL							
41,749	45,317	92%	36,722	114%	Course and Grounds	282,103	317,817	89%	268,016	105%	547,942	474,122
19,834	17,232	115%	16,570	120%	Carts, Range, Starters, Etc.	112,745	121,334	93%	87,757	128%	211,522	185,457
14,857	13,167	113%	11,852	125%	Pro Shop	95,893	92,678	103%	72,368	133%	159,420	154,734
17,416	18,463	94%	16,471	106%	General and Administrative	126,917	129,318	98%	114,697	111%	222,142	228,810
8,417	6,663	126%	2,476	340%	Marketing	55,775	46,674	119%	27,413	203%	80,098	62,725
102,274	100,842	101%	84,091	122%	TOTAL PAYROLL	673,432	707,821	95%	570,250	118%	1,221,123	1,105,848
					OPERATING EXPENSES							
31,255	24,702	127%	27,236	115%	Course and Grounds	196,881	187,486	105%	183,118	108%	330,078	341,842
9,330	9,877	94%	9,778	95%	Carts, Range, Starters, Etc.	63,202	82,449	77%	81,012	78%	133,584	117,139
326	100	326%	1,504	22%	Pro Shop	18,695	11,885	157%	12,147	154%	14,245	20,398
31,007	23,186	134%	24,549	126%	General and Administrative	216,802	205,380	106%	197,075	110%	321,392	355,437
3,855	2,000	193%	6,400	60%	Marketing	12,657	11,000	115%	11,947	106%	28,800	27,413
75,773	59,865	127%	69,467	109%	TOTAL OPERATING EXPENSES	508,237	498,200	102%	485,298	105%	828,099	862,229
208,505	178,312	117%	171,644	121%	TOTAL EXPENSES	1,315,838	1,308,851	101%	1,157,812	114%	2,207,072	2,202,395
55,027	67,767	81%	63,681	86%	EBITDA	170,378	222,990	76%	241,282	71%	85,774	91,392

The Golf Club at Cypress Head

For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
55,027	67,767	81%	63,681	86%	EBITDA	170,378	222,990	76%	241,282	71%	85,774	91,392
(6,592)	(6,592)	100%	(6,400)	103%	MANAGEMENT FEES	(46,144)	(46,144)	100%	(44,674)	103%	(79,104)	(78,144)
					OTHER INCOME (EXPENSE)							
(96)	(96)	100%	(96)	100%	Depreciation & Amortization	(669)	(669)	100%	(669)	100%	(1,146)	(1,146)
(96)	(96)	100%	(96)	100%	TOTAL OTHER INCOME (EXPENSE)	(669)	(669)	100%	(669)	100%	(1,146)	(1,146)
48,339	61,080	79%	57,186	85%	NET INCOME	123,565	176,178	70%	195,939	63%	5,524	12,102
4,469	4,700	95%	4,537	99%	Paid Rounds	26,152	29,330	89%	28,227	93%	43,894	43,022
405	409	99%	406	100%	Annual Pass Rounds	2,624	2,518	104%	2,515	104%	4,795	4,272
290	231	126%	247	117%	Other Rounds	1,843	1,738	106%	1,754	105%	2,783	3,113
5,164	5,340	97%	5,190	99%	Total Rounds	30,619	33,586	91%	32,496	94%	51,472	50,407
59	52	113%	52	114%	Revenue/Paid Rounds	57	52	109%	50	115%	52	637
51	46	111%	45	113%	Revenue/Total Rounds	49	46	106%	43	113%	45	541

The Golf Club at Cypress Head
Summary of All Units
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
131,052	137,451	95%	128,757	102%	Green Fees	770,316	852,173	90%	780,760	99%	1,227,781	1,155,590
70,476	67,308	105%	65,017	108%	Cart Fee	431,001	428,663	101%	382,416	113%	666,486	660,903
90	0	0%	25	360%	Handicap Fee	6,445	5,300	122%	5,164	125%	6,430	6,832
2,270	2,600	87%	1,992	114%	Lessons	9,955	16,100	62%	13,043	76%	31,400	14,900
1,418	950	149%	960	148%	Rental Clubs	6,855	5,800	118%	4,445	154%	7,800	11,222
45,649	25,150	182%	26,833	170%	Retail	196,948	146,900	134%	145,427	135%	225,501	337,837
8,649	8,524	101%	7,745	112%	Range	40,847	49,365	83%	42,002	97%	83,261	67,653
3,927	4,096	96%	3,996	98%	City Surcharge R & R	23,849	27,540	87%	25,838	92%	44,187	38,851
263,531	246,079	107%	235,325	112%	Total Revenues	1,486,216	1,531,841	97%	1,399,094	106%	2,292,847	2,293,788
					COST OF GOODS SOLD							
30,458	17,605	173%	18,085	168%	COGS - Merchandise	134,169	102,830	130%	102,263	131%	157,851	234,318
30,458	17,605	173%	18,085	168%	Total COGS	134,169	102,830	130%	102,263	131%	157,851	234,318
233,074	228,474	102%	217,239	107%	GROSS MARGIN	1,352,047	1,429,011	95%	1,296,830	104%	2,134,996	2,059,470
66.72%	70.00%	95.32%	67.40%	98.99%	COGS - Merchandise %	68.12%	70.00%	97.32%	70.32%	96.88%	70.00%	853.51%
					PAYROLL							
36,652	34,713	106%	28,477	129%	Gross Payroll - Salaried	256,004	242,988	105%	207,460	123%	416,550	418,059
50,441	50,773	99%	42,934	117%	Gross Payroll - Hourly	312,907	357,192	88%	277,323	113%	618,341	519,907
87,093	85,485	102%	71,411	122%	S/T Wages	568,911	600,179	95%	484,783	117%	1,034,892	937,966
6,462	6,540	99%	5,332	121%	Payroll Tax - FICA	43,395	45,914	95%	35,785	121%	79,169	69,515
255	216	118%	208	123%	Payroll Tax - UC	2,055	1,909	108%	1,669	123%	2,816	2,828
1,473	1,768	83%	1,293	114%	Payroll Tax - WC	10,851	11,994	90%	9,262	117%	20,986	17,484
6,992	6,832	102%	5,848	120%	Benefits	48,221	47,824	101%	38,751	124%	83,261	78,054
15,182	15,356	99%	12,680	120%	S/T Adders	104,522	107,641	97%	85,467	122%	186,231	167,882
102,274	100,842	101%	84,091	122%	TOTAL PAYROLL	673,432	707,821	95%	570,250	118%	1,221,123	1,105,848
					OPERATING EXPENSES							
0	50	0%	117	0%	Cart Supplies	403	700	58%	701	58%	950	436
530	800	66%	886	60%	Chemicals	4,692	5,600	84%	3,775	124%	9,600	9,599
257	600	43%	3,087	8%	Course Accessories	2,067	4,800	43%	5,081	41%	7,400	7,279
6,146	6,500	95%	7,058	87%	Fertilizer	35,632	45,300	79%	38,700	92%	61,100	54,319
0	0	0%	0	0%	Flowers/Decor	60	1,500	4%	1,467	4%	1,500	1,039
933	1,700	55%	1,057	88%	Fuel	9,206	10,300	89%	10,372	89%	20,300	18,460
0	0	0%	0	0%	Fungicides	4,714	2,650	178%	1,267	372%	4,650	6,088
4,679	1,000	468%	655	714%	Herbicides	20,558	13,900	148%	20,744	99%	32,600	39,142
1,311	0	0%	0	0%	Insecticides	6,890	1,200	574%	1,029	669%	11,800	13,115
1,315	600	219%	1,002	131%	Janitorial Supplies	3,382	5,000	68%	5,009	68%	7,450	5,119
0	100	0%	0	0%	Laundry/Uniforms	42	1,730	2%	1,504	3%	2,405	92
529	450	118%	1,336	40%	Office Supplies	3,344	4,600	73%	5,263	64%	6,750	6,246
45	0	0%	1,090	4%	Printing	1,643	0	0%	1,106	149%	0	1,643
0	0	0%	0	0%	Range Balls	3,250	6,000	54%	5,792	56%	9,000	6,500
1,382	0	0%	0	0%	Range Equipment	1,382	1,460	95%	672	206%	1,710	2,384
0	400	0%	0	0%	Range Expenses	1,182	2,000	59%	1,557	76%	2,300	2,296
0	1,500	0%	0	0%	Sand/Topdress	4,297	5,400	80%	4,961	87%	12,900	14,063
0	0	0%	1,450	0%	Seeds/Trees	3,520	7,000	50%	7,010	50%	8,500	3,520
0	400	0%	0	0%	Small Tools	40	1,600	2%	493	8%	2,400	40
0	0	0%	0	0%	Staff/Volunteer Uniforms	0	500	0%	405	0%	500	470
0	0	0%	388	0%	Supplies	5,287	6,150	86%	6,473	82%	7,550	7,469
281	0	0%	0	0%	Tournament Expense	4,630	1,410	328%	1,317	351%	1,500	5,023
142	150	95%	139	102%	Alarm System	1,144	1,400	82%	1,187	96%	2,150	1,845
60	100	60%	200	30%	Cart Repairs	107	1,750	6%	1,603	7%	1,950	432
1,222	800	153%	255	480%	Computer Service	11,241	5,600	201%	2,895	388%	9,600	15,814
1,000	700	143%	788	127%	Contract Cleaning	7,075	4,900	144%	4,731	150%	8,400	11,113
174	0	0%	0	0%	Guest Relations	5,592	8,550	65%	8,258	68%	8,700	5,592
0	0	0%	0	0%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
393	900	44%	175	225%	Irrigation	2,965	6,300	47%	4,533	65%	10,800	4,912
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
147	0	0%	0	0%	Repair & Maint - Paths	3,048	1,500	203%	171	1778%	3,000	3,210
4,590	1,800	255%	1,608	285%	Repair & Maint - Equipment	16,217	17,130	95%	18,292	89%	28,070	33,136
61	0	0%	1,392	4%	Repair & Maint - Building	7,426	3,020	246%	4,346	171%	5,920	18,489
7,141	8,577	83%	8,577	83%	Cart Lease	49,987	60,039	83%	60,039	83%	102,924	92,872
10,500	7,166	147%	7,140	147%	Equipment Lease	70,170	50,162	140%	49,980	140%	85,992	105,870
206	250	82%	206	100%	Off-Site Storage	1,442	1,750	82%	1,442	100%	3,000	2,472
1,004	1,020	98%	1,075	93%	Utilities - Electric	6,751	6,440	105%	6,504	104%	11,440	11,824
4,000	3,950	101%	5,428	74%	Utilities - Other	26,789	26,650	101%	26,698	100%	46,200	47,786
199	200	100%	197	101%	Utilities - Telephone/Fax	1,393	1,400	99%	1,434	97%	2,400	2,316
295	216	137%	220	134%	Utilities - Water	1,941	1,512	128%	1,612	120%	2,592	2,947
3,855	2,000	193%	6,400	60%	Advertising & Promotion	12,657	11,000	115%	11,947	106%	28,800	27,413
385	450	85%	346	111%	Bank Charges	2,446	2,650	92%	2,478	99%	4,400	3,600
(74)	0	0%	208	-36%	Cash Short/(Over)	(935)	0	0%	(243)	385%	0	(957)

The Golf Club at Cypress Head
Summary of All Units
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
240	270	89%	240	100%	Cell Phone	1,680	1,870	90%	1,680	100%	3,220	2,780
3,927	4,096	96%	3,996	98%	City Surcharge R & R	23,849	27,540	87%	25,838	92%	44,187	38,851
6,921	3,500	198%	6,977	99%	Credit Card Discounts	36,907	29,300	126%	32,437	114%	42,800	59,009
(50)	0	0%	0	0%	Donations	(50)	0	0%	(10)	500%	0	(98)
0	150	0%	(982)	0%	Dues & Subscriptions	540	2,200	25%	1,055	51%	3,300	2,124
0	0	0%	0	0%	Education & Training	1,142	590	193%	670	170%	740	2,407
572	250	229%	1,269	45%	Employee Relations	8,085	5,450	148%	5,290	153%	6,400	11,682
0	0	0%	0	0%	Employee Testing	89	32	278%	66	135%	64	171
9,213	8,500	108%	7,675	120%	Insurance Expense	64,494	59,500	108%	53,726	120%	102,000	107,417
0	50	0%	(2,822)	0%	Member Relations	356	350	102%	(4,108)	-9%	600	204
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	0	0%	0	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
543	450	121%	454	120%	Payroll Processing Fee	3,561	3,070	116%	3,112	114%	5,170	5,871
105	150	70%	176	60%	Postage/Shipping	1,059	1,430	74%	1,438	74%	2,180	1,654
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(210)	0	0%	(140)	150%	200	(285)
0	0	0%	0	0%	Travel - Meals	0	550	0%	246	0%	850	0
1,622	50	3245%	35	4668%	Travel - Other	3,545	3,750	95%	9,825	36%	4,000	4,545
0	20	0%	0	0%	Employee Meals	0	140	0%	25	0%	240	0
75,773	59,865	127%	69,467	109%	TOTAL OPERATING EXPENSES	508,237	498,200	102%	485,298	105%	828,099	862,229
55,027	67,767	81%	63,681	86%	EBITDA	170,378	222,990	76%	241,282	71%	85,774	91,392
6,592	6,592	100%	6,400	103%	Management Fee	46,144	46,144	100%	44,674	103%	79,104	78,144
6,592	6,592	100%	6,400	103%	Management Fees	46,144	46,144	100%	44,674	103%	79,104	78,144
23	23	100%	23	100%	Deprec - Mach & Equip	162	162	100%	162	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	507	507	100%	507	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	669	669	100%	669	100%	1,146	1,146
48,339	61,080	79%	57,186	85%	NET INCOME	123,565	176,178	70%	195,939	63%	5,524	12,102

The Golf Club at Cypress Head
Course & Grounds
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
131,052	137,451	95%	128,757	102%	Green Fees	770,316	852,173	90%	780,760	99%	1,227,781	1,155,590
3,927	4,096	96%	3,996	98%	City Surcharge R & R	23,849	27,540	87%	25,838	92%	44,187	38,851
134,979	141,547	95%	132,753	102%	Total Revenues	794,165	879,713	90%	806,598	98%	1,271,968	1,194,441
134,979	141,547	95%	132,753	102%	GROSS MARGIN	794,165	879,713	90%	806,598	98%	1,271,968	1,194,441
					PAYROLL							
11,253	11,378	99%	10,926	103%	Gross Payroll - Salaried	80,152	79,648	101%	76,131	105%	136,539	135,993
24,517	27,146	90%	20,177	122%	Gross Payroll - Hourly	160,234	190,227	84%	155,291	103%	328,670	268,319
35,770	38,524	93%	31,102	115%	S/T Wages	240,387	269,874	89%	231,422	104%	465,209	404,311
2,655	2,947	90%	2,301	115%	Payroll Tax - FICA	17,810	20,645	86%	17,161	104%	35,588	29,920
56	22	252%	21	261%	Payroll Tax - UC	723	719	101%	637	114%	819	807
560	797	70%	584	96%	Payroll Tax - WC	4,406	5,393	82%	4,446	99%	9,434	7,534
2,708	3,027	89%	2,713	100%	Benefits	18,778	21,186	89%	14,352	131%	36,892	31,550
5,979	6,793	88%	5,620	106%	S/T Adders	41,716	47,943	87%	36,594	114%	82,733	69,811
41,749	45,317	92%	36,722	114%	TOTAL PAYROLL	282,103	317,817	89%	268,016	105%	547,942	474,122
					OPERATING EXPENSES							
530	800	66%	886	60%	Chemicals	4,692	5,600	84%	3,775	124%	9,600	9,599
257	600	43%	3,087	8%	Course Accessories	2,067	4,800	43%	5,081	41%	7,400	7,279
6,146	6,500	95%	7,058	87%	Fertilizer	35,632	45,300	79%	38,700	92%	61,100	54,319
0	0	0%	0	0%	Flowers/Decor	60	1,500	4%	1,467	4%	1,500	1,039
933	1,700	55%	1,057	88%	Fuel	9,206	10,300	89%	10,372	89%	20,300	18,460
0	0	0%	0	0%	Fungicides	4,714	2,650	178%	1,267	372%	4,650	6,088
4,679	1,000	468%	655	714%	Herbicides	20,558	13,900	148%	20,744	99%	32,600	39,142
1,311	0	0%	0	0%	Insecticides	6,890	1,200	574%	1,029	669%	11,800	13,115
0	1,500	0%	0	0%	Sand/Topdress	4,297	5,400	80%	4,961	87%	12,900	14,063
0	0	0%	1,450	0%	Seeds/Trees	3,520	7,000	50%	7,010	50%	8,500	3,520
0	400	0%	0	0%	Small Tools	40	1,600	2%	493	8%	2,400	40
0	0	0%	0	0%	Staff/Volunteer Uniforms	0	500	0%	405	0%	500	470
393	900	44%	175	225%	Irrigation	2,965	6,300	47%	4,533	65%	10,800	4,912
147	0	0%	0	0%	Repair & Maint - Paths	3,048	1,500	203%	171	1778%	3,000	3,210
4,099	1,800	228%	1,608	255%	Repair & Maint - Equipment	11,353	12,600	90%	14,414	79%	21,600	25,481
0	0	0%	399	0%	Repair & Maint - Building	1,380	500	276%	1,253	110%	1,000	1,781
10,500	7,166	147%	7,140	147%	Equipment Lease	70,170	50,162	140%	49,980	140%	85,992	105,870
257	270	95%	303	85%	Utilities - Electric	1,854	1,890	98%	1,962	95%	3,240	3,544
1,707	1,750	98%	3,198	53%	Utilities - Other	11,328	12,250	92%	12,575	90%	21,000	19,599
295	216	137%	220	134%	Utilities - Water	1,941	1,512	128%	1,612	120%	2,592	2,947
0	0	0%	0	0%	Education & Training	540	590	92%	670	81%	740	705
0	100	0%	0	0%	Employee Relations	536	400	134%	578	93%	600	637
0	0	0%	0	0%	Employee Testing	89	32	278%	66	135%	64	171
0	0	0%	0	0%	O/S - Other	0	0	0%	0	0%	6,000	5,850
0	0	0%	0	0%	Tax/Licenses/Fees	0	0	0%	0	0%	200	0
31,255	24,702	127%	27,236	115%	TOTAL OPERATING EXPENSES	196,881	187,486	105%	183,118	108%	330,078	341,842
61,975	71,529	87%	68,795	90%	EBITDA	315,181	374,409	84%	355,464	89%	393,949	378,477
61,975	71,529	87%	68,795	90%	NET INCOME	315,181	374,409	84%	355,464	89%	393,949	378,477

The Golf Club at Cypress Head
Carts
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
70,476	67,308	105%	65,017	108%	Cart Fee	431,001	428,663	101%	382,416	113%	666,486	660,903
70,476	67,308	105%	65,017	108%	Total Revenues	431,001	428,663	101%	382,416	113%	666,486	660,903
70,476	67,308	105%	65,017	108%	GROSS MARGIN	431,001	428,663	101%	382,416	113%	666,486	660,903
					PAYROLL							
17,937	15,570	115%	14,944	120%	Gross Payroll - Hourly	102,021	110,028	93%	79,526	128%	191,643	167,696
17,937	15,570	115%	14,944	120%	S/T Wages	102,021	110,028	93%	79,526	128%	191,643	167,696
1,399	1,191	117%	1,210	116%	Payroll Tax - FICA	7,983	8,417	95%	6,302	127%	14,661	13,141
150	140	107%	131	114%	Payroll Tax - UC	757	626	121%	584	130%	1,221	1,322
318	322	99%	276	115%	Payroll Tax - WC	1,874	2,199	85%	1,499	125%	3,887	3,162
31	9	349%	8	398%	Benefits	111	64	174%	(155)	-72%	110	136
1,897	1,662	114%	1,625	117%	S/T Adders	10,725	11,306	95%	8,230	130%	19,879	17,761
19,834	17,232	115%	16,570	120%	TOTAL PAYROLL	112,745	121,334	93%	87,757	128%	211,522	185,457
					OPERATING EXPENSES							
0	50	0%	117	0%	Cart Supplies	403	700	58%	701	58%	950	436
0	0	0%	112	0%	Supplies	462	2,750	17%	2,906	16%	3,250	1,837
60	100	60%	200	30%	Cart Repairs	107	1,750	6%	1,603	7%	1,950	432
7,141	8,577	83%	8,577	83%	Cart Lease	49,987	60,039	83%	60,039	83%	102,924	92,872
747	750	100%	772	97%	Utilities - Electric	4,897	4,550	108%	4,542	108%	8,200	8,280
7,948	9,477	84%	9,778	81%	TOTAL OPERATING EXPENSES	55,856	69,789	80%	69,790	80%	117,274	103,858
42,694	40,599	105%	38,669	110%	EBITDA	262,400	237,540	110%	224,869	117%	337,691	371,588
42,694	40,599	105%	38,669	110%	NET INCOME	262,400	237,540	110%	224,869	117%	337,691	371,588

The Golf Club at Cypress Head
Range
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
8,649	8,524	101%	7,745	112%	Range	40,847	49,365	83%	42,002	97%	83,261	67,653
8,649	8,524	101%	7,745	112%	Total Revenues	40,847	49,365	83%	42,002	97%	83,261	67,653
8,649	8,524	101%	7,745	112%	GROSS MARGIN	40,847	49,365	83%	42,002	97%	83,261	67,653
					OPERATING EXPENSES							
0	0	0%	0	0%	Range Balls	3,250	6,000	54%	5,792	56%	9,000	6,500
1,382	0	0%	0	0%	Range Equipment	1,382	1,460	95%	672	206%	1,710	2,384
0	400	0%	0	0%	Range Expenses	1,182	2,000	59%	1,557	76%	2,300	2,296
0	0	0%	0	0%	Repair & Maint - Equipment	1,532	3,200	48%	3,200	48%	3,300	2,100
1,382	400	346%	0	0%	TOTAL OPERATING EXPENSES	7,347	12,660	58%	11,221	65%	16,310	13,281
7,267	8,124	89%	7,745	94%	EBITDA	33,501	36,705	91%	30,780	109%	66,951	54,373
7,267	8,124	89%	7,745	94%	NET INCOME	33,501	36,705	91%	30,780	109%	66,951	54,373

The Golf Club at Cypress Head
Golf Shop
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					REVENUES							
90	0	0%	25	360%	Handicap Fee	6,445	5,300	122%	5,164	125%	6,430	6,832
2,270	2,600	87%	1,992	114%	Lessons	9,955	16,100	62%	13,043	76%	31,400	14,900
1,418	950	149%	960	148%	Rental Clubs	6,855	5,800	118%	4,445	154%	7,800	11,222
45,649	25,150	182%	26,833	170%	Retail	196,948	146,900	134%	145,427	135%	225,501	337,837
49,427	28,700	172%	29,810	166%	Total Revenues	220,203	174,100	126%	168,079	131%	271,131	370,790
					COST OF GOODS SOLD							
30,458	17,605	173%	18,085	168%	COGS - Merchandise	134,169	102,830	130%	102,263	131%	157,851	234,318
30,458	17,605	173%	18,085	168%	Total COGS	134,169	102,830	130%	102,263	131%	157,851	234,318
18,970	11,095	171%	11,725	162%	GROSS MARGIN	86,034	71,270	121%	65,815	131%	113,280	136,472
66.72%	70.00%	95.32%	67.40%	98.99%	COGS - Merchandise %	68.12%	70.00%	97.32%	70.32%	96.88%	70.00%	853.51%
					PAYROLL							
4,529	3,605	126%	4,126	110%	Gross Payroll - Salaried	30,020	25,235	119%	22,871	131%	43,260	50,132
7,835	7,800	100%	6,081	129%	Gross Payroll - Hourly	49,658	55,120	90%	38,836	128%	94,900	78,858
12,364	11,405	108%	10,206	121%	S/T Wages	79,678	80,355	99%	61,706	129%	138,160	128,990
913	872	105%	782	117%	Payroll Tax - FICA	5,841	6,147	95%	4,702	124%	10,569	9,832
49	47	102%	55	89%	Payroll Tax - UC	345	328	105%	278	124%	504	445
221	236	94%	195	113%	Payroll Tax - WC	1,488	1,606	93%	1,183	126%	2,801	2,426
1,311	606	216%	614	214%	Benefits	8,541	4,242	201%	4,498	190%	7,385	13,041
2,493	1,762	142%	1,646	151%	S/T Adders	16,215	12,323	132%	10,661	152%	21,260	25,744
14,857	13,167	113%	11,852	125%	TOTAL PAYROLL	95,893	92,678	103%	72,368	133%	159,420	154,734
					OPERATING EXPENSES							
0	100	0%	138	0%	Office Supplies	0	400	0%	138	0%	600	0
45	0	0%	1,090	4%	Printing	1,643	0	0%	1,090	151%	0	1,643
0	0	0%	275	0%	Supplies	4,825	3,400	142%	3,567	135%	4,300	5,631
281	0	0%	0	0%	Tournament Expense	4,630	1,410	328%	1,317	351%	1,500	5,023
0	0	0%	0	0%	Handicap Expense	6,412	6,075	106%	6,034	106%	6,845	6,916
0	0	0%	0	0%	Lesson Expense	583	300	194%	0	0%	600	583
0	0	0%	0	0%	Repair & Maint - Building	0	300	0%	0	0%	400	0
0	0	0%	0	0%	Education & Training	602	0	0%	0	0%	0	602
326	100	326%	1,504	22%	TOTAL OPERATING EXPENSES	18,695	11,885	157%	12,147	154%	14,245	20,398
3,787	(2,172)	-174%	(1,631)	-232%	EBITDA	(28,554)	(33,293)	86%	(18,699)	153%	(60,384)	(38,660)
3,787	(2,172)	-174%	(1,631)	-232%	NET INCOME	(28,554)	(33,293)	86%	(18,699)	153%	(60,384)	(38,660)

The Golf Club at Cypress Head
G & A
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
13,723	14,229	96%	12,795	107%	Gross Payroll - Salaried	98,243	99,605	99%	87,028	113%	170,751	181,831
152	257	59%	89	172%	Gross Payroll - Hourly	993	1,817	55%	399	249%	3,129	1,298
13,875	14,486	96%	12,884	108%	S/T Wages	99,237	101,422	98%	87,427	114%	173,880	183,129
968	1,108	87%	865	112%	Payroll Tax - FICA	8,241	7,759	106%	5,722	144%	13,302	12,524
1	2	42%	1	178%	Payroll Tax - UC	129	142	91%	113	114%	154	132
246	300	82%	237	104%	Payroll Tax - WC	2,191	2,027	108%	1,694	129%	3,525	3,424
2,327	2,567	91%	2,485	94%	Benefits	17,119	17,968	95%	19,741	87%	31,280	29,601
3,541	3,977	89%	3,587	99%	S/T Adders	27,680	27,896	99%	27,270	102%	48,262	45,681
17,416	18,463	94%	16,471	106%	TOTAL PAYROLL	126,917	129,318	98%	114,697	111%	222,142	228,810
					OPERATING EXPENSES							
1,315	600	219%	1,002	131%	Janitorial Supplies	3,382	5,000	68%	5,009	68%	7,450	5,119
0	100	0%	0	0%	Laundry/Uniforms	42	1,730	2%	1,504	3%	2,405	92
529	350	151%	1,198	44%	Office Supplies	3,344	4,200	80%	5,125	65%	6,150	6,246
0	0	0%	0	0%	Printing	0	0	0%	16	0%	0	0
142	150	95%	139	102%	Alarm System	1,144	1,400	82%	1,187	96%	2,150	1,845
1,222	800	153%	255	480%	Computer Service	11,241	5,600	201%	2,895	388%	9,600	15,814
1,000	700	143%	788	127%	Contract Cleaning	7,075	4,900	144%	4,731	150%	8,400	11,113
174	0	0%	0	0%	Guest Relations	5,592	8,550	65%	8,258	68%	8,700	5,592
0	0	0%	0	0%	Pest Control	18	0	0%	0	0%	0	18
491	0	0%	0	0%	Repair & Maint - Equipment	3,332	1,330	251%	679	491%	3,170	5,554
61	0	0%	993	6%	Repair & Maint - Building	6,046	2,220	272%	3,092	196%	4,520	16,708
206	250	82%	206	100%	Off-Site Storage	1,442	1,750	82%	1,442	100%	3,000	2,472
2,293	2,200	104%	2,230	103%	Utilities - Other	15,460	14,400	107%	14,123	109%	25,200	28,187
199	200	100%	197	101%	Utilities - Telephone/Fax	1,393	1,400	99%	1,434	97%	2,400	2,316
385	450	85%	346	111%	Bank Charges	2,446	2,650	92%	2,478	99%	4,400	3,600
(74)	0	0%	208	-36%	Cash Short/(Over)	(935)	0	0%	(243)	385%	0	(957)
240	270	89%	240	100%	Cell Phone	1,680	1,870	90%	1,680	100%	3,220	2,780
3,927	4,096	96%	3,996	98%	City Surcharge R & R	23,849	27,540	87%	25,838	92%	44,187	38,851
6,921	3,500	198%	6,977	99%	Credit Card Discounts	36,907	29,300	126%	32,437	114%	42,800	59,009
(50)	0	0%	0	0%	Donations	(50)	0	0%	(10)	500%	0	(98)
0	150	0%	(982)	0%	Dues & Subscriptions	540	2,200	25%	1,055	51%	3,300	2,124
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	0	1,100
572	150	381%	1,269	45%	Employee Relations	7,550	5,050	149%	4,712	160%	5,800	11,045
9,213	8,500	108%	7,675	120%	Insurance Expense	64,494	59,500	108%	53,726	120%	102,000	107,417
0	50	0%	(2,822)	0%	Member Relations	356	350	102%	(4,108)	-9%	600	204
0	0	0%	0	0%	Miscellaneous	0	0	0%	8	0%	0	0
0	0	0%	0	0%	O/S - Accounting	12,500	15,500	81%	15,500	81%	19,500	17,500
543	450	121%	454	120%	Payroll Processing Fee	3,561	3,070	116%	3,112	114%	5,170	5,871
105	150	70%	176	60%	Postage/Shipping	1,059	1,430	74%	1,438	74%	2,180	1,654
(30)	0	0%	(30)	100%	Tax/Licenses/Fees	(210)	0	0%	(140)	150%	0	(285)
0	0	0%	0	0%	Travel - Meals	0	550	0%	246	0%	850	0
1,622	50	3245%	35	4668%	Travel - Other	3,545	3,750	95%	9,825	36%	4,000	4,545
0	20	0%	0	0%	Employee Meals	0	140	0%	25	0%	240	0
31,007	23,186	134%	24,549	126%	TOTAL OPERATING EXPENSES	216,802	205,380	106%	197,075	110%	321,392	355,437
(48,423)	(41,649)	116%	(41,020)	118%	EBITDA	(343,719)	(334,698)	103%	(311,771)	110%	(543,534)	(584,247)
6,592	6,592	100%	6,400	103%	Management Fee	46,144	46,144	100%	44,674	103%	79,104	78,144
6,592	6,592	100%	6,400	103%	Management Fees	46,144	46,144	100%	44,674	103%	79,104	78,144
23	23	100%	23	100%	Deprec - Mach & Equip	162	162	100%	162	100%	277	277
72	72	100%	72	100%	Deprec - Buildings	507	507	100%	507	100%	869	869
96	96	100%	96	100%	S/T DEPR. & AMORT	669	669	100%	669	100%	1,146	1,146
(55,111)	(48,337)	114%	(47,516)	116%	NET INCOME	(390,531)	(381,511)	102%	(357,114)	109%	(623,784)	(663,537)

The Golf Club at Cypress Head
Marketing
For the Seven Months Ending April 30, 2024

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
7,146	5,500	130%	631	1133%	Gross Payroll - Salaried	47,589	38,500	124%	21,430	222%	66,000	50,104
0	0	0%	1,643	0%	Gross Payroll - Hourly	0	0	0%	3,271	0%	0	3,737
7,146	5,500	130%	2,274	314%	S/T Wages	47,589	38,500	124%	24,702	193%	66,000	53,841
528	421	126%	174	304%	Payroll Tax - FICA	3,520	2,945	120%	1,898	185%	5,049	4,097
0	5	0%	0	0%	Payroll Tax - UC	102	95	108%	57	178%	117	123
129	114	113%	0	0%	Payroll Tax - WC	892	769	116%	441	202%	1,338	938
615	624	99%	28	2208%	Benefits	3,672	4,365	84%	316	1164%	7,594	3,726
1,272	1,163	109%	202	630%	S/T Adders	8,186	8,174	100%	2,712	302%	14,098	8,884
8,417	6,663	126%	2,476	340%	TOTAL PAYROLL	55,775	46,674	119%	27,413	203%	80,098	62,725
					OPERATING EXPENSES							
3,855	2,000	193%	6,400	60%	Advertising & Promotion	12,657	11,000	115%	11,947	106%	28,800	27,413
3,855	2,000	193%	6,400	60%	TOTAL OPERATING EXPENSES	12,657	11,000	115%	11,947	106%	28,800	27,413
(12,272)	(8,663)	142%	(8,876)	138%	EBITDA	(68,431)	(57,674)	119%	(39,361)	174%	(108,898)	(90,138)
(12,272)	(8,663)	142%	(8,876)	138%	NET INCOME	(68,431)	(57,674)	119%	(39,361)	174%	(108,898)	(90,138)

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May 16, 2024

Robin Fenwick
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Dear Ms. Fenwick,

The following is the financial and operational summary report for April 2024 at Cypress Head Golf Club. These numbers reflect only the Golf portion for the month and year to date.

FINANCIAL SUMMARY FOR GOLF MONTH ENDING APRIL 2024									
	Current				Year to Date				
Revenue	Actual	Budget	Variance vs. Budget		Actual	Budget	Prior Year	Variance vs. Budget	
Green Fees	$ 131,052	$ 137,451	$ (6,399)		$ 770,316	$ 852,173	$ 780,760	$ (81,857)	
Cart Fees	$ 70,476	$ 67,308	$ 3,168		$ 431,001	$ 428,663	$ 382,416	$ 2,338	
Range	$ 8,649	$ 8,524	$ 125		$ 40,847	$ 49,365	$ 42,002	$ (8,518)	
Pro- Shop Revenues	$ 49,427	$ 28,700	$ 20,727		$ 220,203	$ 174,100	$ 168,079	$ 46,103	
City Surcharge R/R	$ 3,927	$ 4,096	$ (169)		$ 23,849	$ 27,540	$ 25,838	$ (3,691)	
Total Revenue	**$ 263,531**	**$ 246,079**	**$ 17,452**		**$ 1,486,216**	**$ 1,531,841**	**$ 1,399,095**	**$ (45,625)**	
Cost of Sales	$ 30,458	$ 17,605	$ 12,853		$ 134,169	$ 102,830	$ 102,263	$ 31,339	
Merchandise	$ 30,458	$ 17,605	$ 12,853	67%	$ 134,169	$ 102,830	$ 102,263	$ 31,339	68%
Gross Margin	**$ 233,073**	**$ 228,474**	**$ 4,599**		**$ 1,352,047**	**$ 1,429,011**	**$ 1,296,832**	**$ (76,964)**	
Total Payroll	$ 102,274	$ 100,842	$ 1,432		$ 673,432	$ 707,821	$ 570,250	$ (34,389)	
Total Operating Expenses	$ 75,773	$ 59,865	$ 15,908		$ 508,237	$ 498,200	$ 485,298	$ 10,037	
EBITDA	**$ 55,026**	**$ 67,767**	$ (12,741)		**$ 170,378**	**$ 222,990**	**$ 241,284**	$ (52,612)	
Other Expenses	**$ 6,688**	**$ 6,688**	**$ -**		**$ 46,813**	**$ 46,813**	**$ 45,343**	**$ -**	
Management Fee	$ 6,592	$ 6,592	$ -		$ 46,144	$ 46,144	$ 44,674	$ -	
Interest Expense	$ -	$ -	$ -		$ -	$ -	$ -	$ -	
Depreciation	$ 96	$ 96	$ -		$ 669	$ 669	$ 669	$ -	
Net Cash From Ops	**$ 48,338**	**$ 61,079**	**$ (12,741)**		**$ 123,565**	**$ 176,177**	**$ 195,941**	**$ (52,612)**	
Rounds									
Total Rounds	5,164	5,340	(176)		30,619	33,586	32,496	(2,967)	
Paid Rounds	4,469	4,700	(231)		26,152	29,330	28,227	(3,178)	
Avg. GF/CF Total rounds	$39.03	$38.34	$ 0.68		$39.23	$38.14	$35.79	$ 1.10	
Avg. GF/CF Paid rounds	$45.09	$43.57	$ 1.53		$45.94	$43.67	$41.21	$ 2.27	
Avg. Merchandise/round	$9.57	$5.37	$ 4.20		$7.19	$5.18	$5.17	$ 2.01	

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Overview:

Total revenues for April finished $17.4K ahead of budget for the month. With 1.1" of rain recorded in April, the golf course realized 2 unplayable days, and 2 others significantly affected by intermittent weather and cart paths only. Average high temperatures were 79.2 degrees with average lows of 60.2. Total revenues came in at $263.5K, over budget by $17.4K but $28.2K more than prior year. We played 5,164 total rounds to a budget of 5,340 (under by 176).

- Total Payroll for the month was $102.3K, over by $1.4K.
- Total Operating Expenses were $75.8K, over by $15.9K. The main drivers in this overage stemmed from Herbicides ($3.7K over), Equip Lease ($3.3K over), R&M Equip ($2.8K over), Travel ($1.6k over), and Advertising ($2.3K over). The fleet leases are budgeted prior to having the complete information, making the lease line item over for the year. The herbicide and insecticide spend can fluctuate based on when Darren needs to apply. The range was over $1.4K due the need for new range baskets. Also, Leslie attended a Regional KemperSports marketing summit, which was un-budgeted. Please note: Many of these are timing issues and we will recoup these expenses down the road.

- Rounds were shy of budget by 3%, and just 1% shy of prior year.

- We missed EBITDA and Net Income projections by $12.4K. YTD, we are $52.6K behind YTD projections. We have 5 months to catch up and we are confident we will do so.

CAPEX Projects:

Our CAPEX plan for 2024 has been submitted. We are working on getting our replacement equipment schedule dialed in as the supply chain remains very back logged.

- We have gotten quotes for the cart path work and are aiming for a June start for the project.
- We have 3 different contractors targeted regarding the bunker renovations with an estimated start in April 2024. We have 1 quote, awaiting a 2nd from a site visit, and still yet to meet with the 3rd. UPDATE: Our 3rd contractor just completed a site visit and submitted a no-quote.
- We also have $26K in driving range netting repairs and are close to gathering all quotes being submitted for this. We have 3 quotes that have been submitted for review.

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Tee Sheet Activity:

- There were 5,164 total rounds for the month which included 4,469 paid rounds, 405 Annual Pass rounds and 290 other rounds. These numbers fall 3% shy of budget and 1% less than year.
- Our snowbird groups finalized their season in April so our tee sheet utilization was high on good weather days. Many of these groups will be missing from our tee sheet beginning in May.
- Dynamic pricing was still off in April but will be turned on again in May for all Non-resident play only.
- Starters and Players earned a 9.8 Staff Experience rating in April.

APRIL 2024 and YTD Rounds Mix

Type	Actual	Budget	Month-PY	YTD	YTD-Budg	YTD - PY
PAID	4,469	4,700	4,537	26,152	29,330	28,227
ANNUAL	405	409	406	2,624	2,518	2,515
OTHER	290	231	247	1,843	1,738	1,754
TOTAL ROUNDS	5,164	5,340	5,190	30,619	33,586	32,496

Course & Grounds

- Our Superintendent, Darren Bache continues to follow the agronomic program that he developed for Cypress Head, and along with his guidance, Cypress Head is ranked as the Best Golf Course in Volusia County and #20 Public course in Florida according to GolfNow/GolfPass.
- We saw 1.1” of rain in April, and the golf course finally had the opportunity to dry out some.

- The drainage issue on #6 has been repaired and the next stage is by #9 tee and the back of the driving range.

Golf Operations

- We generated $49.4K in Golf Shop sales ($20.7K over budget).
- Our 2 new utility carts for the golf staff are working nicely. We need a new range unit as soon as possible. We currently have all golf carts operational.
- Cart revenue ($70.5K) exceeded budget by $3.1K.
- The staff at Cypress Head Golf Course continues to offer individual lessons as well as group lessons. Our teaching professionals recorded $2,270 in lessons in April.
- The MGA and the WGA have continued their league play for the month and we have seen an increase in players as a result of incredible course conditions and an influx of new home purchases in the area. The MGA averaged 68 players in April, the WGA 18-holers, about 32, and the WGA 9-holers averaged 34 players.
- April was a decent month for tournament activity. We hosted one large event and several smaller outings and leagues in April. With 372 total tournament/outing players, we generated $12.7K in revenue and rave reviews from the participants.

Marketing and Sales:

- We will continue to showcase our top 25 public courses in Florida by GolfPass, an affiliate of GolfNow. We are utilizing this badge in our campaigns.
- The website has been revamped and is much more streamlined and updated.
- We continue to monitor the effectiveness of Noteefy, our new tee time booking assistant.
- Cypress Head continues to be active members of the Port Orange South Daytona Chamber of Commerce, Daytona Chamber of Commerce, SEV Chamber and Rotary International.
- Outside tournament bookings are very solid as we have 3 large events in May and 2 more in June before it begins to slow down some for the Summer months.

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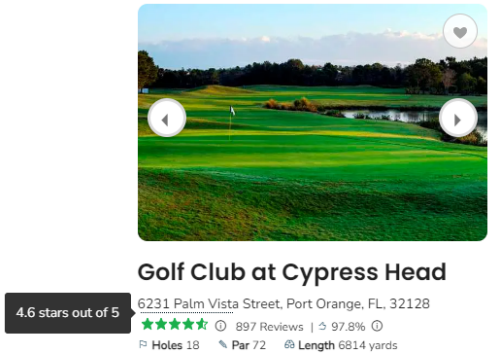
- We continue to maintain our database of emails with approximately 14,467 unique e-mail addresses (+1,351 from prior month). Our Facebook followers are at 1,598 (up 4) and Instagram is up to 502 (up 11) followers.

- Nightly surveys continued to be strong in April, highlighted by 150 surveys being submitted and an NPS of 88.0 (Please see table below).

	Last Month					
	Week of 03/31	Week of 04/07	Week of 04/14	Week of 04/21	Week of 04/28	Total
# of responses	29	41	39	32	9	150
Net Promoter Score						
Property NPS	96.6	90.2	74.4	96.9 ↑	77.8	88.0
Main Score	9.8	9.7	9.4	9.9	9.6	9.7
Key Metrics						
Likelihood to Return	9.9	9.7	9.4	9.9	9.4	9.7
Overall Experience Satisfaction	9.6	9.6	9.3	9.9 ↑	9.4	9.6
Service Satisfaction	9.9	9.8	9.7	9.9	9.4	9.8
Value Perception	9.6	9.3	8.9	9.7 ↑	8.6	9.3

Google Ratings

GolfAdvisor Ratings



Insights

- In addition to making #20 for Top Florida Public courses in GolfPass, Cypress head continues

to lead many categories in KemperSports with regards to delivering True Service. See our Property Wins below.

- Companywide we are gearing up to begin True Service 3.0, a more updated version of our very successful training model.

Year to Date Summary

While we have some ground to make up, the team is confident that we will pull through in the next 5 months. The course is excellent and poised for a successful greens aeration. We are receiving more annual pass requests and should see an uptick in new passholders in the near future. With the cart path project coming in June, we will utilize PriSwing to keep the tee sheet utilized and maximize ADR, knowing the course will be torn up in spots.

We will continue to tend to the details that make the Cypress Head golf experience the best in Central Florida. Our team is bought into the culture of True Service and are humbled to be able to work and play at such a fine public facility. In early June we will meet with our entire team. Leslie will present our marketing plan to the team so everyone sees the BIG picture, and Susanne and Jeff will follow it up with True Service 3.0.

Respectfully Submitted,

Jeff Dayton, PGA

General Manager
Cypress Head Golf Club

Matt Lindley

Vice President Operations
KemperSports Management

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (H16) Second Reading - Ordinance No. 2024-08 - Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development and Master Development Agreement (CASE NO. PRZA-24-0001)

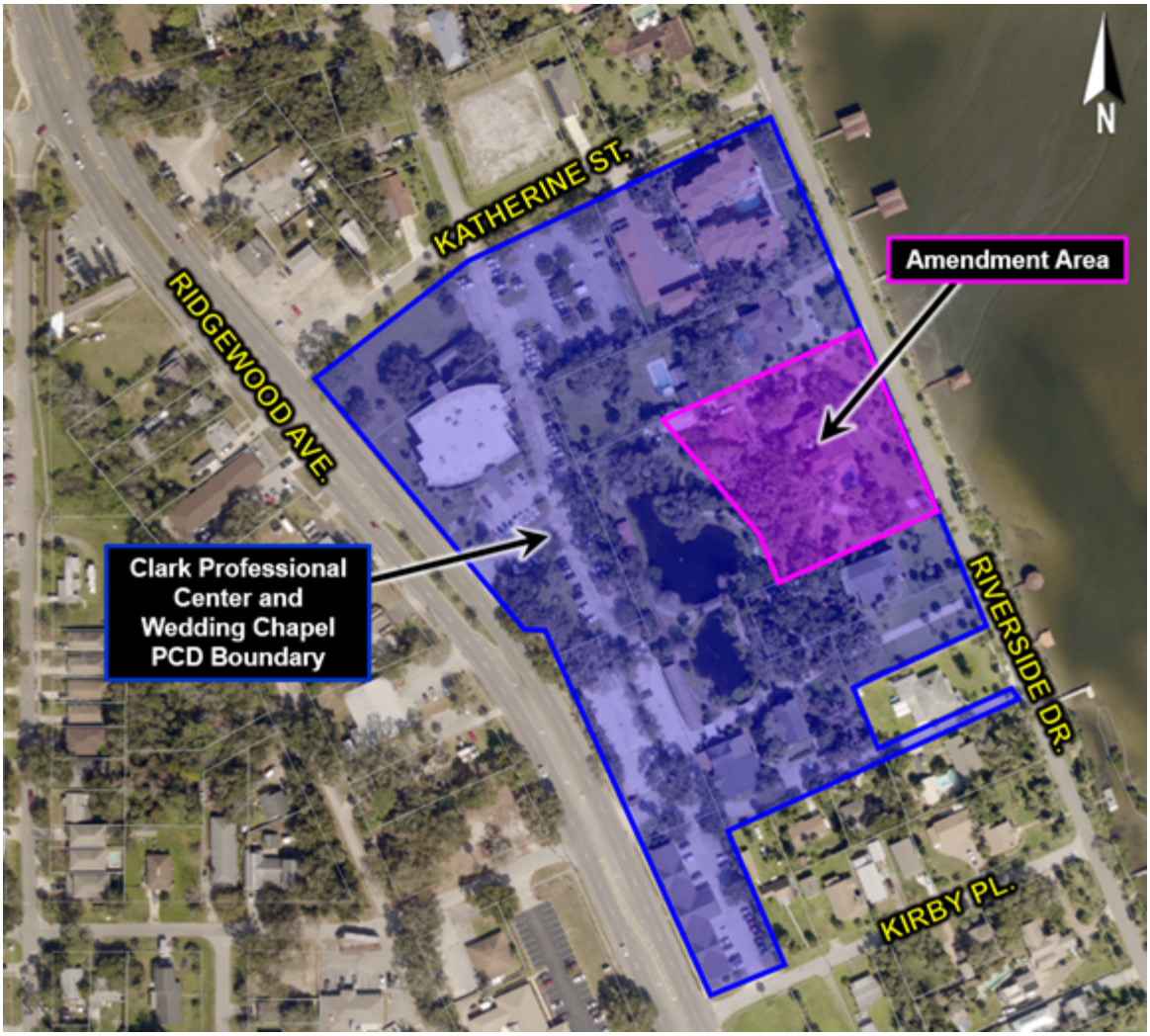
DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2024-08.

SUMMARY: Planning Commission Action: Recommended Approval 5-0 (April 25, 2024)

The applicant, Joey Posey of Storch Law Firm, on behalf of the property owner, is requesting approval of the Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP). If approved, the Amendment will set up the framework to allow the development of a bed and breakfast concept, consisting of multiple rental cottages with a common building to provide food service for guests, rather than a single building, and would be part of the existing Estate on the Halifax wedding and event venue complex. The subject property is located on the west side of Riverside Drive, south of Katherine Street, at 5120 Riverside Drive.



As part of the previously approved Sixth Amendment to the Clark Professional Center and Wedding Chapel PCD, the former single-family home at 5120 Riverside Drive was approved to be converted into a bed and breakfast. However, after the Sixth Amendment was approved, it was determined that converting the single-family home into a bed and breakfast was not financially feasible due to the required ADA upgrades. The single-family home was demolished in 2023, and the site is currently vacant. With the Seventh Amendment, the applicant is requesting the ability to develop a bed and breakfast concept that consists of multiple rental cottages with a common building that will provide food service for guests rather than a single building. The Seventh Amendment also allows the existing dock at 5120 Riverside Drive to be used as part of the proposed bed and breakfast.

According to the applicant, in addition to individual vacationers/tourists, this bed and breakfast concept will serve the current Estate on the Halifax business that rents venue spaces within the PCD, such as the chapel, the railroad car, and the Tavern in the Garden for weddings, private parties, corporate events, etc. The Estate on the Halifax provides services and event space that attracts customers and visitors to the east side of Port Orange, and the applicant believes having on-site lodging will help to continue attracting events to this location.

If the Seventh Amendment is approved, the applicant would then be required to prepare and submit a site plan that complies with the requirements of the MDA, CDP, and LDC, such as grading, stormwater drainage improvements, type and location of trees and shrubs in the landscape buffers, location of buildings, and water and sewer lines, parking lot design, and other development requirements.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance No. 2024-08 w exhibits	Ordinance No. 2024-08 w exhibits.pdf
2.	Seventh Amendment MDA_CDP	ORD Exhibit - Seventh Amendment MDA_CDP.pdf
3.	STAFF REPORT	STAFF REPORT .pdf
4.	Business Impact Estimate Form - Ord. 2024-xx	Business Impact Estimate Form - Ord. 2024-xx.pdf

Penelope Cruz	Created/Initiated - 4/25/2024
Tim Burman	Approved - 4/26/2024
Shannon Balmer	Approved - 5/8/2024
Wayne Clark	Approved - 5/9/2024
Tracee Cody	Final Approval - 5/9/2024

ORDINANCE NO. 2024-08

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERICAL DEVELOPMENT MASTER AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Owner desire to enter into the Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development Master Agreement ("MDA") and Conceptual Development Plan ("CDP"); and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has by majority vote recommended approval of the proposed Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development Master Agreement ("MDA") and Conceptual Development Plan ("CDP"); and

WHEREAS, the City Council has approved by a majority vote of the members present the Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development Master Agreement ("MDA") and Conceptual Development Plan ("CDP"); and

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

Section 1. The City Council of the City of Port Orange does hereby approve the

Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development Master Agreement ("MDA") and Conceptual Development Plan ("CDP) (attached hereto as **Exhibit "1"**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said Seventh Amendment.

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

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

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

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of _____, 2024

Passed and adopted on second and final reading on the day of _____,2024

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

EXHIBIT "1"

This Document Prepared By:
Storch Law Firm
420 South Nova Road
Daytona Beach, FL 32174

Return Recorded Document to:
Office of Records Clerk
1000 City Center Circle
Port Orange, FL 32129

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERCIAL DEVELOPMENT MASTER DEVELOPMENT AGREEMENT

This Agreement, entered into by and between the CITY OF PORT ORANGE, a Florida municipal corporation whose address is 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter referred to as the "City") and 5120 PARTNERS, LLC, a Florida limited liability company, located at 5111 S. Ridgewood Avenue, Port Orange, FL 32127 (referenced as the "Developer"), constitutes the Seventh Amendment to the Master Development Agreement for the Clark Professional Center and Wedding Chapel Planned Commercial Development (hereinafter referred to as the "Seventh Amendment"), who hereby agree and covenant as follows:

WHEREAS, the Developer's predecessors-in-interest and the City previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled "Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development, recorded in Official Records Book 4550, Page 672, Public Records of Volusia County, Florida ("MDA"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain First Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 20, 2000 and recorded in Official Records Book 4581, Page 1194, Public Records of Volusia County Florida ("First Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Second Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 17, 2001 and recorded in Official Records Book 47251, Page 1695, Public Records of Volusia County Florida ("Second Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Third Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of November 22, 2002 and recorded in Official Records Book 4979, Page 4950, Public Records of Volusia County Florida ("Third Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fourth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of September 19, 2006 and recorded in Official Records Book 5923, Page 2515, Public Records of Volusia County Florida ("Fourth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fifth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of May 17, 2017 and recorded in Official Records Book 7399, Page 2011, Public Records of Volusia County Florida ("Fifth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Sixth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of March 9, 2021 and recorded in Official Records Book 8005, Page 2524, Public Records of Volusia County Florida ("Sixth Amendment"); and

WHEREAS, the Parties desire to amend the MDA, as previously amended by the First, Second, Third, Fourth, Fifth and Sixth Amendments for the purpose of clarifying the definition of Bed and breakfast use and to remove the single-family residential use.

NOW, THEREFORE, the Parties agree as follows:

1. The premises stated above are true and correct and form a material part of this Seventh Amendment.

2. This Seventh Amendment pertains only to that property identified as Lot 9 on the CDP and as more particularly described in **Exhibit "A",** attached hereto and made a part hereof by this reference, referred to herein as the "Subject Property".

3. Paragraph 2 of the Sixth Amendment is hereby amended, with insertions and deletions in underline and strikethrough formats, respectively, as follows:

2. Development Standards.

a. *[no changes to this section]*

b. Permitted Uses. Permitted Uses for Lots 9 within the Sixth Amendment Project Area shall be as follows uses:

Bed and breakfast inn (in a single building or a multiple building cottage-like complex)**
Brewery
~~Caretaker's residence*~~
Craft food and beverage producer
Cultural facilities
Houses of worship/Wedding chapel
Offices
Off-site parking (within PCD Property only)
~~Single-family detached**~~
Wedding venue

Wedding gazebo and/or pavilion

All other uses and structures of an accessory nature customary to the permitted uses listed above.

** Bed and Breakfast Inn shall mean a house or portion thereof, or a cottage complex of two or more attached and/or detached buildings where short-term lodging units are provided, under unified ownership, where meals may be provided at a common area when requested by guests as part of the stay. For clarification, kitchen facilities requiring a 240-volt electrical outlet or gas line shall not be allowed to be installed in the short-term lodging units. The operator of the inn may live on the premises.
~~a change of use for those single-family residences located along Riverside Drive within the PCD will require the property to come into compliance with the requirements of the MDA and LDC and the use cannot revert back to a residential use once the property is redeveloped with a non-residential use. Any change of use from single-family to one of the non-residential permitted uses will require a site plan to be reviewed and approved by the City.~~

c. *[no changes to this section]*

d. *[no changes to this section]*

e. Dimensional Requirements and Standards.

i.	Maximum Building Coverage:	35%
ii.	Minimum Open Space:	30%
iii.	Minimum Building Setbacks:	
	Front Yard:	10 feet 25 feet along Riverside Drive
	Side Yard:	10 feet 5 feet for that portion of PR-Building 1 adjoining lots within the PCD
	Rear Yard:	10 feet
iv.	Maximum Number of Lots:	4
v.	Minimum Lot Dimensions	
	Lot Width:	100 feet
	Lot Area:	10,000 square feet
	Maximum Height:	35 feet

vi. [*no change to this section*]

vii. Existing docks may only be utilized as part of an existing residential use, or a bed and breakfast inn use, as defined hereinabove, and any additional docks shall only be permitted pursuant to the City LDC.

viii. [*no change to this section*].

f. Architecture. Buildings within the Sixth Amendment Project Area shall incorporate a mixture of eclectic modern and historical architecture visually compatible with existing structures within the PCD Property. Said architectural mixture is intended to create a diverse aesthetic character throughout the PCD Property of both modern and traditional architectural styles common to Florida including, but not limited to, the Florida vernacular and Mediterranean styles. An example of architectural intent for Lot 9, consistent with this Paragraph, is attached hereto as **Exhibit "C"**. ~~The exterior of the single-family residences located along Riverside Drive shall not be modified unless a modification is needed to accommodate Florida Building Code and/or ADA requirements, modernization and/or general repairs and maintenance of a residence. Any additions to modernize a single-family residence shall be architecturally consistent with the existing structure.~~ A privacy fence shall be installed at the corner of Lot 8 and Parcel 6310-00-0001 to screen the existing townhome development from PR-Building 1 as shown on the Sixth Amendment Project Area Conceptual Plan.

g. Access and Parking.

i. The existing driveways that provide access for those existing parcels along Riverside Drive may be utilized for existing residential and/or passive recreational uses, and/or a Bed and breakfast inn use, and ancillary deliveries and services associated with the aforementioned uses. No commercial use access, other than those uses specified in this Paragraph, shall be permitted from Riverside Drive, and said existing driveways shall be blocked once the parcels transition to a commercial use not otherwise permitted in this Paragraph.

ii. *[no changes to the remainder of section g.]*

4. New Conceptual Development Plan**.** The New Conceptual Development Plan as it applies to the Subject Property is shown on **Exhibit "B"**, attached hereto and by reference made a part hereof.

5. This Seventh Amendment shall be effective on the date it is executed by all parties.

6. This Seventh Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense.

7. The MDA, as previously amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, and Sixth Amendment shall remain in full force and effect except with the respect to those matters specifically amended by the Seventh Amendment.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Seventh Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
a Chartered Municipal Corporation

_____

By: _____
Donald O. Burnette, Mayor

Name: _____
1000 City Center Circle
Port Orange, FL 32129

Date: _____

_____

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

Name: _____
1000 City Center Circle
Port Orange, FL 32129

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 _____, 20___ by Donald O. Burnette, as Mayor and Robin L. Fenwick, as City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

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

WITNESSES:

5120 PARTNERS, LLC
a Florida limited liability company

_____

By: _____
D. Andrew Clark, Manager

Name: _____
_____
_____

Date: _____

_____

Name: _____
_____
_____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of [_] physical presence or [_] online notarization, this _____ day of _____, 20___ by D. Andrew Clark, as Manager of 5120 Partners, LLC, a Florida limited liability company, who is [ ] personally known to me or [ ] who has produced _____ as identification and who did not take an oath.

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

Exhibit A

PART 1

LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, AND A PORTION OF LOT 1, ALLENWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A"(ALSO RECORDED IN MAP BOOK 2, PAGE 65, (ALSO RECORDED IN MAP BOOK 12, PAGE 137), ALL BRING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTE4RLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (60 FOOT RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, AFORESAID ALLAN PARK, THENCE ALONG THE BOUNDARY OF THE CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: S 63%%D47'08" W FOR A DISTANCE OF 199.63 FEET; THENCE N 24%%D34'13" W FOR A DISTANCE OF 83.82 FEET FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE BOUNDARY OF SAID CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: N 24%%D34'13" W FOR A DISTANCE OF 85.97 FEET; THENCE S 63%%d36"48" W FOR A DISTANCE OF 87.80 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 93.14 FEET; THENCE 2 36%%D33'14" E FOR A DISTANCE OF 50.00 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 74.77 FEET; THENCE N 42%%D57'05" W FOR A DISTANCE OF 199.07 FEET TO A POINT ON THE NORTHERLY LINE OF AFORESAID LOT 1, ALLENWOOD SUBDIVISION; THENCE N 63%%D33'14" E ALONG SAID NORTH LINE OF LOT 1, FOR A DISTANCE OF 300.35 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID RIVERSIDE DRIVE, THENCE S 24%%d33'27" E ALONG THE WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 445.57 FEET; THENCE S 63%%d43'49" W FOR A DISTANCE OF 199.65 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 2.596 ACRES MORE OR LESS.

PART 2

ALL LANDS LYING EASTERLY OF RIVERSIDE DRIVE AND TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER WITH THE NORTH BOUNDARY OF LOT 1, ALLANWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A" (ALSO RECORDED IN MAP BOOK 15, PAGE 195), EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE AND THE SOUTH BOUNDARY OF LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE OF SAID HALIFAX RIVER, ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (A 60.00 FEET RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, OF AFORESAID ALLAN PARK, THENCE N 24%%D33'27" W ALONG THE RIGHT-OF-WAY LINE

OF RIVERSIDE DRIVE FOR A DISTANCE OF 84.00 FEET TO THE NORTHEAST CORNER OF AFORESAID LOT 2; THENCE NORTH 63%%d 33'49" EAST, CROSSING RIVERSIDE DRIVE FOR A DISTANCE OF 30.01 FEET TO EAST RIGHT-OF-WAY OF RIVERSIDE DRIVE, AS SHOWN ON THE PLAT OF SAID ALLAN PARK, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N 24%%D33'27" W ALONG THE SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 445.66 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1, ALLANWOOD; THENCE N 63%%D33'14" E ALONG SAID EASTERLY EXTENSION FOR A DISTANCE OF 13.85 FEET TO THE EAST EDGE OF A COQUINA ROCK HEADWALLM AT THE MEAN HIGH WATER ELEVATION 1.27 FEET, NATIONAL GEODETIC DATUM OF 1929, ESTABLISHED ON DECEMBER 16, 1999, THENCE S 25%%D31'36" E ALONG THE EASTERLY EDGE OF SAID WALL AND SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 358.92 FEET; THENCE S 18%%D06'10" E LEAVING SAID COQUINA ROCK SEA WALL AND CONTINUING ALONG SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 37.75 FEET; THENCE S 27%%D54'44" FOR A DISTANCE OF 49.26 FEET TO THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF SAID LOT 2, OF ALLAN PARK; THENCE S 63%%D43'49" W ALONG THE SAID EASTERLY EXTENSION FOR A DISTANCE OF 18.53 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID RIVERSIDE DRIVE AND THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 0.173 ACRES MORE OF LESS

SHEET LIST TABLE	
SHEET NUMBER	SHEET TITLE
01	COVER
02	OVERALL DEVELOPMENT PLAN
03	SITE LAYOUT PLAN
04	TOPOGRAPHY & FEMA MAP EXHIBIT
05	TREE PAN

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD

LOT 9, PARCEL# 63-10-11-00-0010
5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
SECTION 07, TOWNSHIP 16 S, RANGE 33 E
63-10-11-00-0010
FEBRUARY 2024

PROJECT TEAM

PROPERTY OWNER / APPLICANT: 5120 PARTNERS, LLC
5111 RIDGEWOOD AVE UNIT 201
PORT ORANGE, FL 32127
PHONE: (386) 236-1970
EMAIL: ACLARK@GOALLABOARD.COM

CIVIL ENGINEER/ LANDSCAPE ARCHITECT AGENT: NEWKIRK ENGINEERING, INC.
1230 NORTH US HIGHWAY 1, SUITE 3
ORMOND BEACH, FL 32174
PHONE: (386) 872-7794
EMAIL: CODY@NEWKIRK-ENGINEERING.COM

ARCHITECT: BPF DESIGN INCORPORATED.
207 FAIRVIEW AVENUE
DAYTONA BEACH, FL 32114
PHONE: (386) 257-0502
EMAIL: BPFDESIGN@CFL.RR.COM

SURVEYOR: A1A SURVEYING, INC.
555 W GRANADA BLVD, SUITE D7
ORMOND BEACH, FL 32174
PHONE: (386) 216-5730
EMAIL: ALLEN@A1ASURVEYING.COM

CONTACT NUMBERS

PLANNING & BUILDING - CITY OF PORT ORANGE (386) 506-5602
WATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
WASTEWATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
GAS - FLORIDA PUBLIC UTILITES (386) 428-5721
ELECTRIC - FLORIDA POWER & LIGHT (386) 586-6403
TELEPHONE / INTERNET - AT&T (561) 683-2729
CABLE - CHARTER COMMUNICATIONS (321) 338-1928

LOT PARCEL ID ADDRESS

LOT 1	63-10-35-00-0010	184 KATHERINE ST, PORT ORANGE, FL, 32127
LOT 2	63-10-35-00-0020	5111 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 3	63-10-35-00-0030	.
LOT 4	63-10-35-00-0040	5131 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 5	63-10-35-00-0050	5121 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 6	63-10-10-00-0020	5166 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 7	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 8	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 9	63-10-11-00-0010	5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 10	63-10-09-00-0160	5128 RIVERSIDE DR, PORT ORANGE, FL, 32127

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

PROJECT STATEMENT

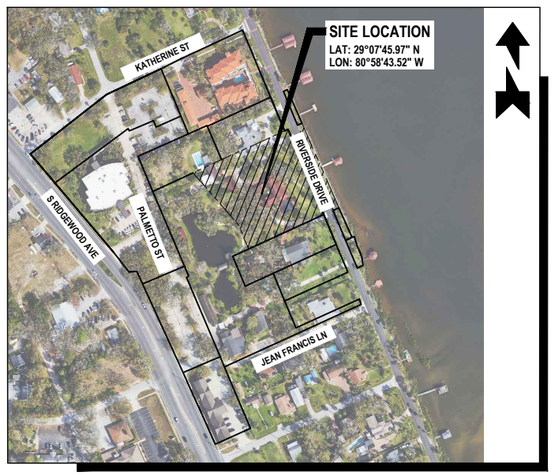
THIS IS A PROPOSED REDEFINED BED AND BREAKFAST USE FOR THE EXISTING PLANNED DEVELOPMENT KNOWN AS "CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL". IT WILL BE THE 7TH AMENDMENT. PROPOSED ARE INDIVIDUAL BUILDINGS TO FUNCTION AS A BED AND BREAKFAST FACILITY WITH A COMMON ARE BUILDING AND POOL. THIS WORK IS PROPOSED ON LOT 9 OF THE PLANNED DEVELOPMENT.

CITY OF PORT ORANGE NOTE

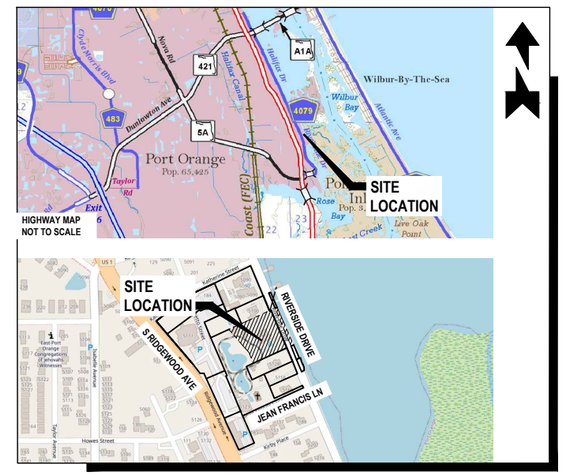
ALL CONSTRUCTION SHALL COMPLY WITH THE STANDARD CONSTRUCTION DETAILS AS ADOPTED BY RESOLUTION OF THE CITY COUNCIL. ANY DEVIATION FROM THE ADOPTED STANDARDS SHALL BE CLEARLY NOTED AS SUCH IN ALL PLANS AND SPECIFICATIONS. IF INADVERTENT DEVIATIONS IN PLANS ARE NOT SO NOTED, ADOPTED STANDARDS SHALL APPLY.

THE GENERAL CONTRACTOR SHALL ENSURE THAT ANY SUBCONTRACTOR HAS A COMPLETE SET OF CONSTRUCTION DRAWINGS FOR ITS RESPECTIVE WORK. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR SUBCONTRACTORS ONLY UTILIZING INDIVIDUAL DRAWINGS FOR ITS WORK WHERE ADDITIONAL INFORMATION MAY BE CONTAINED ON OTHER DRAWINGS WITHIN THE SET.

THESE DRAWINGS ARE THE PROPERTY OF NEWKIRK ENGINEERING, INC. ANY USE OR REPRODUCTION IN WHOLE OR PART IS PROHIBITED WITHOUT THE EXPRESSED WRITTEN CONSENT OF NEWKIRK ENGINEERING, INC. COPYRIGHT 2013 ALL RIGHTS RESERVED.



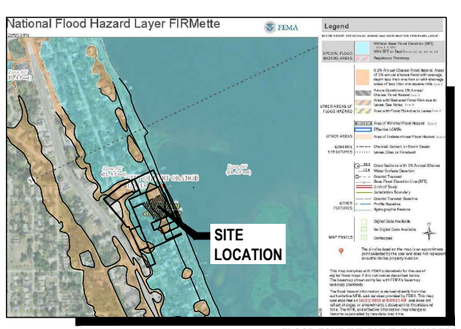
AERIAL MAP
SCALE: 1" = 200'



LOCATION MAP
SCALE: 1" = 450'

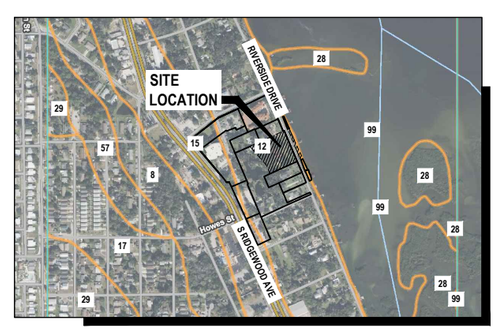
One Nation... One Number... 811 Know what's below. Call before you dig.

WARNING !!
CONTRACTOR SHALL TAKE ALL PRECAUTIONS DURING CONSTRUCTION TO AVOID CONTACT WITH EXISTING UNDERGROUND UTILITIES AND OVERHEAD ELECTRIC IN THE RIGHT-OF-WAY.



FLOOD ZONE MAP
FLOOD ZONE "X", "AE4", "XSHADED"
PANEL No. 12127C0388 J,
DATED SEPTEMBER 29, 2017
SCALE: 1" = 850'

ZONING MAP
PROJECT ZONING DISTRICT:
PCD - "CLARK PROFESSIONAL CENTER 6TH ADMENDMENT"
SCALE: 1" = 300'



SOILS MAP
SOIL TYPE:
(12) CANAVERAL SAND, 0 TO 5 PERCENT SLOPES
SCALE: 1" = 550'

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584
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Civil Engineering, Transportation, CEI & Landscape Architecture
NEWKIRK ENGINEERING INC.

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THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY CODY A. BOGART, PE # 94133 ON

CODY A. BOGART LICENSE No. 94133 STATE OF FLORIDA PROFESSIONAL ENGINEER

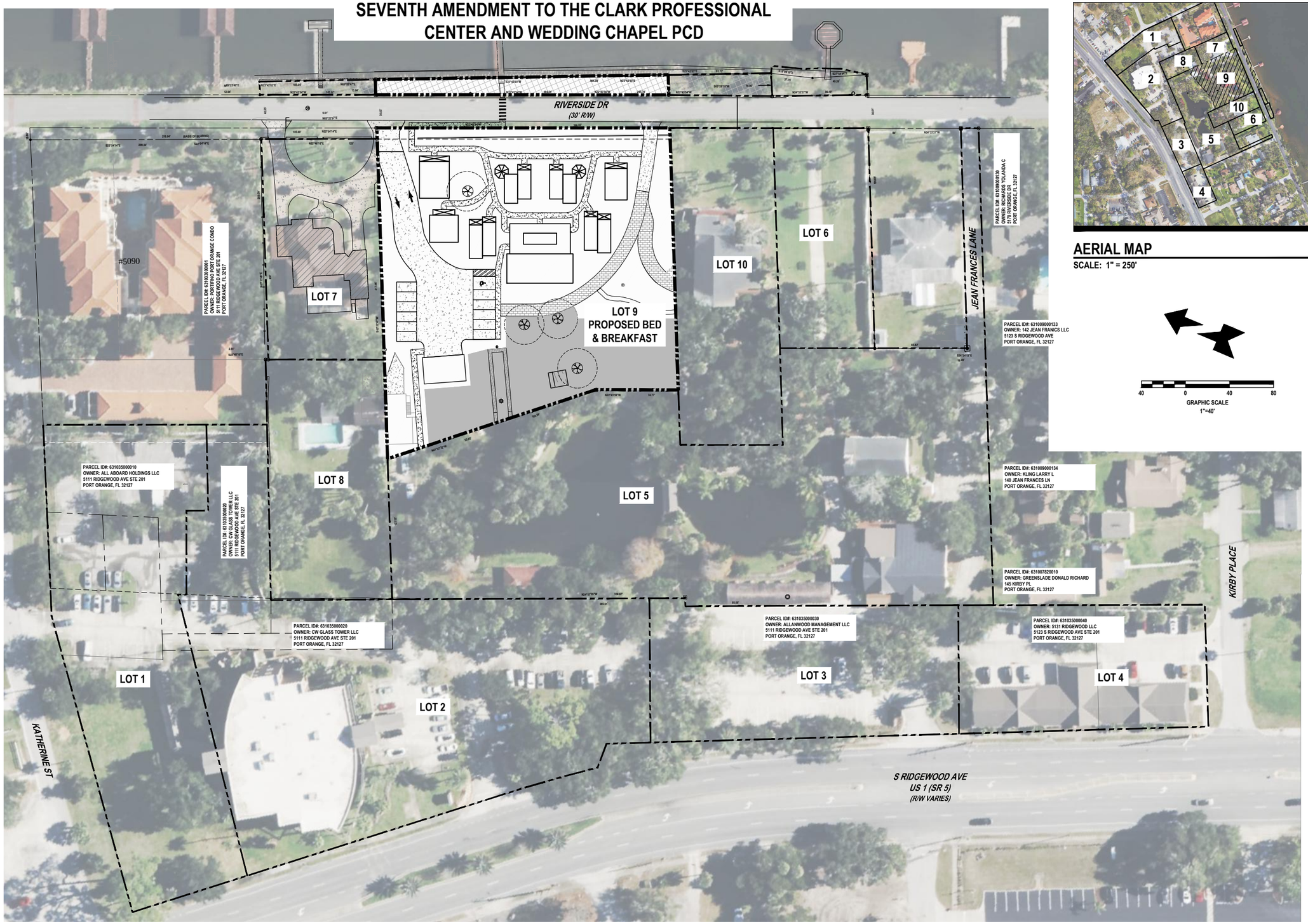
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

DRAWING NUMBER
01

PROJECT No. 2022-200

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD



AERIAL MAP

SCALE: 1" = 250'

40 0 40 80

GRAPHIC SCALE
1"=40'

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

REVISIONS

DATE	DESCRIPTION

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584

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Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING INC.

OVERALL DEVELOPMENT PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY CODY A. BOGART, PE # 94133 ON

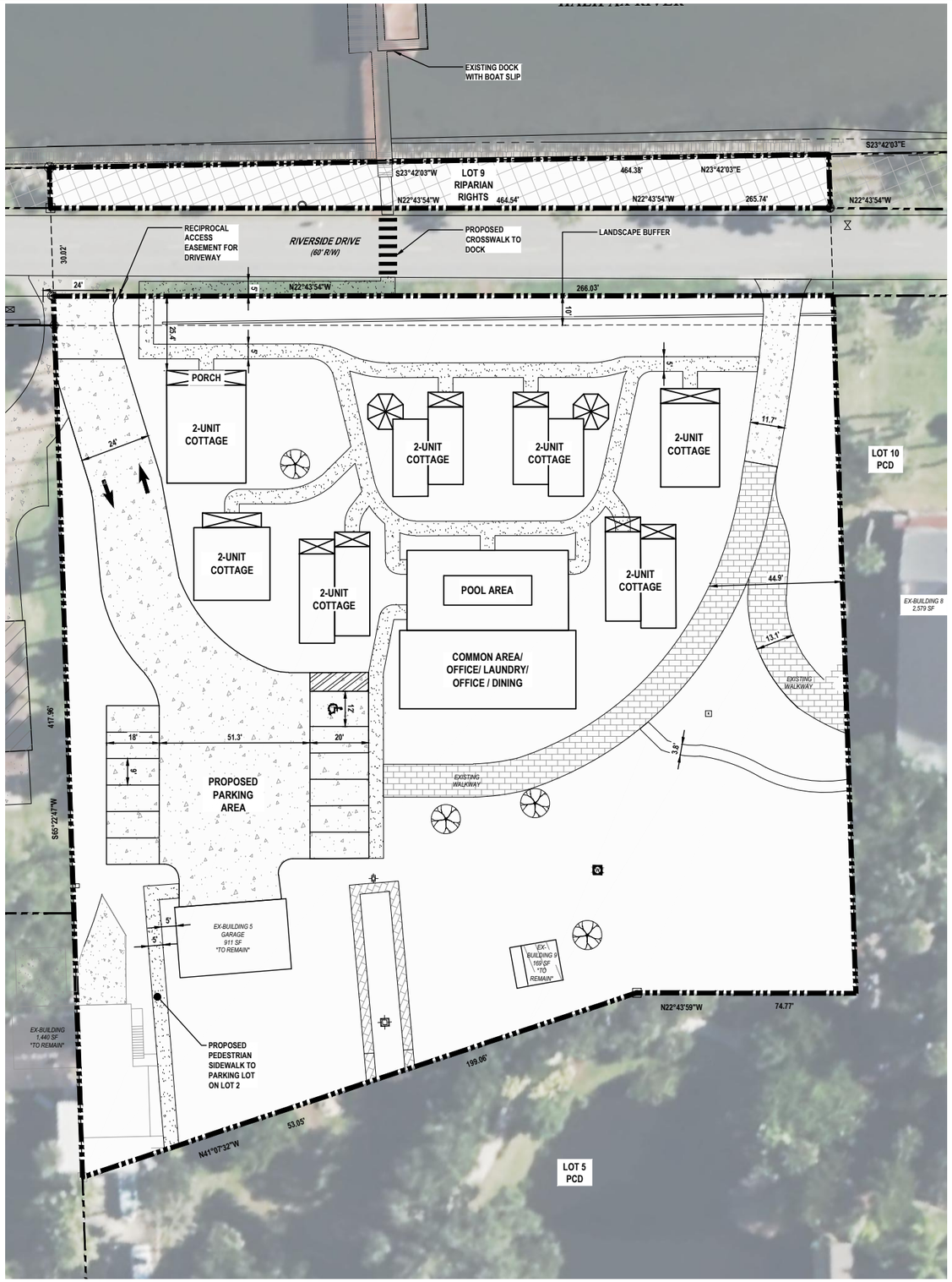
CODY A. BOGART
LICENSE
No. 94133
STATE OF FLORIDA
PROFESSIONAL ENGINEER

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

PROJECT No:	2022-200
DATE:	FEB 2024
DESIGN BY:	CAB
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 40'

DRAWING NUMBER

02



NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

GRAPHIC SCALE
1"=20'
20 10 0 20 40

LEGEND :

SPECIMEN TREE
ONLY SHOWN FOR TREES PROPOSED TO KEEP

OVERALL SITE DEVELOPMENT USAGE

1.	PROPERTY INFORMATION	
	PARCEL ID	63-10-11-00-00-0010
	ADDRESS	5120 RIVERSIDE DRIVE
	FUTURE LAND USE (FLU)	COMMERCIAL
	ZONING (w/ OVERLAY)	PCD
	FLOODZONE	*X*, *AE=4*, *AE=5* & *AE=6*

2	DIMENSIONAL REQUIREMENTS (per PCD)	
		SF
	MAX BUILDING COVERAGE	35%
	MAX BUILDING HEIGHT	35 FT
	MIN. OPEN SPACE	30%
	MIN. BUILDING SETBACKS	
	FRONT SETBACK	10' (25' ALONG RIVERSIDE DR)
	SIDE SETBACK	10' (5' FOR PR-1 ALONG PCD)
	REAR SETBACK	10 FT
	MAX NUMBER OF LOTS	4
	MIN. LOT DIMENSIONS	
	WIDTH	100 FT
	AREA	10,000 FT

3	EXISTING SITE COVERAGE			
	AREA TYPE	SF	ACRE	% OF SITE
	ASPHALT		0.000	
	CONCRETE	15,344	0.352	22.2%
	BUILDING	6,787	0.156	9.8%
	DRY POND	0	0.000	
	WET POND	0	0.000	
	GREEN SPACE	46,949	1.078	68.0%
	TOTAL SITE	69,080	1.586	100.0%
	TOTAL IMPERVIOUS	22,131	0.508	32.0%
	TOTAL GREEN SPACE	46,949	1.078	75.4%

PROPOSED SITE COVERAGE				
AREA TYPE	SF	ACRE	% OF SITE	CHANGE
ASPHALT	9,022	0.207	13.1%	9,022
CONCRETE	7,100	0.163	10.3%	-8,244
BUILDING	8,876	0.204	12.8%	2,089
DRY POND	0	0.000		0
WET POND	0	0.000		0
GREEN SPACE	44,082	1.012	63.8%	-2,867
TOTAL SITE	69,080	1.586	100.0%	0
TOTAL IMPERVIOUS	24,998	0.574	36.2%	2,867
TOTAL GREEN SPACE	44,082	1.012	73.2%	-2,867

5	LDC PARKING REQUIREMENTS			
	BUILDING USE	DEMAND	REQUIREMENT	REQ. SPACES
	BED & BREAKFAST	14 BEDS	1 SPACES PER 1 BEDS	14
	B&B EMPLOYEES	14 BEDS	0.1 SPACES PER 1 BEDS	1.4
	TOTAL REQUIRED SPACES			16

SPECIALTY PARKING REQUIREMENTS	
	REQ.
ADA SPACES	1
BICYCLE SPACES	0

PROVIDED PARKING		
	%	PROV.
STANDARD SPACES - ONSITE	69%	11
ADA SPACES - ONSITE	6%	1
OFFSITE SHARED PARKING (LOTS 1 & 2)	25%	4
TOTAL REQUIRED SPACES		16

AERIAL MAP

SCALE: 1" = 250'

OVERALL SITE DEVELOPMENT USAGE

SHARED PARKING DEMAND CALCULATIONS - LOTS 1, 2, 8, 9					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 8 - WEDDING VENUE	200	1	3		67
LOT 2 - EXISTING OFFICE	13,953	1	200	70	
LOT 1 - PROPOSED OFFICE	9,600	1	200	48	
LOT 9 - PROPOSED B&B	1 PER BED + 0.1 PER EMPLOYEE			16	16
TOTAL REQUIRED SPACES				134	83
REQUIRED ADA SPACES				5	

PROVIDED PARKING - LOTS 1, 2, 8, 9		
	%	SPACES
STANDARD SPACES	94%	140
ADA SPACES	6%	9
TOTAL PROVIDED SPACES		149

SHARED PARKING DEMAND CACLULATIONS - LOTS 3, 4, 5, 6					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 5 - EX WEDDING VENUE	150	1	3		50
LOT 4 - EXISTING OFFICE	5,275	1	200	27	
TOTAL REQUIRED SPACES				27	50
REQUIRED ADA SPACES				2	

PROVIDED PARKING - LOTS 3, 4, 5, 6		
	%	SPACES
STANDARD SPACES	95%	89
ADA SPACES	5%	5
TOTAL PROVIDED SPACES		94

*LOTS 7 & 10 HAVE PARKING MET FOR CURRENT RESIDENTIAL USE
**LOT 8 ON PCD NOT BUILT TO DATE

One Nation... One Number... 811
Know what's below. Call before you dig.

WARNING !!

CONTRACTOR SHALL TAKE ALL PRECAUTIONS DURING CONSTRUCTION TO AVOID CONTACT WITH EXISTING UNDERGROUND UTILITIES AND OVERHEAD ELECTRIC IN THE RIGHT-OF-WAY.

REVISIONS

DATE	DESCRIPTION

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584

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Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING INC.

SITE PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY CODY A. BOGART, PE # 94133 ON

CODY A. BOGART
LICENSE
No. 94133
STATE OF FLORIDA
PROFESSIONAL ENGINEER

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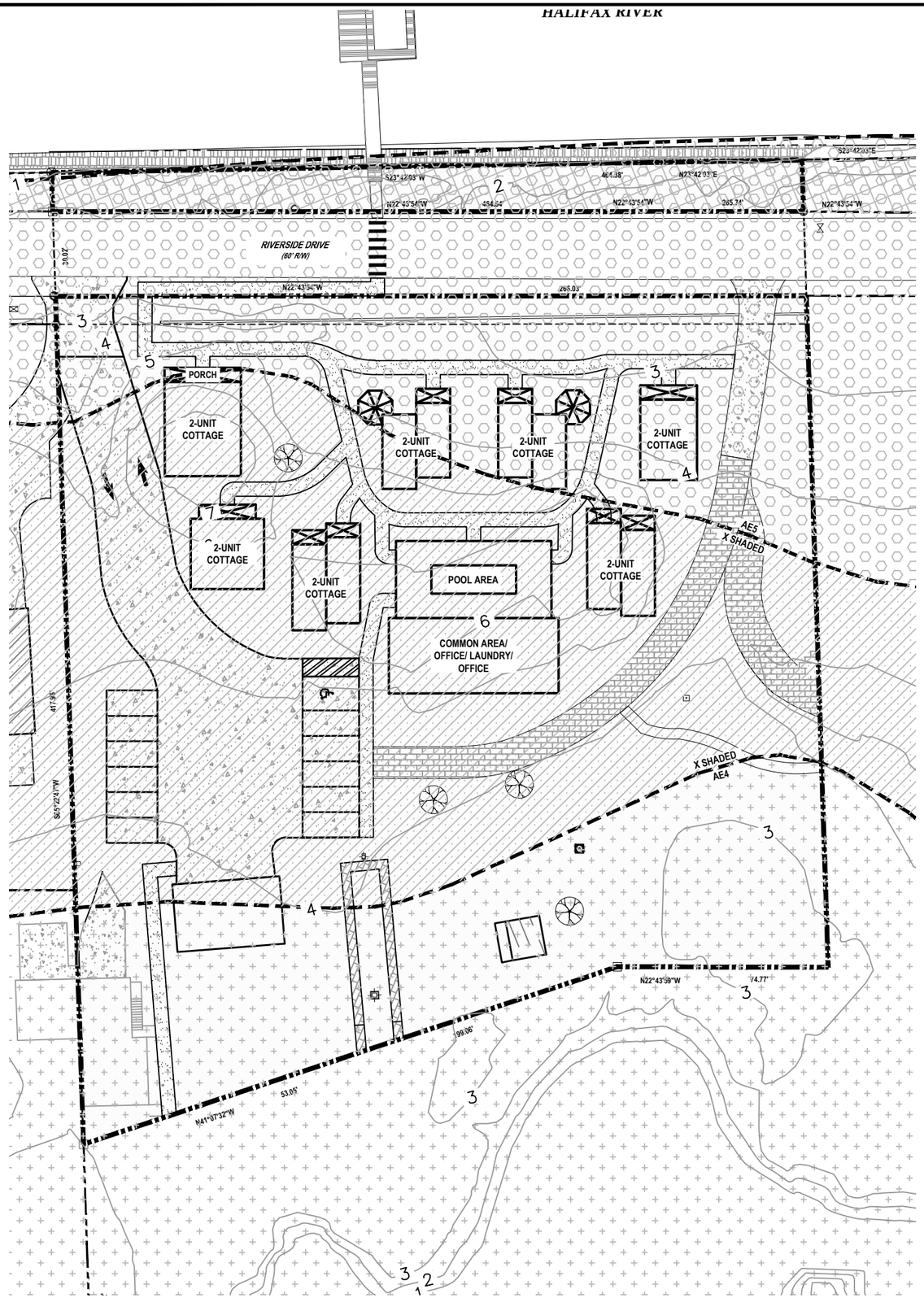
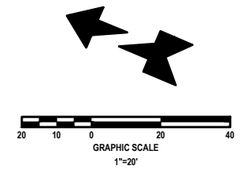
PROJECT No:	2022-200
DATE:	FEB 2024
DESIGN BY:	CAB
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

03



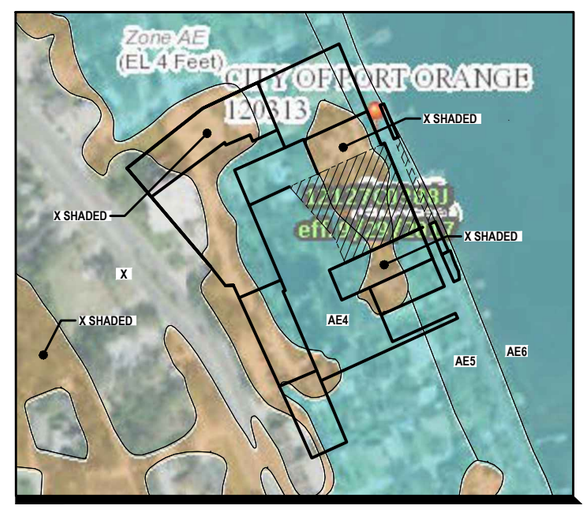


NOTES

1. ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
2. SITE SOILS:
   - A. (29) IMMOKALEE SAND
   - B. (32) MYAKKA-MYAKKA, WET, FINE SANDS, 0-2% SLOPES
   - C. (69) TUSCAWILLA FINE SAND
3. FEMA CLOMR-F APPLICATION TO BE APPLIED FOR DURING SITE DESIGN. LOMR-F APPLICATION TO BE OBTAINED DURING CONSTRUCTION ONCE PROVIDED AS-BUILT.

LEGEND

- PORTIONS OF PROPERTY IN FLOOD ZONE AE4.
- PORTIONS OF PROPERTY IN FLOOD ZONE AE5.
- PORTIONS OF PROPERTY IN FLOOD ZONE X SHADED (0.2% ANNUAL FLOOD CHANCE).
- PORTIONS OF PROPERTY IN FLOOD ZONE X
- FEMA FLOODPLAIN LINES
- —3— LIDAR CONTOUR LINES



AERIAL MAP

SCALE: 1" = 200'

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

REVISIONS

DATE	DESCRIPTION

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584
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Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING

TOPOGRAPHY & FLOODPLAIN EXHIBIT

EXHIBIT B

5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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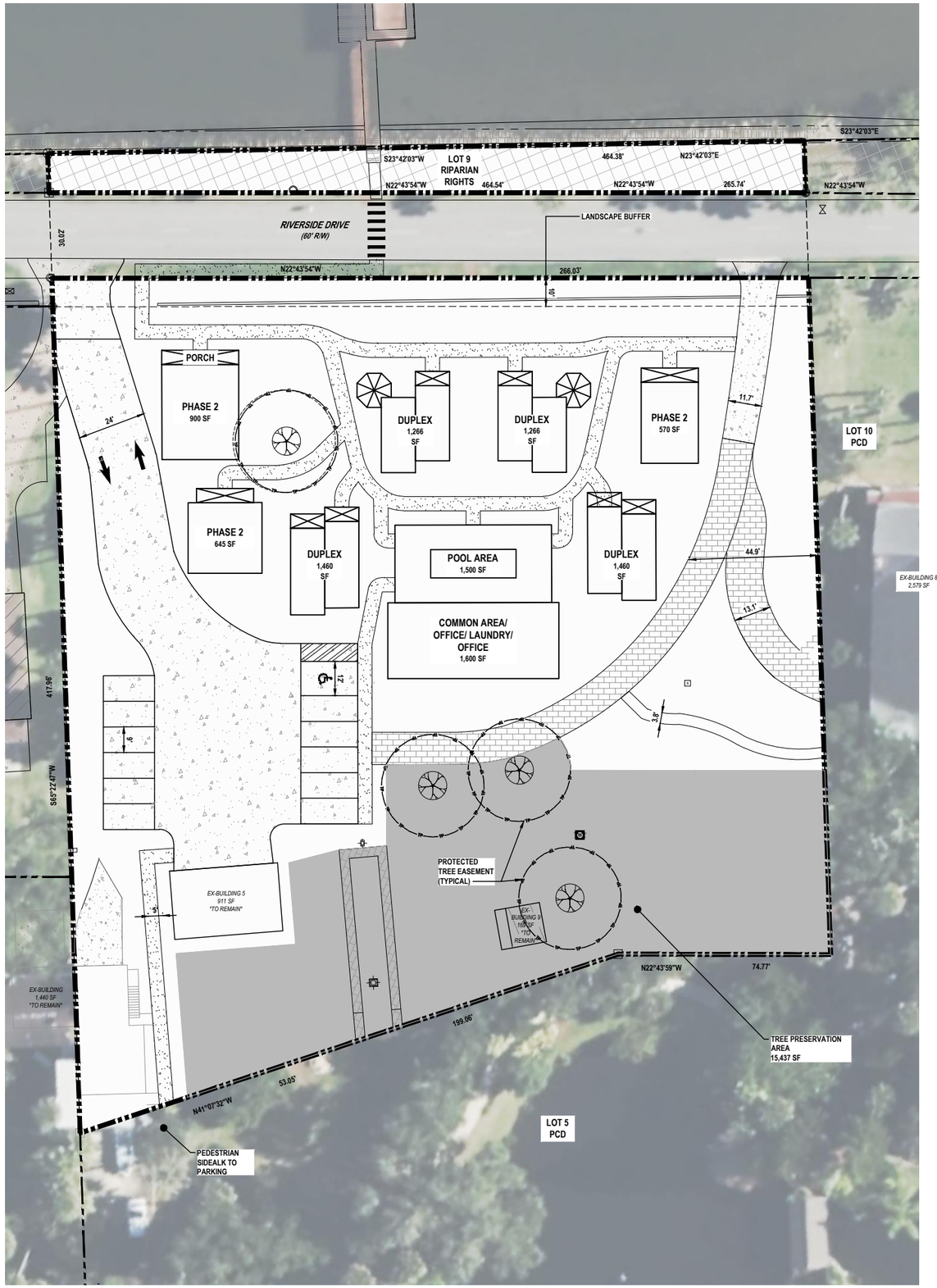
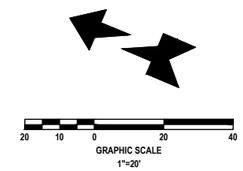
PROJECT No:	2022-200
DATE:	FEB 2024
DESIGN BY:	CAB
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

04





EASEMENT LEGEND :

SPECIMEN TREE WITH REQUIRED EASEMENT (1' DIA FOR 1" CAL) ONLY SHOWN FOR TREES PROPOSED TO KEEP

AERIAL MAP

SCALE: 1" = 250'

SITE AREA (Ac)	1.586
TOTAL SPECIMEN TREES	4
SPECIMEN / ACRE	2.5
REQUIRED PRESERVATION (80%)	3
PROVIDED PRESERVATION	4
TOTAL HISTORIC TREES	0
HISTORIC TREES REMOVED	0

SPECIMEN TREE CHART

Common Name	Botanical Name	Size
Turkey Oak	(Quercus Laevis)	12 inches and larger
Other Oak species	(Quercus spp.)	18 inches and larger
Maple	(Acer spp.)	18 inches and larger
Cypress	(Taxodium Distichum)	18 inches and larger
Sweet Gum	(Liquidambar styraciflua)	18 inches and larger
Hickory	(Carya spp.)	18 inches and larger
Elm	(Ulmus spp.)	18 inches and larger
Loblolly Bay	(Gordonia lasianthus)	12 inches and larger
Sweet Bay	(Magnolia virginiana)	12 inches and larger
Red Bay	(Persea borbonia)	12 inches and larger
Swamp Bay	(Persea palustris)	12 inches and larger
Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia/grandiflora)	12 inches and larger
Red Cedar	(Juniperus silicicola)	12 inches and larger

TREE PRESERVATION AREA REQUIREMENT CALCULATION:

TREE PRESERVATION AREA REQUIRED = 15% MINIMUM
1.586 ACRE x 0.15 = 0.238 ACRES (10,363 SF)

TREE PRESERVATION AREA PROVIDED = 0.354 ACRES or 15,437 (22.3%)

LEGEND

TREE PRESERVATION AREA

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

REVISIONS

DATE	DESCRIPTION

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Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584
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Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING INC.

TREE PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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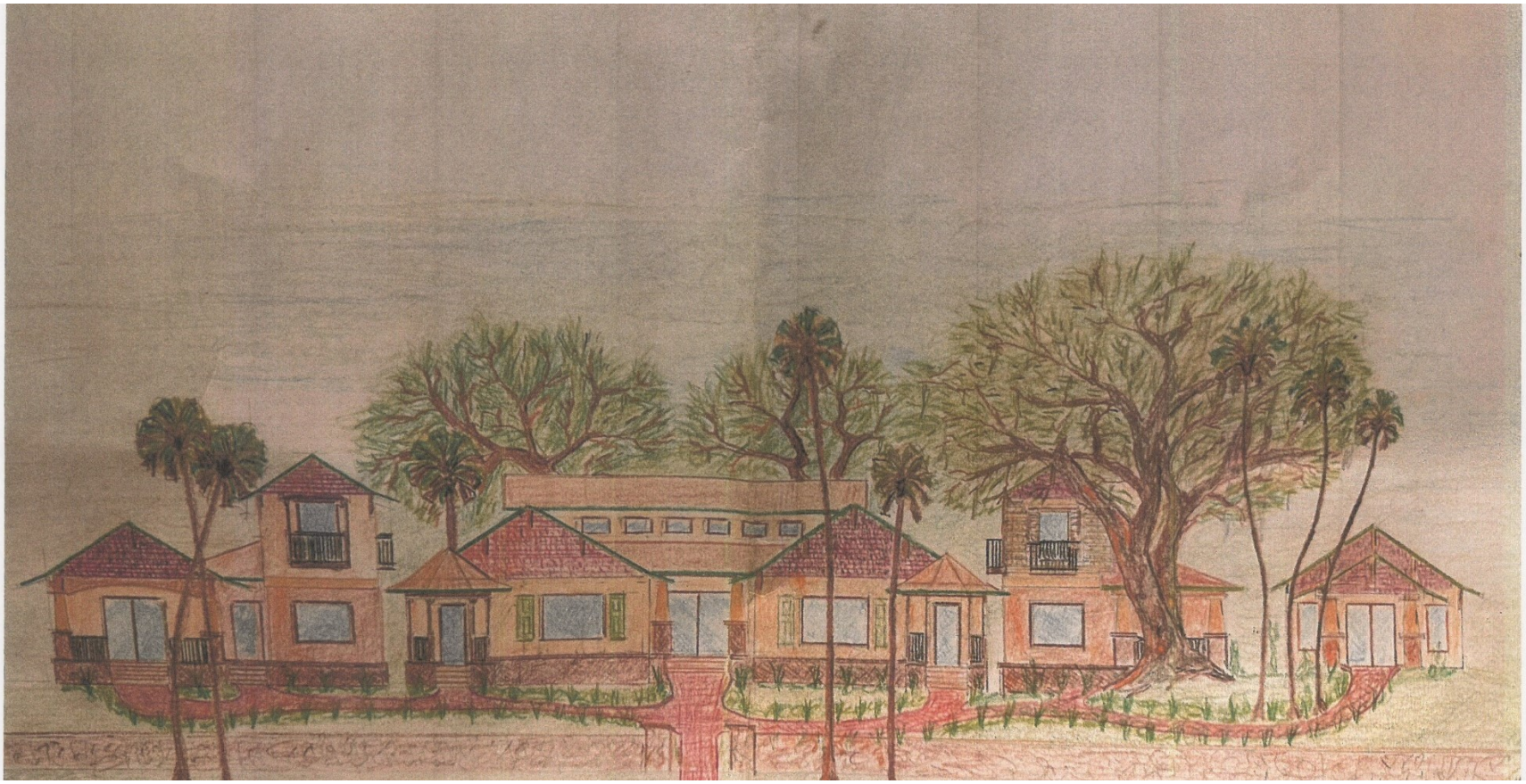
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

05

Exhibit C



This Document Prepared By:
Storch Law Firm
420 South Nova Road
Daytona Beach, FL 32174

Return Recorded Document to:
Office of Records Clerk
1000 City Center Circle
Port Orange, FL 32129

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERCIAL DEVELOPMENT MASTER DEVELOPMENT AGREEMENT

This Agreement, entered into by and between the CITY OF PORT ORANGE, a Florida municipal corporation whose address is 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter referred to as the "City") and 5120 PARTNERS, LLC, a Florida limited liability company, located at 5111 S. Ridgewood Avenue, Port Orange, FL 32127 (referenced as the "Developer"), constitutes the Seventh Amendment to the Master Development Agreement for the Clark Professional Center and Wedding Chapel Planned Commercial Development (hereinafter referred to as the "Seventh Amendment"), who hereby agree and covenant as follows:

WHEREAS, the Developer's predecessors-in-interest and the City previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled "Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development, recorded in Official Records Book 4550, Page 672, Public Records of Volusia County, Florida ("MDA"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain First Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 20, 2000 and recorded in Official Records Book 4581, Page 1194, Public Records of Volusia County Florida ("First Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Second Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 17, 2001 and recorded in Official Records Book 47251, Page 1695, Public Records of Volusia County Florida ("Second Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Third Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of November 22, 2002 and recorded in Official Records Book 4979, Page 4950, Public Records of Volusia County Florida ("Third Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fourth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of September 19, 2006 and recorded in Official Records Book 5923, Page 2515, Public Records of Volusia County Florida ("Fourth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fifth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of May 17, 2017 and recorded in Official Records Book 7399, Page 2011, Public Records of Volusia County Florida ("Fifth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Sixth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of March 9, 2021 and recorded in Official Records Book 8005, Page 2524, Public Records of Volusia County Florida ("Sixth Amendment"); and

WHEREAS, the Parties desire to amend the MDA, as previously amended by the First, Second, Third, Fourth, Fifth and Sixth Amendments for the purpose of clarifying the definition of Bed and breakfast use and to remove the single-family residential use.

NOW, THEREFORE, the Parties agree as follows:

1. The premises stated above are true and correct and form a material part of this Seventh Amendment.

2. This Seventh Amendment pertains only to that property identified as Lot 9 on the CDP and as more particularly described in **Exhibit "A",** attached hereto and made a part hereof by this reference, referred to herein as the "Subject Property".

3. Paragraph 2 of the Sixth Amendment is hereby amended, with insertions and deletions in underline and strikethrough formats, respectively, as follows:

2. Development Standards.

a. *[no changes to this section]*

b. Permitted Uses. Permitted Uses for Lots 9 within the Sixth Amendment Project Area shall be as follows uses:

Bed and breakfast inn (in a single building or a multiple building cottage-like complex)**
Brewery
~~Caretaker's residence*~~
Craft food and beverage producer
Cultural facilities
Houses of worship/Wedding chapel
Offices
Off-site parking (within PCD Property only)
~~Single-family detached**~~
Wedding venue

Wedding gazebo and/or pavilion

All other uses and structures of an accessory nature customary to the permitted uses listed above.

** Bed and Breakfast Inn shall mean a house or portion thereof, or a cottage complex of two or more attached and/or detached buildings where short-term lodging units are provided, under unified ownership, where meals may be provided at a common area when requested by guests as part of the stay. For clarification, kitchen facilities requiring a 240-volt electrical outlet or gas line shall not be allowed to be installed in the short-term lodging units. The operator of the inn may live on the premises.
~~a change of use for those single-family residences located along Riverside Drive within the PCD will require the property to come into compliance with the requirements of the MDA and LDC and the use cannot revert back to a residential use once the property is redeveloped with a non-residential use. Any change of use from single-family to one of the non-residential permitted uses will require a site plan to be reviewed and approved by the City.~~

c. *[no changes to this section]*

d. *[no changes to this section]*

e. Dimensional Requirements and Standards.

i.	Maximum Building Coverage:	35%
ii.	Minimum Open Space:	30%
iii.	Minimum Building Setbacks:	
	Front Yard:	10 feet 25 feet along Riverside Drive
	Side Yard:	10 feet 5 feet for that portion of PR-Building 1 adjoining lots within the PCD
	Rear Yard:	10 feet
iv.	Maximum Number of Lots:	4
v.	Minimum Lot Dimensions	
	Lot Width:	100 feet
	Lot Area:	10,000 square feet
	Maximum Height:	35 feet

vi. [*no change to this section*]

vii. Existing docks may only be utilized as part of an existing residential use, or a bed and breakfast inn use, as defined hereinabove, and any additional docks shall only be permitted pursuant to the City LDC.

viii. [*no change to this section*].

f. Architecture. Buildings within the Sixth Amendment Project Area shall incorporate a mixture of eclectic modern and historical architecture visually compatible with existing structures within the PCD Property. Said architectural mixture is intended to create a diverse aesthetic character throughout the PCD Property of both modern and traditional architectural styles common to Florida including, but not limited to, the Florida vernacular and Mediterranean styles. An example of architectural intent for Lot 9, consistent with this Paragraph, is attached hereto as **Exhibit "C"**. ~~The exterior of the single-family residences located along Riverside Drive shall not be modified unless a modification is needed to accommodate Florida Building Code and/or ADA requirements, modernization and/or general repairs and maintenance of a residence. Any additions to modernize a single-family residence shall be architecturally consistent with the existing structure.~~ A privacy fence shall be installed at the corner of Lot 8 and Parcel 6310-00-0001 to screen the existing townhome development from PR-Building 1 as shown on the Sixth Amendment Project Area Conceptual Plan.

g. Access and Parking.

i. The existing driveways that provide access for those existing parcels along Riverside Drive may be utilized for existing residential and/or passive recreational uses, and/or a Bed and breakfast inn use, and ancillary deliveries and services associated with the aforementioned uses. No commercial use access, other than those uses specified in this Paragraph, shall be permitted from Riverside Drive, and said existing driveways shall be blocked once the parcels transition to a commercial use not otherwise permitted in this Paragraph.

ii. *[no changes to the remainder of section g.]*

4. New Conceptual Development Plan**.** The New Conceptual Development Plan as it applies to the Subject Property is shown on **Exhibit "B"**, attached hereto and by reference made a part hereof.

5. This Seventh Amendment shall be effective on the date it is executed by all parties.

6. This Seventh Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense.

7. The MDA, as previously amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, and Sixth Amendment shall remain in full force and effect except with the respect to those matters specifically amended by the Seventh Amendment.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Seventh Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
a Chartered Municipal Corporation

_____

By: _____
Donald O. Burnette, Mayor

Name: _____
1000 City Center Circle
Port Orange, FL 32129

Date: _____

_____

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

Name: _____
1000 City Center Circle
Port Orange, FL 32129

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 _____, 20___ by Donald O. Burnette, as Mayor and Robin L. Fenwick, as City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

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

WITNESSES:

5120 PARTNERS, LLC
a Florida limited liability company

_____

By: _____
D. Andrew Clark, Manager

Name: _____
_____
_____

Date: _____

_____

Name: _____
_____
_____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of [_] physical presence or [_] online notarization, this _____ day of _____, 20___ by D. Andrew Clark, as Manager of 5120 Partners, LLC, a Florida limited liability company, who is [ ] personally known to me or [ ] who has produced _____ as identification and who did not take an oath.

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

Exhibit A

PART 1

LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, AND A PORTION OF LOT 1, ALLENWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A"(ALSO RECORDED IN MAP BOOK 2, PAGE 65, (ALSO RECORDED IN MAP BOOK 12, PAGE 137), ALL BRING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTE4RLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (60 FOOT RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, AFORESAID ALLAN PARK, THENCE ALONG THE BOUNDARY OF THE CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: S 63%%D47'08" W FOR A DISTANCE OF 199.63 FEET; THENCE N 24%%D34'13" W FOR A DISTANCE OF 83.82 FEET FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE BOUNDARY OF SAID CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: N 24%%D34'13" W FOR A DISTANCE OF 85.97 FEET; THENCE S 63%%d36"48" W FOR A DISTANCE OF 87.80 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 93.14 FEET; THENCE 2 36%%D33'14" E FOR A DISTANCE OF 50.00 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 74.77 FEET; THENCE N 42%%D57'05" W FOR A DISTANCE OF 199.07 FEET TO A POINT ON THE NORTHERLY LINE OF AFORESAID LOT 1, ALLENWOOD SUBDIVISION; THENCE N 63%%D33'14" E ALONG SAID NORTH LINE OF LOT 1, FOR A DISTANCE OF 300.35 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID RIVERSIDE DRIVE, THENCE S 24%%d33'27" E ALONG THE WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 445.57 FEET; THENCE S 63%%d43'49" W FOR A DISTANCE OF 199.65 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 2.596 ACRES MORE OR LESS.

PART 2

ALL LANDS LYING EASTERLY OF RIVERSIDE DRIVE AND TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER WITH THE NORTH BOUNDARY OF LOT 1, ALLANWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A" (ALSO RECORDED IN MAP BOOK 15, PAGE 195), EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE AND THE SOUTH BOUNDARY OF LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE OF SAID HALIFAX RIVER, ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (A 60.00 FEET RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, OF AFORESAID ALLAN PARK, THENCE N 24%%D33'27" W ALONG THE RIGHT-OF-WAY LINE

OF RIVERSIDE DRIVE FOR A DISTANCE OF 84.00 FEET TO THE NORTHEAST CORNER OF AFORESAID LOT 2; THENCE NORTH 63%%d 33'49" EAST, CROSSING RIVERSIDE DRIVE FOR A DISTANCE OF 30.01 FEET TO EAST RIGHT-OF-WAY OF RIVERSIDE DRIVE, AS SHOWN ON THE PLAT OF SAID ALLAN PARK, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N 24%%D33'27" W ALONG THE SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 445.66 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1, ALLANWOOD; THENCE N 63%%D33'14" E ALONG SAID EASTERLY EXTENSION FOR A DISTANCE OF 13.85 FEET TO THE EAST EDGE OF A COQUINA ROCK HEADWALLM AT THE MEAN HIGH WATER ELEVATION 1.27 FEET, NATIONAL GEODETIC DATUM OF 1929, ESTABLISHED ON DECEMBER 16, 1999, THENCE S 25%%D31'36" E ALONG THE EASTERLY EDGE OF SAID WALL AND SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 358.92 FEET; THENCE S 18%%D06'10" E LEAVING SAID COQUINA ROCK SEA WALL AND CONTINUING ALONG SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 37.75 FEET; THENCE S 27%%D54'44" FOR A DISTANCE OF 49.26 FEET TO THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF SAID LOT 2, OF ALLAN PARK; THENCE S 63%%D43'49" W ALONG THE SAID EASTERLY EXTENSION FOR A DISTANCE OF 18.53 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID RIVERSIDE DRIVE AND THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 0.173 ACRES MORE OF LESS

SHEET LIST TABLE	
SHEET NUMBER	SHEET TITLE
01	COVER
02	OVERALL DEVELOPMENT PLAN
03	SITE LAYOUT PLAN
04	TOPOGRAPHY & FEMA MAP EXHIBIT
05	TREE PAN

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD

LOT 9, PARCEL# 63-10-11-00-0010
5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
SECTION 07, TOWNSHIP 16 S, RANGE 33 E
63-10-11-00-0010
FEBRUARY 2024

PROJECT TEAM

PROPERTY OWNER / APPLICANT: 5120 PARTNERS, LLC
5111 RIDGEWOOD AVE UNIT 201
PORT ORANGE, FL 32127
PHONE: (386) 236-1970
EMAIL: ACLARK@GOALLABOARD.COM

CIVIL ENGINEER/ LANDSCAPE ARCHITECT AGENT: NEWKIRK ENGINEERING, INC.
1230 NORTH US HIGHWAY 1, SUITE 3
ORMOND BEACH, FL 32174
PHONE: (386) 872-7794
EMAIL: CODY@NEWKIRK-ENGINEERING.COM

ARCHITECT: BPF DESIGN INCORPORATED.
207 FAIRVIEW AVENUE
DAYTONA BEACH, FL 32114
PHONE: (386) 257-0502
EMAIL: BPFDESIGN@CFL.RR.COM

SURVEYOR: A1A SURVEYING, INC.
555 W GRANADA BLVD, SUITE D7
ORMOND BEACH, FL 32174
PHONE: (386) 216-5730
EMAIL: ALLEN@A1ASURVEYING.COM

CONTACT NUMBERS

PLANNING & BUILDING - CITY OF PORT ORANGE (386) 506-5602
WATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
WASTEWATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
GAS - FLORIDA PUBLIC UTILITES (386) 428-5721
ELECTRIC - FLORIDA POWER & LIGHT (386) 586-6403
TELEPHONE / INTERNET - AT&T (561) 683-2729
CABLE - CHARTER COMMUNICATIONS (321) 338-1928

LOT PARCEL ID ADDRESS

LOT 1	63-10-35-00-0010	184 KATHERINE ST, PORT ORANGE, FL, 32127
LOT 2	63-10-35-00-0020	5111 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 3	63-10-35-00-0030	.
LOT 4	63-10-35-00-0040	5131 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 5	63-10-35-00-0050	5121 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 6	63-10-10-00-0020	5166 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 7	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 8	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 9	63-10-11-00-0010	5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 10	63-10-09-00-0160	5128 RIVERSIDE DR, PORT ORANGE, FL, 32127

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

PROJECT STATEMENT

THIS IS A PROPOSED REDEFINED BED AND BREAKFAST USE FOR THE EXISTING PLANNED DEVELOPMENT KNOWN AS "CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL". IT WILL BE THE 7TH AMENDMENT. PROPOSED ARE INDIVIDUAL BUILDINGS TO FUNCTION AS A BED AND BREAKFAST FACILITY WITH A COMMON ARE BUILDING AND POOL. THIS WORK IS PROPOSED ON LOT 9 OF THE PLANNED DEVELOPMENT.

CITY OF PORT ORANGE NOTE

ALL CONSTRUCTION SHALL COMPLY WITH THE STANDARD CONSTRUCTION DETAILS AS ADOPTED BY RESOLUTION OF THE CITY COUNCIL. ANY DEVIATION FROM THE ADOPTED STANDARDS SHALL BE CLEARLY NOTED AS SUCH IN ALL PLANS AND SPECIFICATIONS. IF INADVERTENT DEVIATIONS IN PLANS ARE NOT SO NOTED, ADOPTED STANDARDS SHALL APPLY.

THE GENERAL CONTRACTOR SHALL ENSURE THAT ANY SUBCONTRACTOR HAS A COMPLETE SET OF CONSTRUCTION DRAWINGS FOR ITS RESPECTIVE WORK. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR SUBCONTRACTORS ONLY UTILIZING INDIVIDUAL DRAWINGS FOR ITS WORK WHERE ADDITIONAL INFORMATION MAY BE CONTAINED ON OTHER DRAWINGS WITHIN THE SET.

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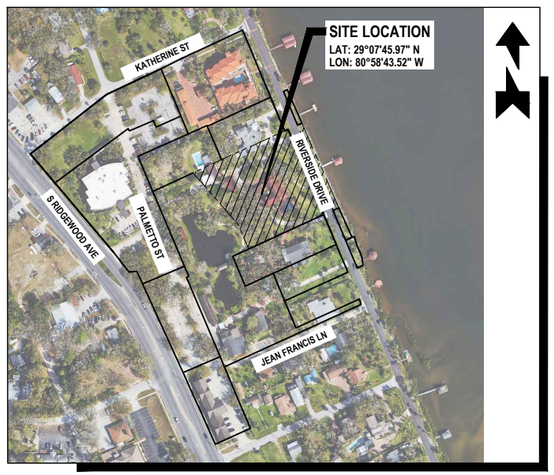
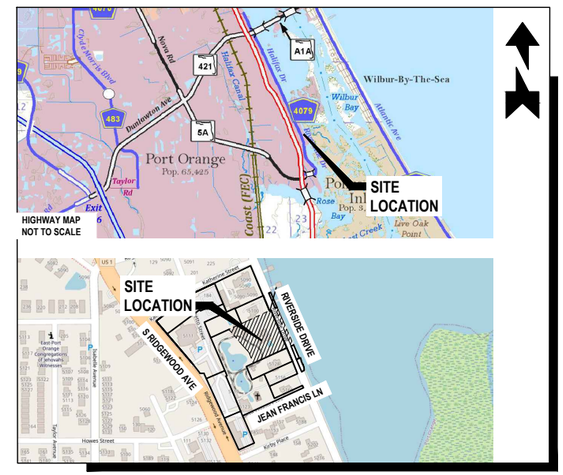


AERIAL MAP
SCALE: 1" = 200'



LOCATION MAP
SCALE: 1" = 450'

One Nation... One Number... 811 Know what's below. Call before you dig.

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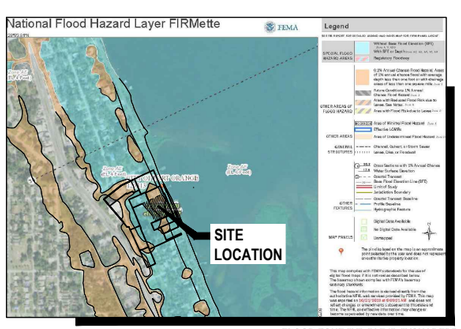
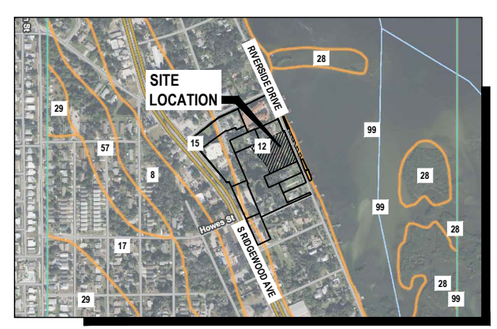


FLOOD ZONE MAP
FLOOD ZONE "X", "AE4", "XSHADED"
PANEL No. 12127C0388 J,
DATED SEPTEMBER 29, 2017
SCALE: 1" = 850'

ZONING MAP
PROJECT ZONING DISTRICT:
PCD - "CLARK PROFESSIONAL CENTER 6TH ADMENDMENT"
SCALE: 1" = 300'



SOILS MAP
SOIL TYPE:
(12) CANAVERAL SAND, 0 TO 5 PERCENT SLOPES
SCALE: 1" = 550'

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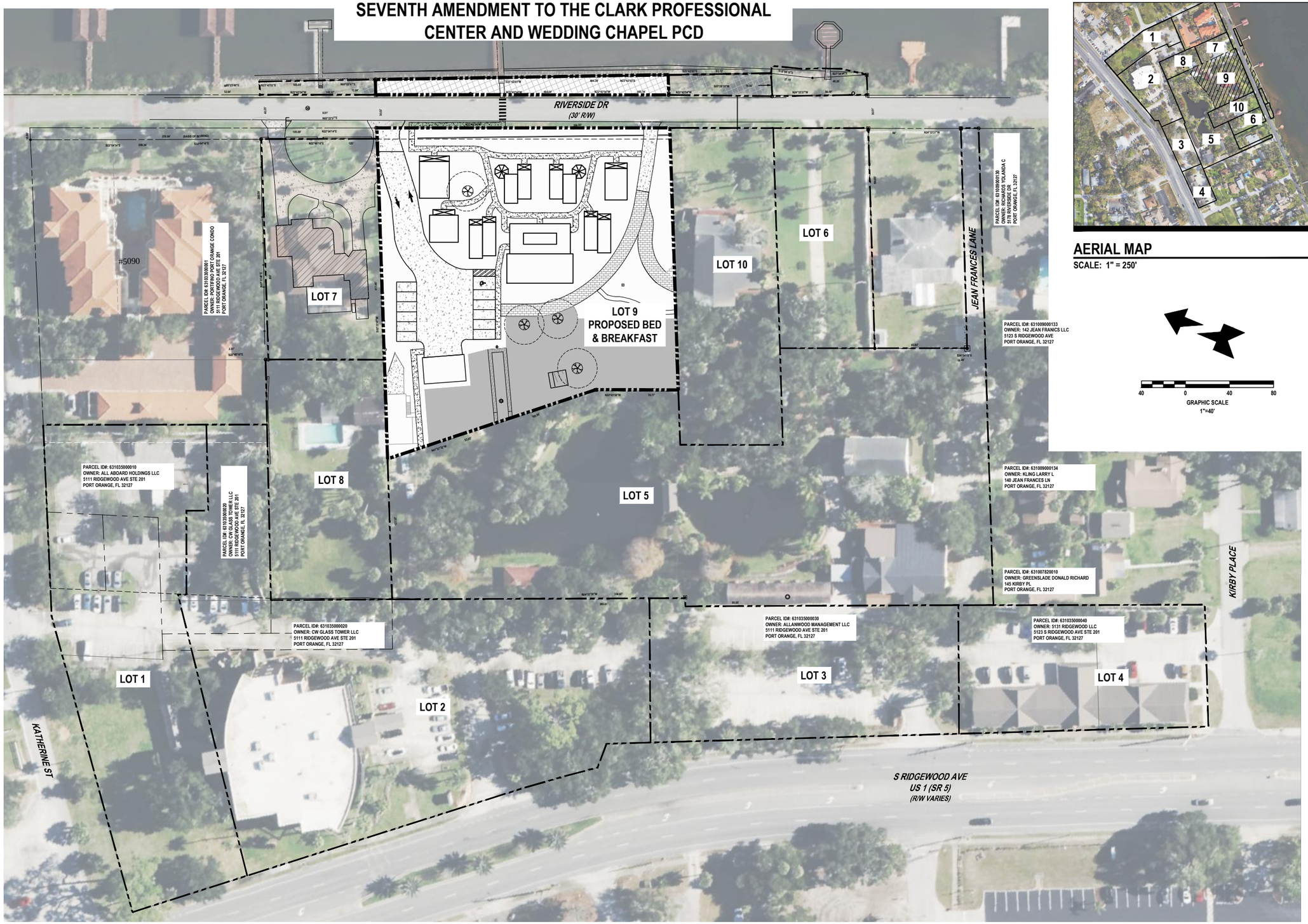
DRAWING NUMBER
01

PROJECT No. 2022-200

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD



AERIAL MAP

SCALE: 1" = 250'

40 0 40 80

GRAPHIC SCALE
1"=40'

NOTE:

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OVERALL DEVELOPMENT PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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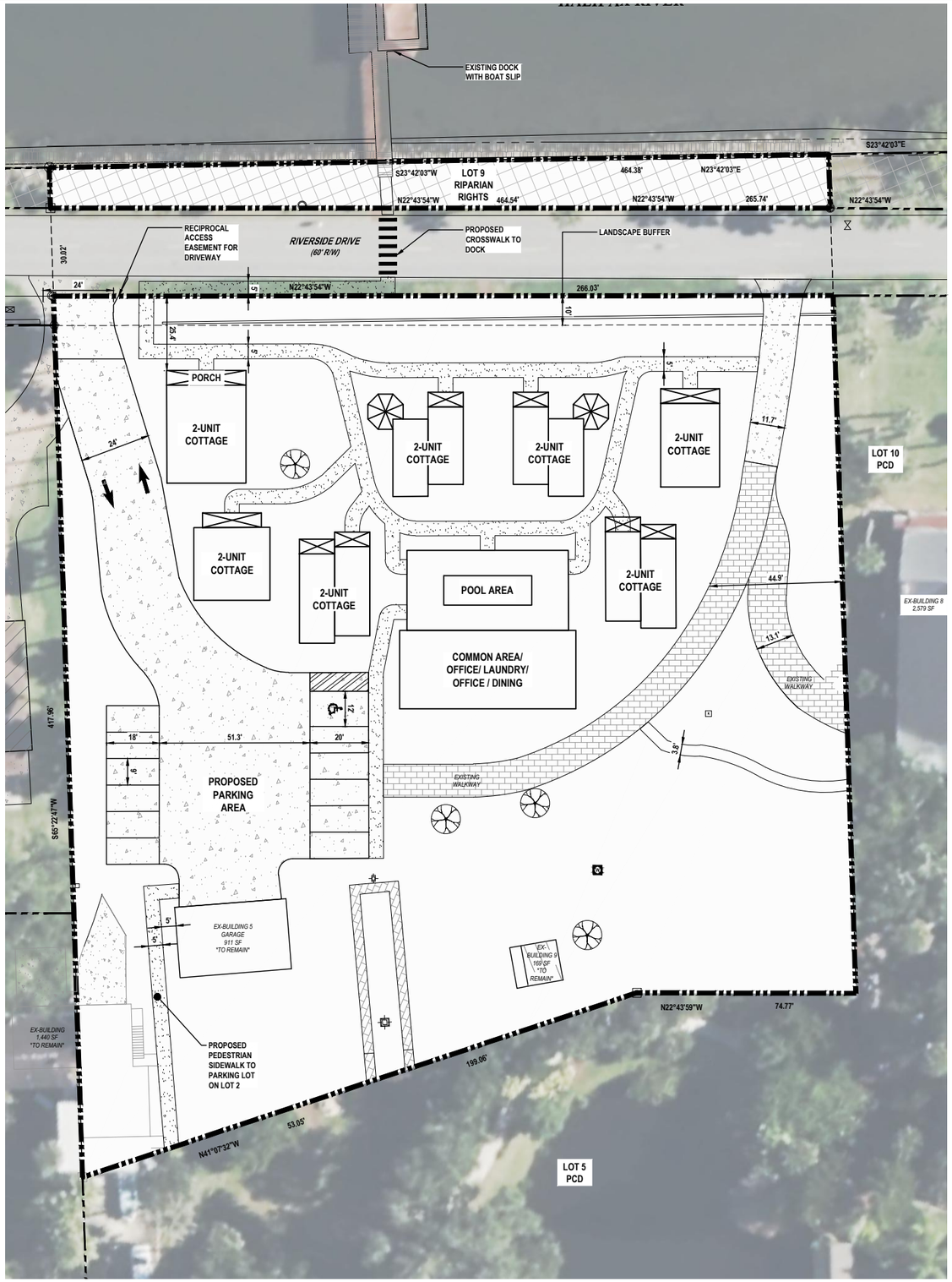
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 40'

DRAWING NUMBER

02



NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

GRAPHIC SCALE
1"=20'
20 10 0 20 40

LEGEND :

SPECIMEN TREE
ONLY SHOWN FOR TREES PROPOSED TO KEEP

OVERALL SITE DEVELOPMENT USAGE

1.	PROPERTY INFORMATION	
	PARCEL ID	63-10-11-00-00-0010
	ADDRESS	5120 RIVERSIDE DRIVE
	FUTURE LAND USE (FLU)	COMMERCIAL
	ZONING (w/ OVERLAY)	PCD
	FLOODZONE	*X*, *AE=4*, *AE=5* & *AE=6*

2	DIMENSIONAL REQUIREMENTS (per PCD)	
		SF
	MAX BUILDING COVERAGE	35%
	MAX BUILDING HEIGHT	35 FT
	MIN. OPEN SPACE	30%
	MIN. BUILDING SETBACKS	
	FRONT SETBACK	10' (25' ALONG RIVERSIDE DR)
	SIDE SETBACK	10' (5' FOR PR-1 ALONG PCD)
	REAR SETBACK	10 FT
	MAX NUMBER OF LOTS	4
	MIN. LOT DIMENSIONS	
	WIDTH	100 FT
	AREA	10,000 FT

3	EXISTING SITE COVERAGE			
	AREA TYPE	SF	ACRE	% OF SITE
	ASPHALT		0.000	
	CONCRETE	15,344	0.352	22.2%
	BUILDING	6,787	0.156	9.8%
	DRY POND	0	0.000	
	WET POND	0	0.000	
	GREEN SPACE	46,949	1.078	68.0%
	TOTAL SITE	69,080	1.586	100.0%
	TOTAL IMPERVIOUS	22,131	0.508	32.0%
	TOTAL GREEN SPACE	46,949	1.078	75.4%

PROPOSED SITE COVERAGE				
AREA TYPE	SF	ACRE	% OF SITE	CHANGE
ASPHALT	9,022	0.207	13.1%	9,022
CONCRETE	7,100	0.163	10.3%	-8,244
BUILDING	8,876	0.204	12.8%	2,089
DRY POND	0	0.000		0
WET POND	0	0.000		0
GREEN SPACE	44,082	1.012	63.8%	-2,867
TOTAL SITE	69,080	1.586	100.0%	0
TOTAL IMPERVIOUS	24,998	0.574	36.2%	2,867
TOTAL GREEN SPACE	44,082	1.012	73.2%	-2,867

5	LDC PARKING REQUIREMENTS			
	BUILDING USE	DEMAND	REQUIREMENT	REQ. SPACES
	BED & BREAKFAST	14 BEDS	1 SPACES PER 1 BEDS	14
	B&B EMPLOYEES	14 BEDS	0.1 SPACES PER 1 BEDS	1.4
	TOTAL REQUIRED SPACES			16

SPECIALTY PARKING REQUIREMENTS	
	REQ.
ADA SPACES	1
BICYCLE SPACES	0

PROVIDED PARKING		
	%	PROV.
STANDARD SPACES - ONSITE	69%	11
ADA SPACES - ONSITE	6%	1
OFFSITE SHARED PARKING (LOTS 1 & 2)	25%	4
TOTAL REQUIRED SPACES		16

AERIAL MAP

SCALE: 1" = 250'

OVERALL SITE DEVELOPMENT USAGE

SHARED PARKING DEMAND CALCULATIONS - LOTS 1, 2, 8, 9					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 8 - WEDDING VENUE	200	1	3		67
LOT 2 - EXISTING OFFICE	13,953	1	200	70	
LOT 1 - PROPOSED OFFICE	9,600	1	200	48	
LOT 9 - PROPOSED B&B	1 PER BED + 0.1 PER EMPLOYEE			16	16
TOTAL REQUIRED SPACES				134	83
REQUIRED ADA SPACES				5	

PROVIDED PARKING - LOTS 1, 2, 8, 9		
	%	SPACES
STANDARD SPACES	94%	140
ADA SPACES	6%	9
TOTAL PROVIDED SPACES		149

SHARED PARKING DEMAND CACLULATIONS - LOTS 3, 4, 5, 6					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 5 - EX WEDDING VENUE	150	1	3		50
LOT 4 - EXISTING OFFICE	5,275	1	200	27	
TOTAL REQUIRED SPACES				27	50
REQUIRED ADA SPACES				2	

PROVIDED PARKING - LOTS 3, 4, 5, 6		
	%	SPACES
STANDARD SPACES	95%	89
ADA SPACES	5%	5
TOTAL PROVIDED SPACES		94

*LOTS 7 & 10 HAVE PARKING MET FOR CURRENT RESIDENTIAL USE
**LOT 8 ON PCD NOT BUILT TO DATE

One Nation... One Number... 811
Know what's below. Call before you dig.

WARNING !!

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SITE PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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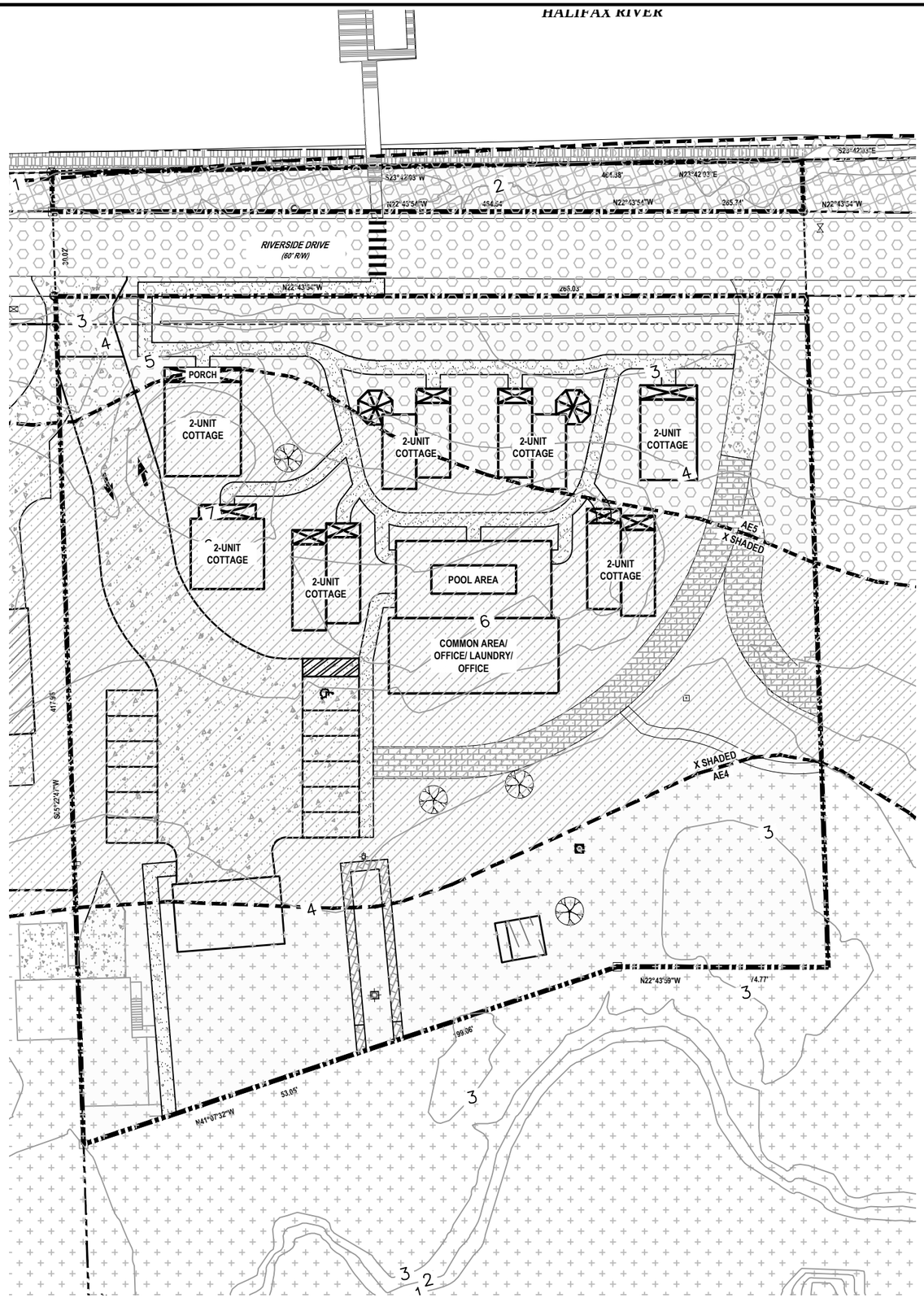
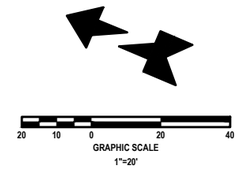
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

03



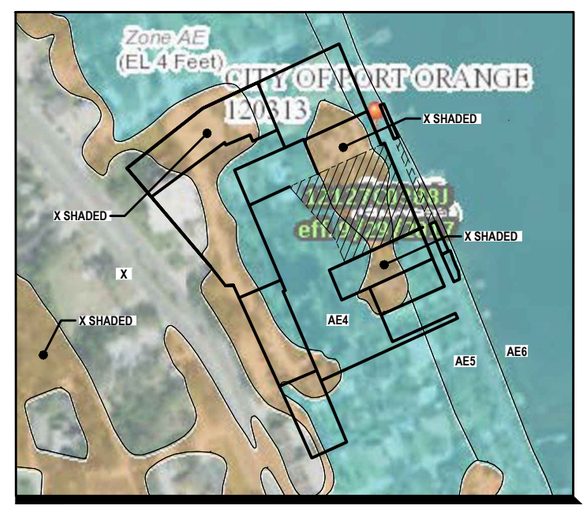


NOTES

1. ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
2. SITE SOILS:
   - A. (29) IMMOKALEE SAND
   - B. (32) MYAKKA-MYAKKA, WET, FINE SANDS, 0-2% SLOPES
   - C. (69) TUSCAWILLA FINE SAND
3. FEMA CLOMR-F APPLICATION TO BE APPLIED FOR DURING SITE DESIGN. LOMR-F APPLICATION TO BE OBTAINED DURING CONSTRUCTION ONCE PROVIDED AS-BUILT.

LEGEND

- PORTIONS OF PROPERTY IN FLOOD ZONE AE4.
- PORTIONS OF PROPERTY IN FLOOD ZONE AE5.
- PORTIONS OF PROPERTY IN FLOOD ZONE X SHADED (0.2% ANNUAL FLOOD CHANCE).
- PORTIONS OF PROPERTY IN FLOOD ZONE X
- FEMA FLOODPLAIN LINES
- —3— LIDAR CONTOUR LINES



AERIAL MAP

SCALE: 1" = 200'

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

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TOPOGRAPHY & FLOODPLAIN EXHIBIT

EXHIBIT B

5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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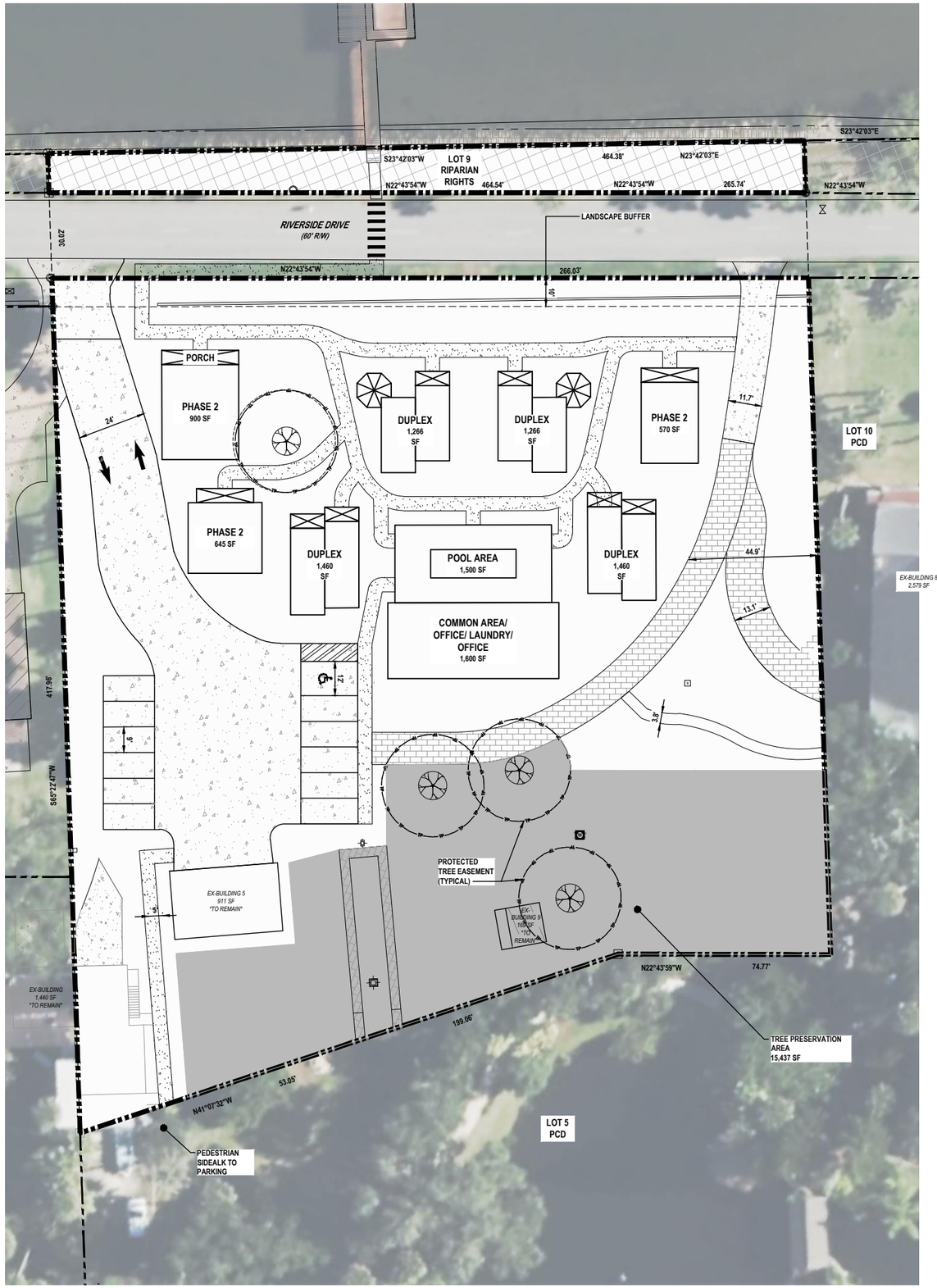
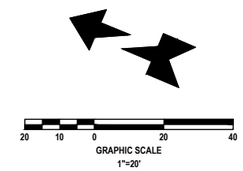
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

04





EASEMENT LEGEND :

SPECIMEN TREE WITH REQUIRED EASEMENT (1' DIA FOR 1" CAL) ONLY SHOWN FOR TREES PROPOSED TO KEEP

AERIAL MAP

SCALE: 1" = 250'

SITE AREA (Ac)	1.586
TOTAL SPECIMEN TREES	4
SPECIMEN / ACRE	2.5
REQUIRED PRESERVATION (80%)	3
PROVIDED PRESERVATION	4
TOTAL HISTORIC TREES	0
HISTORIC TREES REMOVED	0

SPECIMEN TREE CHART

Common Name	Botanical Name	Size
Turkey Oak	(Quercus Laevis)	12 inches and larger
Other Oak species	(Quercus spp.)	18 inches and larger
Maple	(Acer spp.)	18 inches and larger
Cypress	(Taxodium Distichum)	18 inches and larger
Sweet Gum	(Liquidambar styraciflua)	18 inches and larger
Hickory	(Carya spp.)	18 inches and larger
Elm	(Ulmus spp.)	18 inches and larger
Loblolly Bay	(Gordonia lasianthus)	12 inches and larger
Sweet Bay	(Magnolia virginiana)	12 inches and larger
Red Bay	(Persea borbonia)	12 inches and larger
Swamp Bay	(Persea palustris)	12 inches and larger
Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia/grandiflora)	12 inches and larger
Red Cedar	(Juniperus silicicola)	12 inches and larger

TREE PRESERVATION AREA REQUIREMENT CALCULATION:

TREE PRESERVATION AREA REQUIRED = 15% MINIMUM
1.586 ACRE x 0.15 = 0.238 ACRES (10,363 SF)

TREE PRESERVATION AREA PROVIDED = 0.354 ACRES or 15,437 (22.3%)

LEGEND

TREE PRESERVATION AREA

NOTE:

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TREE PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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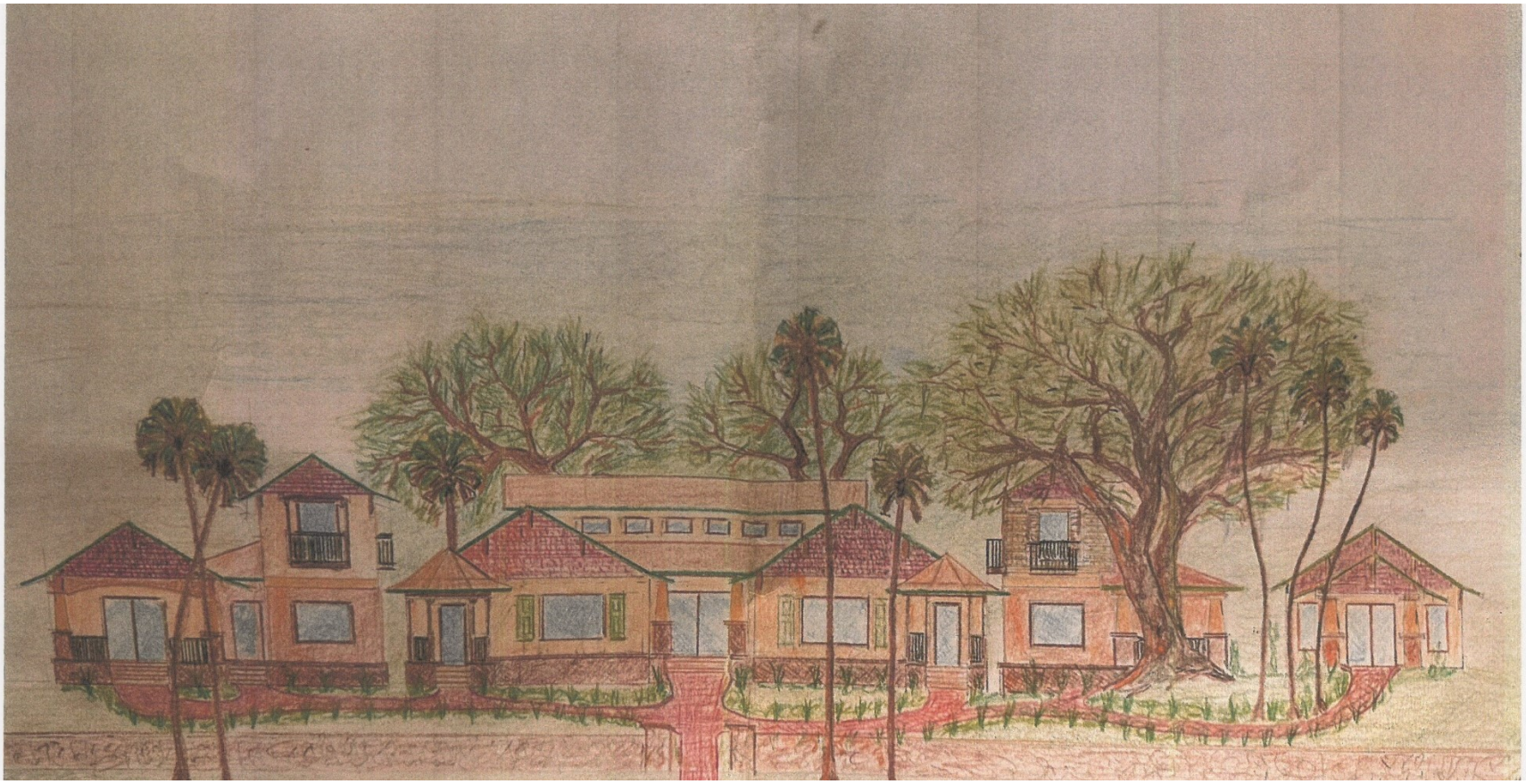
SCALE:	1" = 20'

DRAWING NUMBER

05

Exhibit C



STAFF REPORT

Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD) and Master Development Agreement (MDA)

CASE NO. PRZA-24-0001

REQUEST:	To approve the Seventh Amendment to the Clark Professional Center and Wedding Chapel PCD MDA and CDP to allow the development of a bed and breakfast concept, consisting of multiple rental cottages with a common building to provide food service for guests.
LOCATION:	5120 Riverside Drive
PROPERTY OWNERS:	5120 Partners, LLC
APPLICANT:	A. Joseph Posey Jr., Storch Law Firm
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 5-0-2 (April 25, 2024)
CITY COUNCIL:	May 21, 2024

Introduction

The applicant, Joey Posey of Storch Law Firm, on behalf of the property owner, is requesting approval of the Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP). If approved, the Amendment will set up the framework to allow the development of a bed and breakfast concept, consisting of multiple rental cottages with a common building to provide food service for guests, rather than a single building, and would be part of the existing wedding and event venue complex. The subject property is located on the west side of Riverside Drive, south of Katherine Street, at 5120 Riverside Drive.

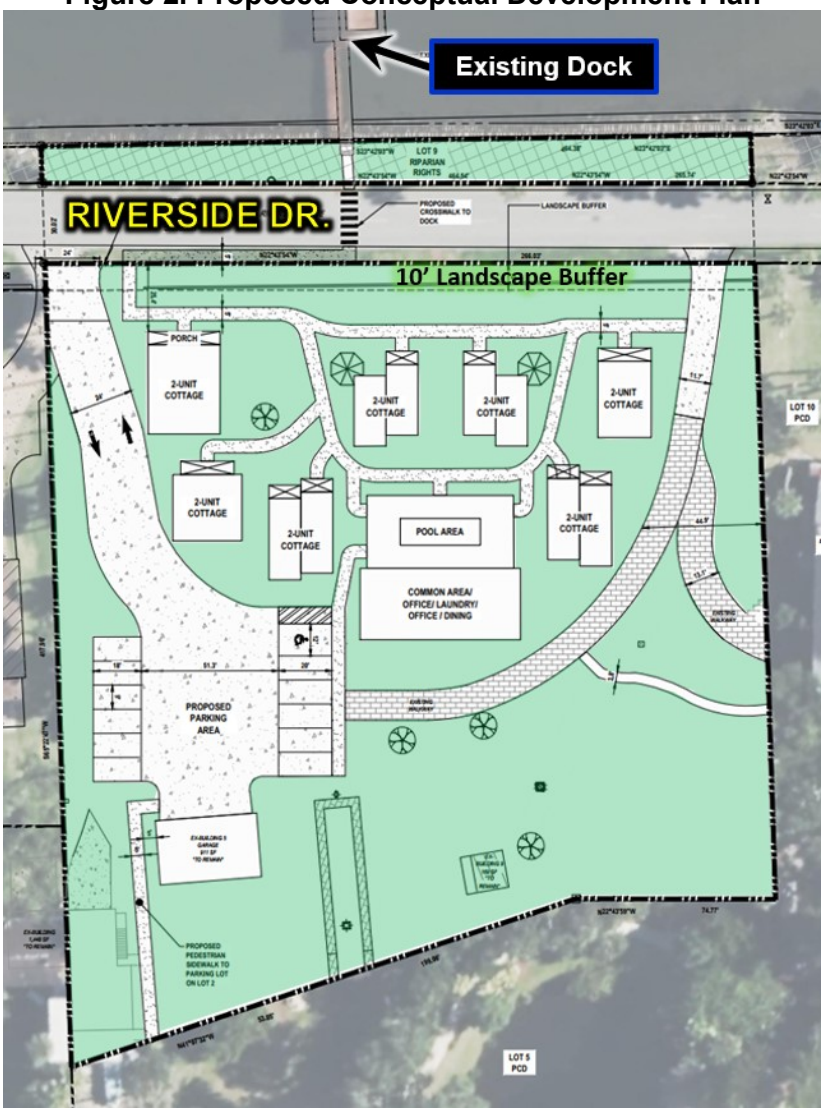
Figure 1. Location Map

Discussion

As part of the approved Sixth Amendment to the Clark Professional Center and Wedding Chapel PCD, the former single-family home at 5120 Riverside Drive was previously approved to be converted into a bed and breakfast. However, after the Sixth Amendment was approved, it was determined that converting the single-family home at 5120 Riverside Drive into a bed and breakfast was not financially feasible due to all the required ADA upgrades. The single-family home was demolished in 2023, and the site is currently vacant. With the Seventh Amendment, the applicant is requesting to develop a bed and breakfast concept but one that consists of multiple rental cottages with a common building that will provide food service for guests rather than a single building. The Seventh Amendment also allows the existing dock to be used for the proposed bed and breakfast use.

According to the applicant, in addition to individual vacationers/tourist, this concept will serve the current Estate on the Halifax business that rents out venues or spaces within the PCD such as the chapel, the railroad car, and the Tavern in the Garden for weddings, private parties, and corporate events. The Estate on the Halifax has been able to provide continuous services and rental space that attracts customers and visitors to the east side of Port Orange and the applicant believes having on-site lodging will help to continue attracting events to this location.

Figure 2. Proposed Conceptual Development Plan



Access to the bed and breakfast cottage complex will be from the existing driveways along Riverside Drive. There are also pedestrian connections to the other properties within the PCD.

The architectural design for the proposed bed and breakfast cottage complex will be a traditional Florida vernacular and Mediterranean styles (see Figure 3).

Figure 3. Rendering of Proposed Bed and Breakfast Cottage Complex

All future development plans submitted will require detailed technical review by the Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) and the Clark Professional Center and Wedding Chapel MDA and associated Amendments are met.

Consistency with the Comprehensive Plan

The subject property was designated *Commercial* on the City's Future Land Use (FLU) at the same time the Sixth Amendment to the Clark's Professional Center and Wedding Chapel PCD was approved. As part of the approval process for the Sixth Amendment in 2021, the subject property was added into the PCD and the bed and breakfast inn use was established as a permitted use on the subject property was found to be consistent with the Comprehensive Plan. The proposed Seventh Amendment does not change the FLU designation for the subject property and is consistent with the general intent of the City's Comprehensive Plan.

Public Notice

A Public Notice sign was posted on the site on February 2, 2024. As of April 26, 2024, staff has received one (1) phone call, requesting general information regarding the proposed PUD Amendment.

Recommendation

Staff recommends approval of the Seventh Amendment to the Clark Professional Center and Wedding Chapel PCD Master Development Agreement and Conceptual Development Plan.

Attachment

Exhibit 1- Seventh Amendment to the Clark Professional Center and Wedding Chapel PCD Master Development Agreement and Conceptual Development Plan

This Document Prepared By:
Storch Law Firm
420 South Nova Road
Daytona Beach, FL 32174

Exhibit 1

Return Recorded Document to:
Office of Records Clerk
1000 City Center Circle
Port Orange, FL 32129

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERCIAL DEVELOPMENT MASTER DEVELOPMENT AGREEMENT

This Agreement, entered into by and between the CITY OF PORT ORANGE, a Florida municipal corporation whose address is 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter referred to as the "City") and 5120 PARTNERS, LLC, a Florida limited liability company, located at 5111 S. Ridgewood Avenue, Port Orange, FL 32127 (referenced as the "Developer"), constitutes the Seventh Amendment to the Master Development Agreement for the Clark Professional Center and Wedding Chapel Planned Commercial Development (hereinafter referred to as the "Seventh Amendment"), who hereby agree and covenant as follows:

WHEREAS, the Developer's predecessors-in-interest and the City previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled "Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development, recorded in Official Records Book 4550, Page 672, Public Records of Volusia County, Florida ("MDA"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain First Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 20, 2000 and recorded in Official Records Book 4581, Page 1194, Public Records of Volusia County Florida ("First Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Second Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of July 17, 2001 and recorded in Official Records Book 47251, Page 1695, Public Records of Volusia County Florida ("Second Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Third Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of November 22, 2002 and recorded in Official Records Book 4979, Page 4950, Public Records of Volusia County Florida ("Third Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fourth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of September 19, 2006 and recorded in Official Records Book 5923, Page 2515, Public Records of Volusia County Florida ("Fourth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Fifth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of May 17, 2017 and recorded in Official Records Book 7399, Page 2011, Public Records of Volusia County Florida ("Fifth Amendment"); and

WHEREAS, the Parties and/or their predecessors in interest entered into that certain Sixth Amendment To Master Development Agreement [for the] Clark Professional Center and Wedding Chapel Planned Commercial Development having an effective date of March 9, 2021 and recorded in Official Records Book 8005, Page 2524, Public Records of Volusia County Florida ("Sixth Amendment"); and

WHEREAS, the Parties desire to amend the MDA, as previously amended by the First, Second, Third, Fourth, Fifth and Sixth Amendments for the purpose of clarifying the definition of Bed and breakfast use and to remove the single-family residential use.

NOW, THEREFORE, the Parties agree as follows:

1. The premises stated above are true and correct and form a material part of this Seventh Amendment.

2. This Seventh Amendment pertains only to that property identified as Lot 9 on the CDP and as more particularly described in **Exhibit "A",** attached hereto and made a part hereof by this reference, referred to herein as the "Subject Property".

3. Paragraph 2 of the Sixth Amendment is hereby amended, with insertions and deletions in underline and strikethrough formats, respectively, as follows:

2. Development Standards.

a. *[no changes to this section]*

b. Permitted Uses. Permitted Uses for Lots 9 within the Sixth Amendment Project Area shall be as follows uses:

Bed and breakfast inn (in a single building or a multiple building cottage-like complex)**
Brewery
~~Caretaker's residence*~~
Craft food and beverage producer
Cultural facilities
Houses of worship/Wedding chapel
Offices
Off-site parking (within PCD Property only)
~~Single-family detached**~~
Wedding venue

Wedding gazebo and/or pavilion

All other uses and structures of an accessory nature customary to the permitted uses listed above.

** Bed and Breakfast Inn shall mean a house or portion thereof, or a cottage complex of two or more attached and/or detached buildings where short-term lodging units are provided, under unified ownership, where meals may be provided at a common area when requested by guests as part of the stay. For clarification, kitchen facilities requiring a 240-volt electrical outlet or gas line shall not be allowed to be installed in the short-term lodging units. The operator of the inn may live on the premises.
~~a change of use for those single-family residences located along Riverside Drive within the PCD will require the property to come into compliance with the requirements of the MDA and LDC and the use cannot revert back to a residential use once the property is redeveloped with a non-residential use. Any change of use from single-family to one of the non-residential permitted uses will require a site plan to be reviewed and approved by the City.~~

c. *[no changes to this section]*

d. *[no changes to this section]*

e. Dimensional Requirements and Standards.

i.	Maximum Building Coverage:	35%
ii.	Minimum Open Space:	30%
iii.	Minimum Building Setbacks:	
	Front Yard:	10 feet 25 feet along Riverside Drive
	Side Yard:	10 feet 5 feet for that portion of PR-Building 1 adjoining lots within the PCD
	Rear Yard:	10 feet
iv.	Maximum Number of Lots:	4
v.	Minimum Lot Dimensions	
	Lot Width:	100 feet
	Lot Area:	10,000 square feet
	Maximum Height:	35 feet

vi. [*no change to this section*]

vii. Existing docks may only be utilized as part of an existing residential use, or a bed and breakfast inn use, as defined hereinabove, and any additional docks shall only be permitted pursuant to the City LDC.

viii. [*no change to this section*].

f. Architecture. Buildings within the Sixth Amendment Project Area shall incorporate a mixture of eclectic modern and historical architecture visually compatible with existing structures within the PCD Property. Said architectural mixture is intended to create a diverse aesthetic character throughout the PCD Property of both modern and traditional architectural styles common to Florida including, but not limited to, the Florida vernacular and Mediterranean styles. An example of architectural intent for Lot 9, consistent with this Paragraph, is attached hereto as **Exhibit "C"**. ~~The exterior of the single-family residences located along Riverside Drive shall not be modified unless a modification is needed to accommodate Florida Building Code and/or ADA requirements, modernization and/or general repairs and maintenance of a residence. Any additions to modernize a single-family residence shall be architecturally consistent with the existing structure.~~ A privacy fence shall be installed at the corner of Lot 8 and Parcel 6310-00-0001 to screen the existing townhome development from PR-Building 1 as shown on the Sixth Amendment Project Area Conceptual Plan.

g. Access and Parking.

i. The existing driveways that provide access for those existing parcels along Riverside Drive may be utilized for existing residential and/or passive recreational uses, and/or a Bed and breakfast inn use, and ancillary deliveries and services associated with the aforementioned uses. No commercial use access, other than those uses specified in this Paragraph, shall be permitted from Riverside Drive, and said existing driveways shall be blocked once the parcels transition to a commercial use not otherwise permitted in this Paragraph.

ii. *[no changes to the remainder of section g.]*

4. New Conceptual Development Plan**.** The New Conceptual Development Plan as it applies to the Subject Property is shown on **Exhibit "B"**, attached hereto and by reference made a part hereof.

5. This Seventh Amendment shall be effective on the date it is executed by all parties.

6. This Seventh Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense.

7. The MDA, as previously amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, and Sixth Amendment shall remain in full force and effect except with the respect to those matters specifically amended by the Seventh Amendment.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Seventh Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
a Chartered Municipal Corporation

_____

By: _____
Donald O. Burnette, Mayor

Name: _____
1000 City Center Circle
Port Orange, FL 32129

Date: _____

_____

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

Name: _____
1000 City Center Circle
Port Orange, FL 32129

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 _____, 20___ by Donald O. Burnette, as Mayor and Robin L. Fenwick, as City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

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

WITNESSES:

5120 PARTNERS, LLC
a Florida limited liability company

_____

By: _____
D. Andrew Clark, Manager

Name: _____
_____
_____

Date: _____

_____

Name: _____
_____
_____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of [_] physical presence or [_] online notarization, this _____ day of _____, 20___ by D. Andrew Clark, as Manager of 5120 Partners, LLC, a Florida limited liability company, who is [ ] personally known to me or [ ] who has produced _____ as identification and who did not take an oath.

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

Exhibit A

PART 1

LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, AND A PORTION OF LOT 1, ALLENWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A"(ALSO RECORDED IN MAP BOOK 2, PAGE 65, (ALSO RECORDED IN MAP BOOK 12, PAGE 137), ALL BRING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTE4RLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (60 FOOT RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, AFORESAID ALLAN PARK, THENCE ALONG THE BOUNDARY OF THE CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: S 63%%D47'08" W FOR A DISTANCE OF 199.63 FEET; THENCE N 24%%D34'13" W FOR A DISTANCE OF 83.82 FEET FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE BOUNDARY OF SAID CLARK PROFESSIONAL CENTER THE FOLLOWING COURSES: N 24%%D34'13" W FOR A DISTANCE OF 85.97 FEET; THENCE S 63%%d36"48" W FOR A DISTANCE OF 87.80 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 93.14 FEET; THENCE 2 36%%D33'14" E FOR A DISTANCE OF 50.00 FEET; THENCE N 24%%D33'32" W FOR A DISTANCE OF 74.77 FEET; THENCE N 42%%D57'05" W FOR A DISTANCE OF 199.07 FEET TO A POINT ON THE NORTHERLY LINE OF AFORESAID LOT 1, ALLENWOOD SUBDIVISION; THENCE N 63%%D33'14" E ALONG SAID NORTH LINE OF LOT 1, FOR A DISTANCE OF 300.35 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID RIVERSIDE DRIVE, THENCE S 24%%d33'27" E ALONG THE WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 445.57 FEET; THENCE S 63%%d43'49" W FOR A DISTANCE OF 199.65 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 2.596 ACRES MORE OR LESS.

PART 2

ALL LANDS LYING EASTERLY OF RIVERSIDE DRIVE AND TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER WITH THE NORTH BOUNDARY OF LOT 1, ALLANWOOD SUBDIVISION AS RECORDED IN MAP BOOK 5, PAGE "A" (ALSO RECORDED IN MAP BOOK 15, PAGE 195), EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE AND THE SOUTH BOUNDARY OF LOT 1, ALLAN PARK SUBDIVISION, AS RECORDED IN MAP BOOK 10, PAGE 226, EXTENDED EASTERLY TO THE MEAN HIGH WATER LINE OF SAID HALIFAX RIVER, ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ALL BEING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A NORTHEASTERLY CORNER OF CLARK PROFESSIONAL CENTER, AS RECORDED IN MAP BOOK 47, PAGE 200, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE (A 60.00 FEET RIGHT-OF-WAY) WITH THE SOUTHERLY LINE OF LOT 2, OF AFORESAID ALLAN PARK, THENCE N 24%%D33'27" W ALONG THE RIGHT-OF-WAY LINE

OF RIVERSIDE DRIVE FOR A DISTANCE OF 84.00 FEET TO THE NORTHEAST CORNER OF AFORESAID LOT 2; THENCE NORTH 63%%d 33'49" EAST, CROSSING RIVERSIDE DRIVE FOR A DISTANCE OF 30.01 FEET TO EAST RIGHT-OF-WAY OF RIVERSIDE DRIVE, AS SHOWN ON THE PLAT OF SAID ALLAN PARK, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N 24%%D33'27" W ALONG THE SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 445.66 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1, ALLANWOOD; THENCE N 63%%D33'14" E ALONG SAID EASTERLY EXTENSION FOR A DISTANCE OF 13.85 FEET TO THE EAST EDGE OF A COQUINA ROCK HEADWALLM AT THE MEAN HIGH WATER ELEVATION 1.27 FEET, NATIONAL GEODETIC DATUM OF 1929, ESTABLISHED ON DECEMBER 16, 1999, THENCE S 25%%D31'36" E ALONG THE EASTERLY EDGE OF SAID WALL AND SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 358.92 FEET; THENCE S 18%%D06'10" E LEAVING SAID COQUINA ROCK SEA WALL AND CONTINUING ALONG SAID MEAN HIGH WATER LINE FOR A DISTANCE OF 37.75 FEET; THENCE S 27%%D54'44" FOR A DISTANCE OF 49.26 FEET TO THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF SAID LOT 2, OF ALLAN PARK; THENCE S 63%%D43'49" W ALONG THE SAID EASTERLY EXTENSION FOR A DISTANCE OF 18.53 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID RIVERSIDE DRIVE AND THE POINT OF BEGINNING.

THE ABOVE PARCEL CONTAINS 0.173 ACRES MORE OF LESS

SHEET LIST TABLE	
SHEET NUMBER	SHEET TITLE
01	COVER
02	OVERALL DEVELOPMENT PLAN
03	SITE LAYOUT PLAN
04	TOPOGRAPHY & FEMA MAP EXHIBIT
05	TREE PAN

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD

LOT 9, PARCEL# 63-10-11-00-0010
5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
SECTION 07, TOWNSHIP 16 S, RANGE 33 E
63-10-11-00-0010
FEBRUARY 2024

PROJECT TEAM

PROPERTY OWNER / APPLICANT: 5120 PARTNERS, LLC
5111 RIDGEWOOD AVE UNIT 201
PORT ORANGE, FL 32127
PHONE: (386) 236-1970
EMAIL: ACLARK@GOALLABOARD.COM

CIVIL ENGINEER/ LANDSCAPE ARCHITECT AGENT: NEWKIRK ENGINEERING, INC.
1230 NORTH US HIGHWAY 1, SUITE 3
ORMOND BEACH, FL 32174
PHONE: (386) 872-7794
EMAIL: CODY@NEWKIRK-ENGINEERING.COM

ARCHITECT: BPF DESIGN INCORPORATED.
207 FAIRVIEW AVENUE
DAYTONA BEACH, FL 32114
PHONE: (386) 257-0502
EMAIL: BPFDESIGN@CFL.RR.COM

SURVEYOR: A1A SURVEYING, INC.
555 W GRANADA BLVD, SUITE D7
ORMOND BEACH, FL 32174
PHONE: (386) 216-5730
EMAIL: ALLEN@A1ASURVEYING.COM

CONTACT NUMBERS

PLANNING & BUILDING - CITY OF PORT ORANGE (386) 506-5602
WATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
WASTEWATER - CITY OF PORT ORANGE UTILITY DEPARTMENT (386) 506-5754
GAS - FLORIDA PUBLIC UTILITES (386) 428-5721
ELECTRIC - FLORIDA POWER & LIGHT (386) 586-6403
TELEPHONE / INTERNET - AT&T (561) 683-2729
CABLE - CHARTER COMMUNICATIONS (321) 338-1928

LOT PARCEL ID ADDRESS

LOT 1	63-10-35-00-0010	184 KATHERINE ST, PORT ORANGE, FL, 32127
LOT 2	63-10-35-00-0020	5111 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 3	63-10-35-00-0030	.
LOT 4	63-10-35-00-0040	5131 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 5	63-10-35-00-0050	5121 RIDGEWOOD AVE, PORT ORANGE, FL, 32127
LOT 6	63-10-10-00-0020	5166 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 7	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 8	63-10-12-03-0030	5100 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 9	63-10-11-00-0010	5120 RIVERSIDE DR, PORT ORANGE, FL, 32127
LOT 10	63-10-09-00-0160	5128 RIVERSIDE DR, PORT ORANGE, FL, 32127

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

PROJECT STATEMENT

THIS IS A PROPOSED REDEFINED BED AND BREAKFAST USE FOR THE EXISTING PLANNED DEVELOPMENT KNOWN AS "CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL". IT WILL BE THE 7TH AMENDMENT. PROPOSED ARE INDIVIDUAL BUILDINGS TO FUNCTION AS A BED AND BREAKFAST FACILITY WITH A COMMON ARE BUILDING AND POOL. THIS WORK IS PROPOSED ON LOT 9 OF THE PLANNED DEVELOPMENT.

CITY OF PORT ORANGE NOTE

ALL CONSTRUCTION SHALL COMPLY WITH THE STANDARD CONSTRUCTION DETAILS AS ADOPTED BY RESOLUTION OF THE CITY COUNCIL. ANY DEVIATION FROM THE ADOPTED STANDARDS SHALL BE CLEARLY NOTED AS SUCH IN ALL PLANS AND SPECIFICATIONS. IF INADVERTENT DEVIATIONS IN PLANS ARE NOT SO NOTED, ADOPTED STANDARDS SHALL APPLY.

THE GENERAL CONTRACTOR SHALL ENSURE THAT ANY SUBCONTRACTOR HAS A COMPLETE SET OF CONSTRUCTION DRAWINGS FOR ITS RESPECTIVE WORK. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR SUBCONTRACTORS ONLY UTILIZING INDIVIDUAL DRAWINGS FOR ITS WORK WHERE ADDITIONAL INFORMATION MAY BE CONTAINED ON OTHER DRAWINGS WITHIN THE SET.

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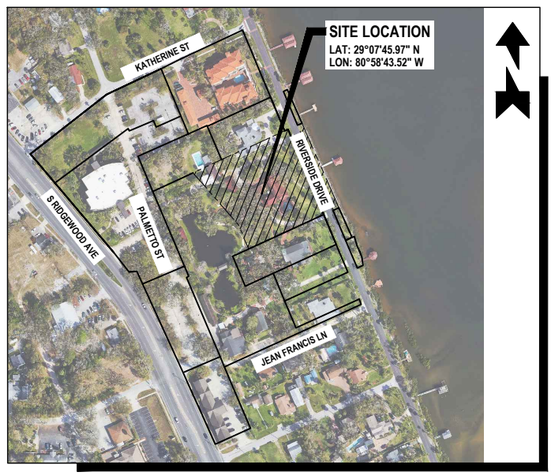
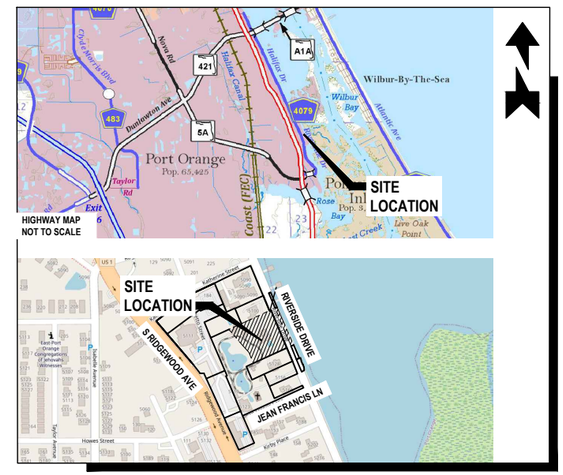


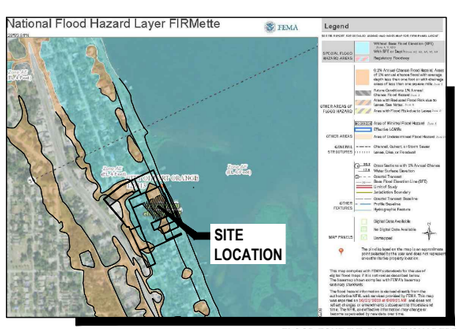
AERIAL MAP
SCALE: 1" = 200'



LOCATION MAP
SCALE: 1" = 450'

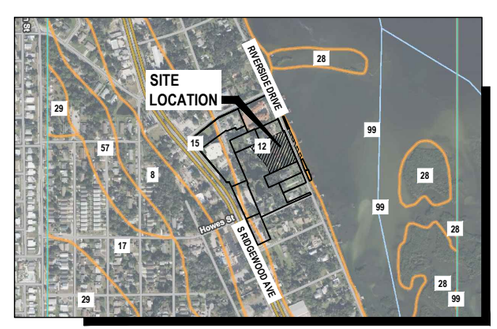
One Nation... One Number... 811 Know what's below. Call before you dig.

WARNING !!
CONTRACTOR SHALL TAKE ALL PRECAUTIONS DURING CONSTRUCTION TO AVOID CONTACT WITH EXISTING UNDERGROUND UTILITIES AND OVERHEAD ELECTRIC IN THE RIGHT-OF-WAY.



FLOOD ZONE MAP
FLOOD ZONE "X", "AE4", "XSHADED"
PANEL No. 12127C0388 J,
DATED SEPTEMBER 29, 2017
SCALE: 1" = 850'

ZONING MAP
PROJECT ZONING DISTRICT:
PCD - "CLARK PROFESSIONAL CENTER 6TH ADMENDMENT"
SCALE: 1" = 300'



SOILS MAP
SOIL TYPE:
(12) CANAVERAL SAND, 0 TO 5 PERCENT SLOPES
SCALE: 1" = 550'

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584
© 2013
Civil Engineering, Transportation, CEI & Landscape Architecture
NEWKIRK ENGINEERING INC.

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THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY CODY A. BOGART, PE # 94133 ON

CODY A. BOGART LICENSE No. 94133 STATE OF FLORIDA PROFESSIONAL ENGINEER

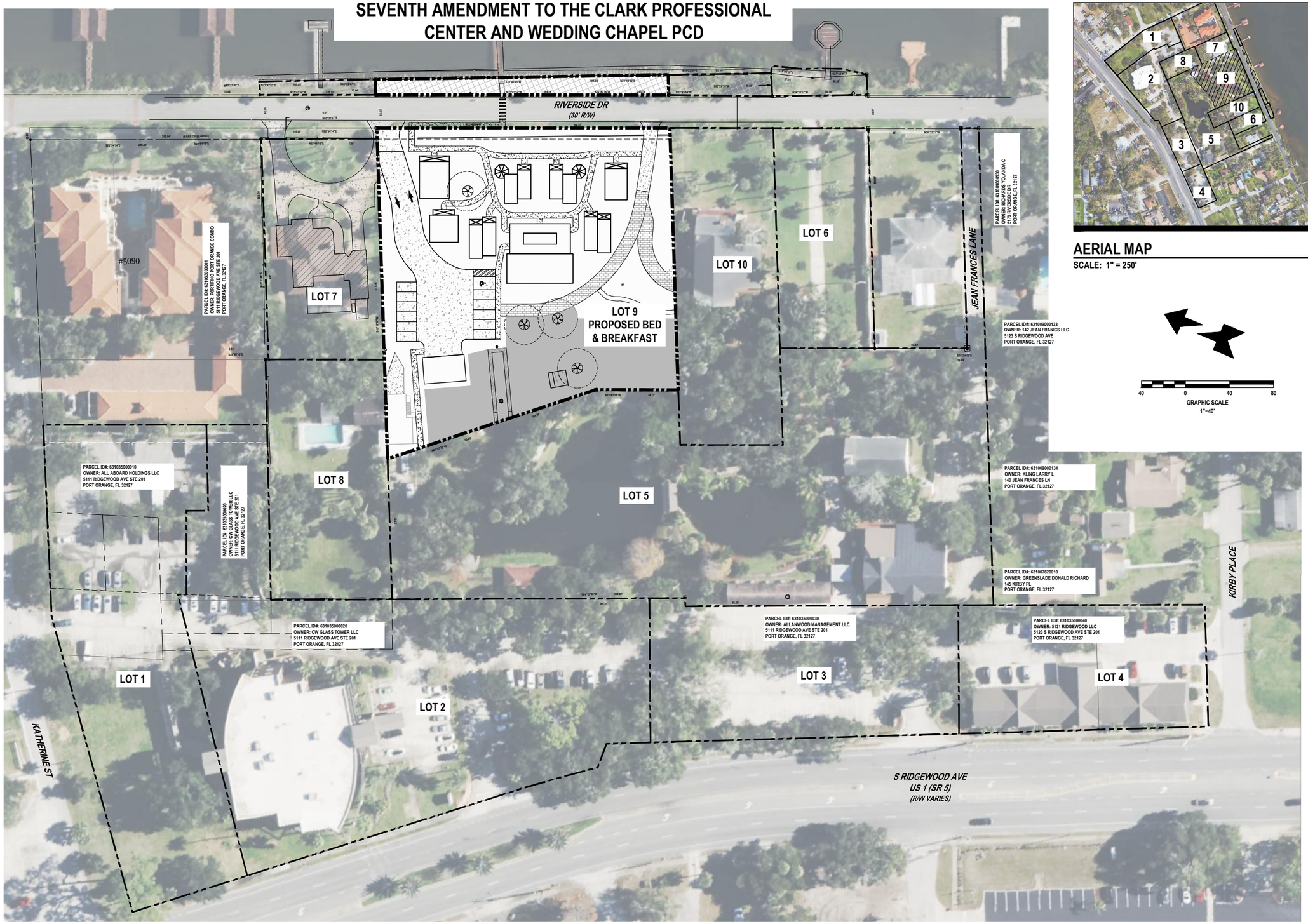
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

DRAWING NUMBER
01

PROJECT No. 2022-200

EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

SEVENTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PCD



AERIAL MAP

SCALE: 1" = 250'

40 0 40 80

GRAPHIC SCALE
1"=40'

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

REVISIONS

DATE	DESCRIPTION

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584

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Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING INC.

OVERALL DEVELOPMENT PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY CODY A. BOGART, PE # 94133 ON

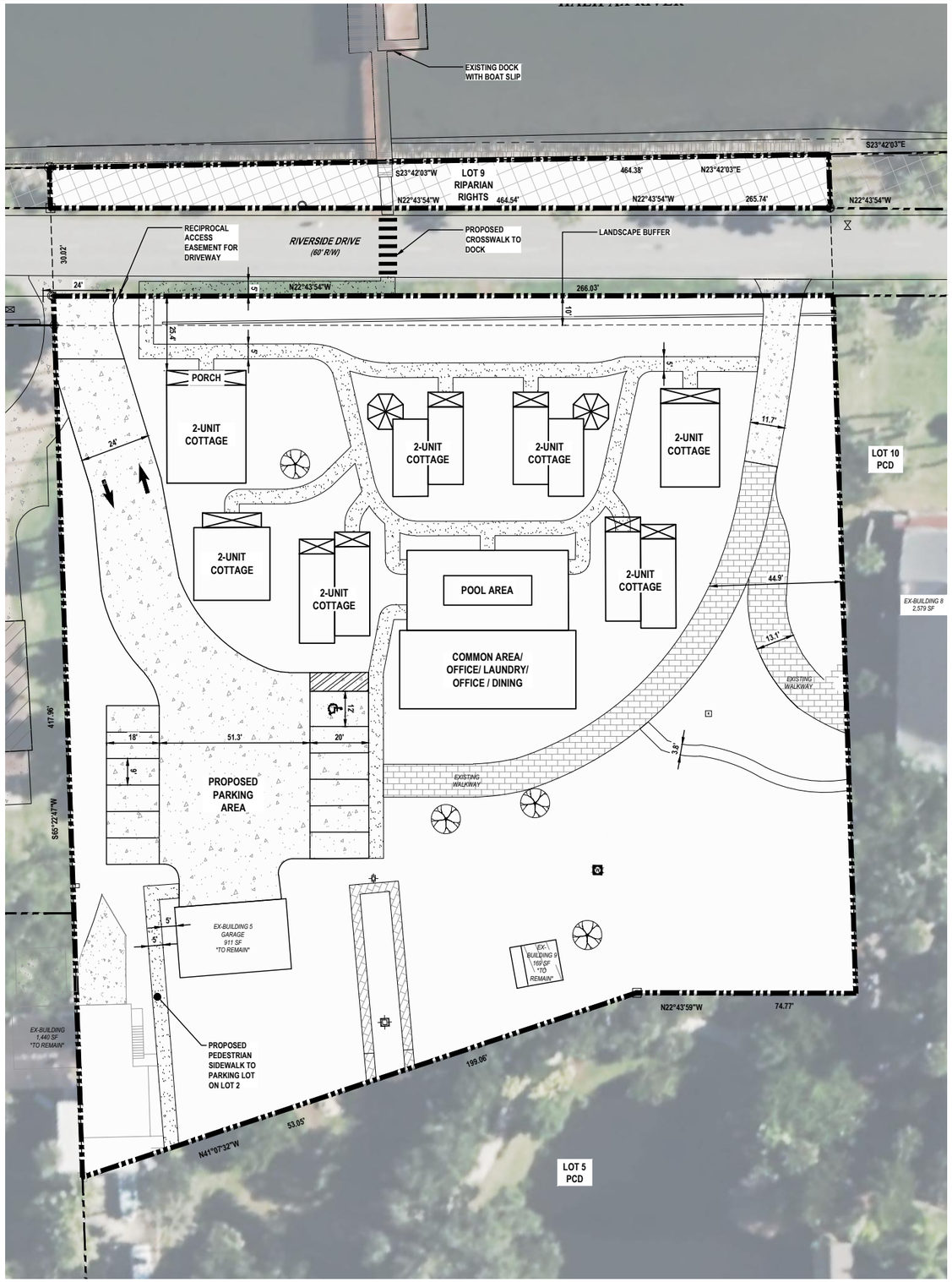
CODY A. BOGART
LICENSE
No. 94133
STATE OF FLORIDA
PROFESSIONAL ENGINEER

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

PROJECT No:	2022-200
DATE:	FEB 2024
DESIGN BY:	CAB
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 40'

DRAWING NUMBER

02



NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

GRAPHIC SCALE
1"=20'
20 10 0 20 40

LEGEND :

SPECIMEN TREE
ONLY SHOWN FOR TREES PROPOSED TO KEEP

OVERALL SITE DEVELOPMENT USAGE

1.	PROPERTY INFORMATION	
	PARCEL ID	63-10-11-00-00-0010
	ADDRESS	5120 RIVERSIDE DRIVE
	FUTURE LAND USE (FLU)	COMMERCIAL
	ZONING (w/ OVERLAY)	PCD
	FLOODZONE	*X*, *AE=4*, *AE=5* & *AE=6*

2	DIMENSIONAL REQUIREMENTS (per PCD)	
		SF
	MAX BUILDING COVERAGE	35%
	MAX BUILDING HEIGHT	35 FT
	MIN. OPEN SPACE	30%
	MIN. BUILDING SETBACKS	
	FRONT SETBACK	10' (25' ALONG RIVERSIDE DR)
	SIDE SETBACK	10' (5' FOR PR-1 ALONG PCD)
	REAR SETBACK	10 FT
	MAX NUMBER OF LOTS	4
	MIN. LOT DIMENSIONS	
	WIDTH	100 FT
	AREA	10,000 FT

3	EXISTING SITE COVERAGE			
	AREA TYPE	SF	ACRE	% OF SITE
	ASPHALT		0.000	
	CONCRETE	15,344	0.352	22.2%
	BUILDING	6,787	0.156	9.8%
	DRY POND	0	0.000	
	WET POND	0	0.000	
	GREEN SPACE	46,949	1.078	68.0%
	TOTAL SITE	69,080	1.586	100.0%
	TOTAL IMPERVIOUS	22,131	0.508	32.0%
	TOTAL GREEN SPACE	46,949	1.078	75.4%

PROPOSED SITE COVERAGE				
AREA TYPE	SF	ACRE	% OF SITE	CHANGE
ASPHALT	9,022	0.207	13.1%	9,022
CONCRETE	7,100	0.163	10.3%	-8,244
BUILDING	8,876	0.204	12.8%	2,089
DRY POND	0	0.000		0
WET POND	0	0.000		0
GREEN SPACE	44,082	1.012	63.8%	-2,867
TOTAL SITE	69,080	1.586	100.0%	0
TOTAL IMPERVIOUS	24,998	0.574	36.2%	2,867
TOTAL GREEN SPACE	44,082	1.012	73.2%	-2,867

5	LDC PARKING REQUIREMENTS			
	BUILDING USE	DEMAND	REQUIREMENT	REQ. SPACES
	BED & BREAKFAST	14 BEDS	1 SPACES PER 1 BEDS	14
	B&B EMPLOYEES	14 BEDS	0.1 SPACES PER 1 BEDS	1.4
	TOTAL REQUIRED SPACES			16

SPECIALTY PARKING REQUIREMENTS	
	REQ.
ADA SPACES	1
BICYCLE SPACES	0

PROVIDED PARKING		
	%	PROV.
STANDARD SPACES - ONSITE	69%	11
ADA SPACES - ONSITE	6%	1
OFFSITE SHARED PARKING (LOTS 1 & 2)	25%	4
TOTAL REQUIRED SPACES		16

AERIAL MAP

SCALE: 1" = 250'

OVERALL SITE DEVELOPMENT USAGE

SHARED PARKING DEMAND CALCULATIONS - LOTS 1, 2, 8, 9					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 8 - WEDDING VENUE	200	1	3		67
LOT 2 - EXISTING OFFICE	13,953	1	200	70	
LOT 1 - PROPOSED OFFICE	9,600	1	200	48	
LOT 9 - PROPOSED B&B	1 PER BED + 0.1 PER EMPLOYEE			16	16
TOTAL REQUIRED SPACES				134	83
REQUIRED ADA SPACES				5	

PROVIDED PARKING - LOTS 1, 2, 8, 9		
	%	SPACES
STANDARD SPACES	94%	140
ADA SPACES	6%	9
TOTAL PROVIDED SPACES		149

SHARED PARKING DEMAND CACLULATIONS - LOTS 3, 4, 5, 6					
BUILDING USE	A. SQ. FT. / SEATS	B. SPACES	C. PER SQ.FT.	D. REQ. SPACES DAY	D. REQ. SPACES EVENING
LOT 5 - EX WEDDING VENUE	150	1	3		50
LOT 4 - EXISTING OFFICE	5,275	1	200	27	
TOTAL REQUIRED SPACES				27	50
REQUIRED ADA SPACES				2	

PROVIDED PARKING - LOTS 3, 4, 5, 6		
	%	SPACES
STANDARD SPACES	95%	89
ADA SPACES	5%	5
TOTAL PROVIDED SPACES		94

*LOTS 7 & 10 HAVE PARKING MET FOR CURRENT RESIDENTIAL USE
**LOT 8 ON PCD NOT BUILT TO DATE

One Nation... One Number... 811
Know what's below. Call before you dig.

WARNING !!

CONTRACTOR SHALL TAKE ALL PRECAUTIONS DURING CONSTRUCTION TO AVOID CONTACT WITH EXISTING UNDERGROUND UTILITIES AND OVERHEAD ELECTRIC IN THE RIGHT-OF-WAY.

REVISIONS

DATE	DESCRIPTION

1230 North US1, Suite 3
Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584

© 2013
Civil Engineering, Transportation, CEI & Landscape Architecture

NEWKIRK ENGINEERING INC.

SITE PLAN
EXHIBIT B
5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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CODY A. BOGART
LICENSE
No. 94133
STATE OF FLORIDA
PROFESSIONAL ENGINEER

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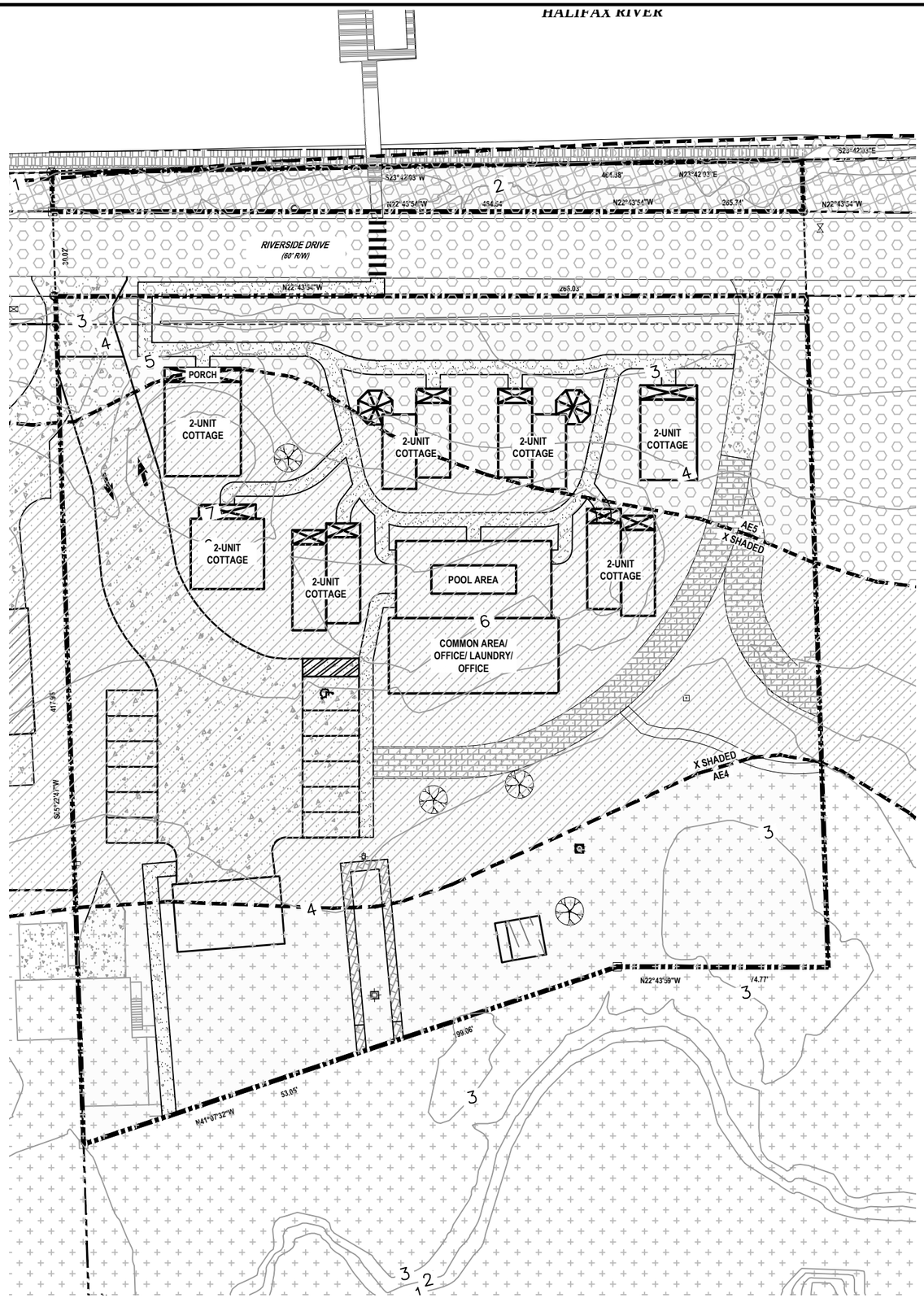
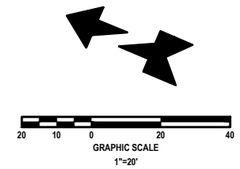
PROJECT No:	2022-200
DATE:	FEB 2024
DESIGN BY:	CAB
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

03



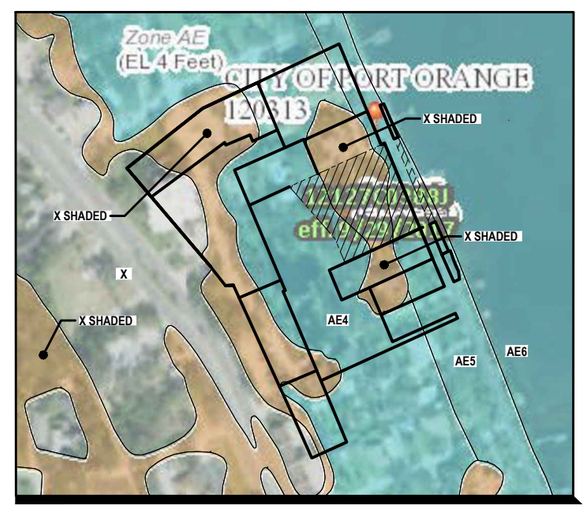


NOTES

1. ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
2. SITE SOILS:
   - A. (29) IMMOKALEE SAND
   - B. (32) MYAKKA-MYAKKA, WET, FINE SANDS, 0-2% SLOPES
   - C. (69) TUSCAWILLA FINE SAND
3. FEMA CLOMR-F APPLICATION TO BE APPLIED FOR DURING SITE DESIGN. LOMR-F APPLICATION TO BE OBTAINED DURING CONSTRUCTION ONCE PROVIDED AS-BUILT.

LEGEND

- PORTIONS OF PROPERTY IN FLOOD ZONE AE4.
- PORTIONS OF PROPERTY IN FLOOD ZONE AE5.
- PORTIONS OF PROPERTY IN FLOOD ZONE X SHADED (0.2% ANNUAL FLOOD CHANCE).
- PORTIONS OF PROPERTY IN FLOOD ZONE X
- FEMA FLOODPLAIN LINES
- —3— LIDAR CONTOUR LINES



AERIAL MAP

SCALE: 1" = 200'

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

REVISIONS

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NEWKIRK ENGINEERING

TOPOGRAPHY & FLOODPLAIN EXHIBIT

EXHIBIT B

5120 RIVERSIDE DRIVE
PORT ORANGE, FL 32127

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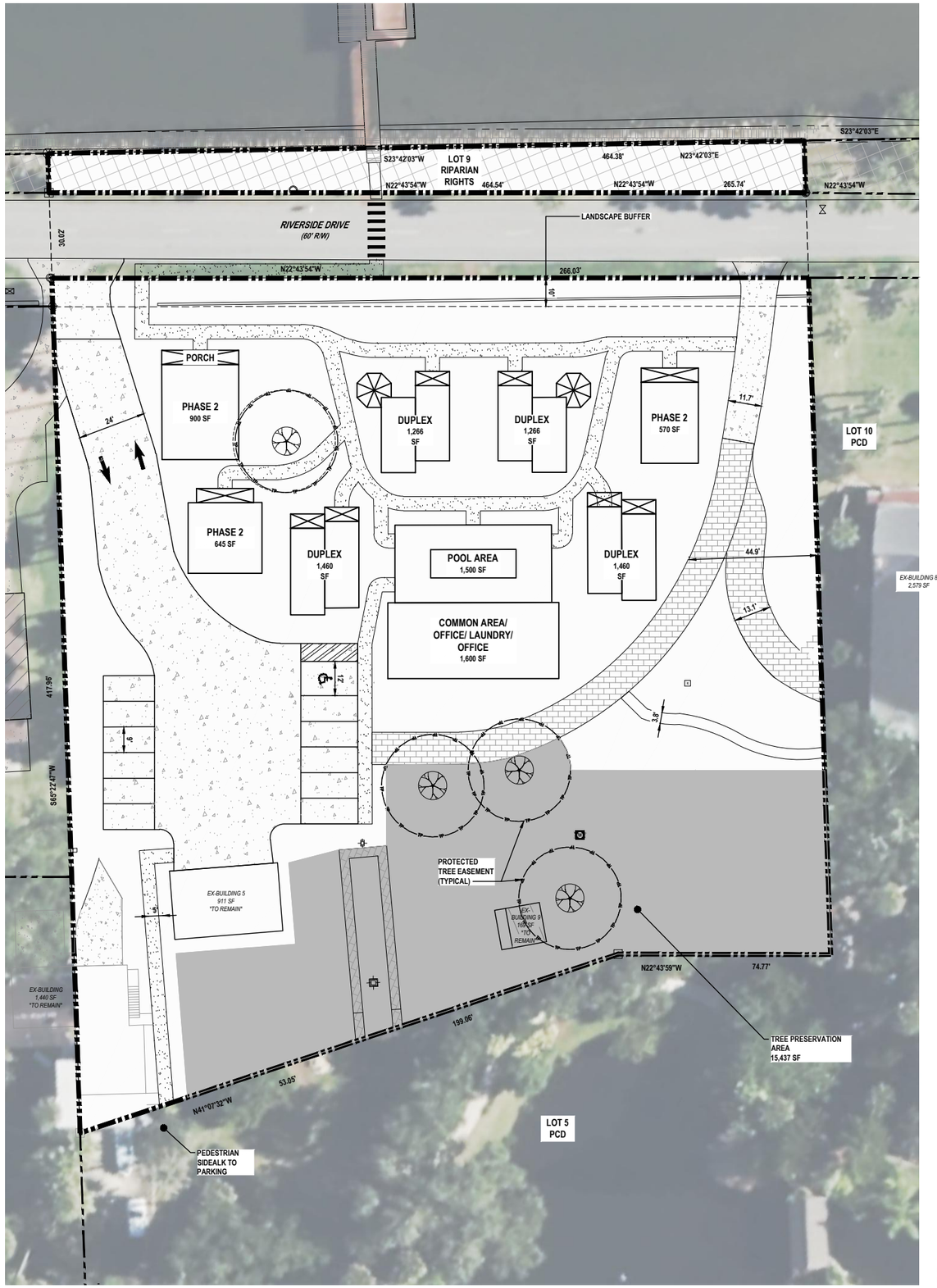
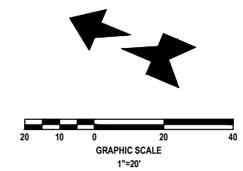
DRAWN BY:	CAB
CHECKED BY:	HHN
SCALE:	1" = 20'

DRAWING NUMBER

04





EASEMENT LEGEND :

SPECIMEN TREE WITH REQUIRED EASEMENT (1' DIA FOR 1" CAL) ONLY SHOWN FOR TREES PROPOSED TO KEEP

AERIAL MAP

SCALE: 1" = 250'

SITE AREA (Ac)	1.586
TOTAL SPECIMEN TREES	4
SPECIMEN / ACRE	2.5
REQUIRED PRESERVATION (80%)	3
PROVIDED PRESERVATION	4
TOTAL HISTORIC TREES	0
HISTORIC TREES REMOVED	0

SPECIMEN TREE CHART

Common Name	Botanical Name	Size
Turkey Oak	(Quercus Laevis)	12 inches and larger
Other Oak species	(Quercus spp.)	18 inches and larger
Maple	(Acer spp.)	18 inches and larger
Cypress	(Taxodium Distichum)	18 inches and larger
Sweet Gum	(Liquidambar styraciflua)	18 inches and larger
Hickory	(Carya spp.)	18 inches and larger
Elm	(Ulmus spp.)	18 inches and larger
Loblolly Bay	(Gordonia lasianthus)	12 inches and larger
Sweet Bay	(Magnolia virginiana)	12 inches and larger
Red Bay	(Persea borbonia)	12 inches and larger
Swamp Bay	(Persea palustris)	12 inches and larger
Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia/grandiflora)	12 inches and larger
Red Cedar	(Juniperus silicicola)	12 inches and larger

TREE PRESERVATION AREA REQUIREMENT CALCULATION:

TREE PRESERVATION AREA REQUIRED = 15% MINIMUM
1.586 ACRE x 0.15 = 0.238 ACRES (10,363 SF)

TREE PRESERVATION AREA PROVIDED = 0.354 ACRES or 15,437 (22.3%)

LEGEND

TREE PRESERVATION AREA

NOTE:

COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL DEVELOPMENT PLAN.

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TREE PLAN
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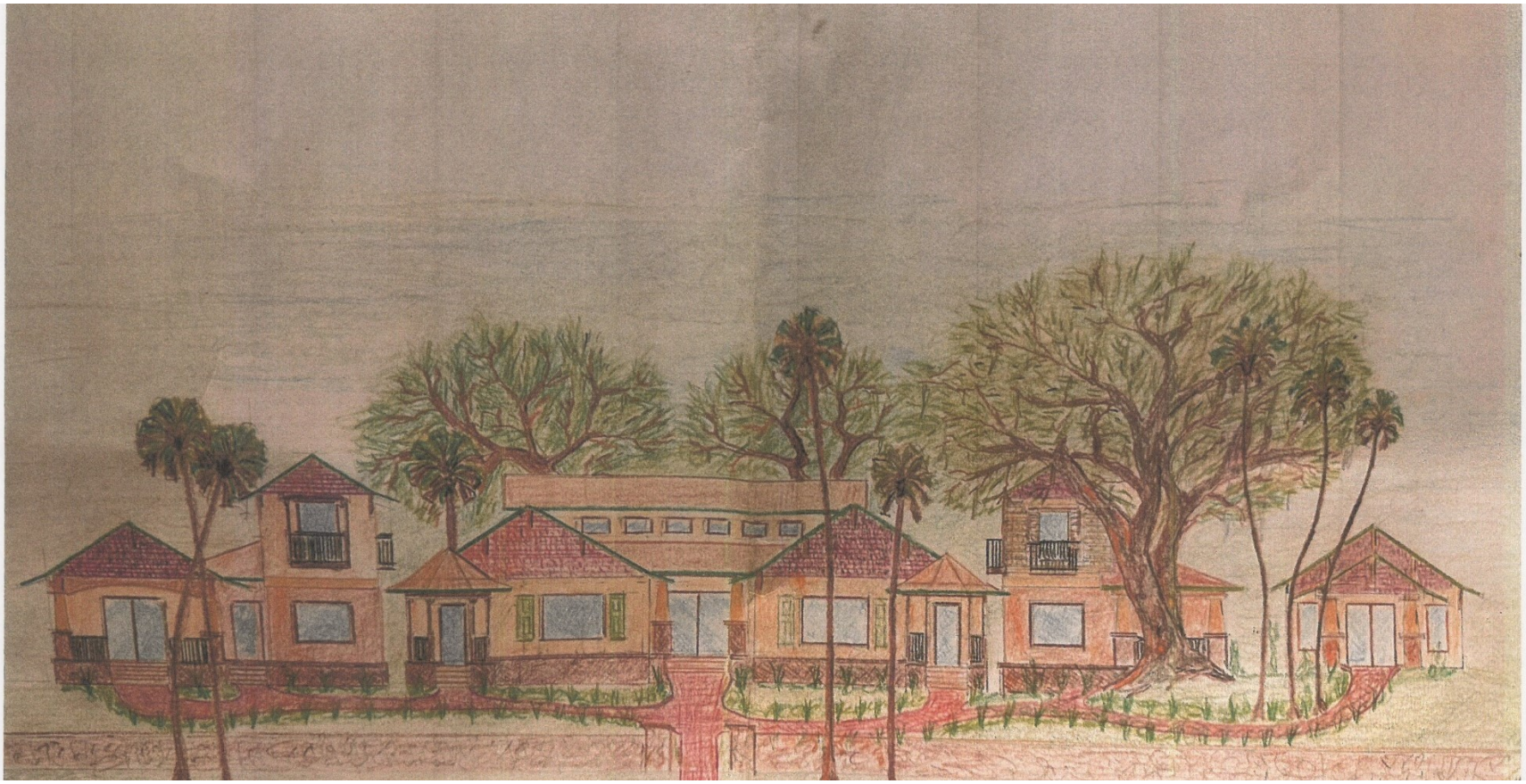
SCALE:	1" = 20'

DRAWING NUMBER

05

Exhibit C



Print Form

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance No. 2024-xx – Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD) and Master Development Agreement (MDA) (CASE NO. PRZA-24-0001)

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law[1] for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The proposed ordinance relates to procurement; or
- ✔ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

A request by the property owners for approval of the Seventh Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP). If approved, the Amendment will set up the framework to allow the development of a bed and breakfast concept consisting of multiple rental cottages with a common building to provide food service for guests, rather than a single building.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur:

N/A

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:

N/A

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

N/A

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

N/A

4. Additional information the governing body deems useful[2] (if any):

This ordinance is for a private property owner requesting to amend the Master Development Agreement that effects only their property.

[2] *You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.*

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (H17) Resolution No. 24-15 - Approval of the Palmer Chiropractic College Bond Reissuance

DEPARTMENT: City Attorney

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve the Palmer Chiropractic College private college revenue bond reissuance and authorize the Mayor to execute an Amended and Restated Indenture of Trust, Amended and Restated Loan Agreement, a replacement Series 2019B Bond, a supplemental tax certificate and any other related closing certificates or other documents.

SUMMARY: Palmer Chiropractic College (Palmer) and Northern Trust have requested that the City (i) conduct a public hearing relating to the Bonds and the reissuance and approve the deemed reissuance of the Bonds for purposes of Internal Revenue Code § 147(f) and (ii) authorize the Mayor to execute an Amended and Restated Indenture of Trust, a replacement Series 2019B Bond, a supplemental tax certificate and any other related closing certificates or other documents. The City of Port Orange previously issued its $18,460,000 Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B, as a conduit issuer in order to assist Palmer with refinancing its Port Orange facilities. Palmer's underlying 5-year loan with the initial Bond purchaser, US Bank, is expiring at the end of June. Palmer has selected Northern Trust to acquire the Bond and provide Palmer with a new 5-year loan. In connection with the transfer of the Bond to Northern Trust and the terms of the new loan, certain amendments to the interest rate formula are necessary that will cause a reissuance of the Bond for federal income tax purposes. As a conduit issuer, the City is not obligated, financially or otherwise, for the Bond; issuing the Bond through the City provides Palmer with a lower interest rate because interest on the Bond issued by the City is tax-exempt under the federal income tax code.

PRESENTER: Matthew Jones

ATTACHMENTS:

1.	Resolution No 24-15 w exhibits	Resolution No 24-15 w exhibits.pdf

Matthew Jones Created/Initiated - 5/16/2024

Matthew Jones	Approved - 5/30/2024
John McKinney	Approved - 5/30/2024
Matthew Jones	Approved - 5/30/2024
Wayne Clark	Approved - 5/30/2024
Tracee Cody	Final Approval - 5/30/2024

RESOLUTION NO. 24-15

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, PROVIDING FOR AND AUTHORIZING THE REISSUANCE, EXECUTION AND DELIVERY BY THE CITY OF THE PRIVATE COLLEGE FACILITY REVENUE BONDS (PALMER COLLEGE OF CHIROPRACTIC PROJECT), SERIES 2019B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $14,860,000; THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED INDENTURE OF TRUST AND AMENDED AND RESTATED LOAN AGREEMENT TO PROVIDE FOR THE REISSUANCE OF SAID BONDS; PROVIDING THAT SAID REISSUANCE SHALL NOT CONSTITUTE A DEBT, LIABILITY OR OBLIGATION OF THE CITY BUT SHALL BE PAYABLE SOLELY FROM THE REVENUES HEREIN PROVIDED; AND PROVIDING FOR AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED BOND DOCUMENTS; PROVIDING CERTAIN OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to Chapter 166, Florida Statutes, as amended, and other applicable provisions of law.

SECTION 2. DEFINITIONS. Unless the context otherwise requires, all terms under herein in capitalized forms shall have the meanings specified in this section. Words importing the singular shall include the plural, words importing the plural shall include the singular, and words importing persons shall include corporations and other entities or associations.

"Act" means Chapter 159 and Chapter 166, Florida Statutes, as amended, and other applicable provisions of law.

"Bank" means The Northern Trust Company, as purchaser and owner of the Bonds.

"Bond Counsel" means the law firm of Akerman LLP, Jacksonville, Florida.

"Borrower" means Palmer College Foundation, a Iowa not for profit corporation doing business as Palmer College of Chiropractic, and an organization described in Section 501(c)(3) of the Code, and any successor, surviving, resulting or transferee Person as provided in the Loan Agreement.

"City" means the City of Port Orange, Florida.

"City Manager" means the City Manager of the City or his designee.

"Clerk" means the City Clerk of the City.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the Regulations thereunder, whether proposed, temporary or final, promulgated by the Department of the Treasury, Internal Revenue Service.

"County" means Volusia County, Florida.

"Mayor" means the Mayor or Vice Mayor of the City.

"Person" or words importing persons means firms, associations, partnerships (including, without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

"State" means the State of Florida.

SECTION 3. FINDINGS. The City hereby finds, determines and declares as follows:

A. The City is a local governmental body existing under and pursuant to Chapter 166, Florida Statutes, as amended and supplemented. The City is duly authorized and empowered by the Act to provide for the issuance of and to issue and sell its industrial development revenue bonds for the purpose of financing or refinancing all or any part of the cost of educational facilities, in order to promote and foster the economic growth and development of the City, the County and the State, to enhance and expand industry and other economic activity in the City, the County and the State, and to increase purchasing power and opportunities for gainful employment, to improve living conditions and to advance and improve the prosperity and the welfare of the State and its inhabitants, to foster the industrial and business development of the City, the County and the State, and to otherwise provide for and contribute to the health, safety and welfare of the people of the City, the County and the State.

B. At the request of the Borrower, the City has previously issued and delivered its $18,460,000 Private College Facility Revenue Bonds (Palmer College of Chiropractic), Series 2019B (the "Bonds") pursuant to an Indenture of Trust dated as of June 1, 2019 (the "Original Indenture"), between the City and U.S. Bank Trust Company, National Association, as successor trustee to U.S. Bank National Association (the "Trustee"), for the purpose of making a loan to the Borrower pursuant to a Loan Agreement dated as of June 1, 2019 (the "Original Loan Agreement"), between the City and the Borrower, in order to finance and refinance a portion of the cost of the financing, acquisition, construction and equipping of the Borrower's Florida campus in the City and the Borrower's campus in Davenport, Iowa (the "Project").

C. The Borrower has requested that the City approve certain amendments to the Bonds, the Original Indenture, the Original Loan Agreement and other related documents, and approve the conversion of the Bonds to another index rate term in connection with a transfer of the Bonds

to The Northern Trust Company (the "Bank") which will cause the Bonds to be reissued for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code").

D. The City Council is the elected legislative body of the City and, based upon representations of the Borrower, the County has jurisdiction over the portions of the Project located within Florida for purposes of Section 147(f) of the Internal Revenue Code.

E. Following the publication by the Borrower of a Notice of Public Hearing in *Daytona Beach News-Journal* on May 24, 2024, a copy of the affidavit of publication is attached hereto as Exhibit "A" and incorporated herein by reference (the "Notice of Public Hearing"), the City Council held a public hearing on the date hereof (the "Public Hearing") relating to the requested amendments to the Bond documents and the resulting reissuance of the Bonds for federal income tax purposes in connection with the transfer of the Bonds to the Bank in connection with refinancing all or a portion of the costs of the Project.

F. The City is not obligated to pay the Bonds except from the proceeds derived from the repayment of the loan to the Borrower, or from any other security pledged therefor by the Borrower, and neither the faith and credit nor the taxing power of the City, the State or any political subdivision thereof is pledged to the payment of the principal or, premium, if any, or the interest on the Bonds.

SECTION 4. AMENDMENTS AUTHORIZED. The amendments to the Bonds, the Original Indenture and the Original Loan Agreement as set forth in the Amended and Restated Indenture of Trust (the "Amended and Restated Indenture") and the Amended and Restated Loan Agreement (the "Amended and Restated Loan Agreement"), each attached hereto as composite Exhibit "B" (collectively the "Amendments"), are hereby authorized.

SECTION 5. AUTHORIZATION OF EXECUTION OF AMENDED AND RESTATED INDENTURE OF TRUST, AMENDED AND RESTATED LOAN AGREEMENT, REPLACEMENT BOND AND OTHER RELATED CERTIFICATES AND INSTRUMENTS. The Mayor and the Clerk are hereby authorized and directed, either alone or jointly, under the official seal of the City, to execute and deliver (i) the Amended and Restated Indenture of Trust, the Amended and Restated Loan Agreement and the replacement Bonds substantially in the form attached hereto as Exhibit "B", with such final information, minor corrections and revisions as shall be requested by the Borrower, advisable by the City's counsel and Bond Counsel, and acceptable to the Mayor, (ii) certificates of the City certifying such facts as the City's counsel or Bond Counsel shall require in connection with the Amendments and the delivery of the replacement Bonds, (iii) a supplemental tax certificate, Form 8038 and other related certificates and filings as may be required under Section 103 of the Code or under the provisions of Florida law, and (iv) such other related instruments, including but not limited to, deeds, assignments, bills of sale and financing statements, as shall be necessary or desirable to perform the City's obligations under the Amendments and to consummate the issuance of the replacement Bonds and the other transactions hereby authorized.

SECTION 6. ISSUER APPROVAL FOR PURPOSES OF 147(f) OF THE CODE. The City has been furnished with a copy of the Notice of Public Hearing and has determined that:

(i) the Notice of Public Hearing apprised residents of the City of the proposed reissuance of the Bonds not less than 10 days before the Public Hearing; (ii) the Public Hearing was conducted in a manner which provided a reasonable opportunity for persons with differing views on both the deemed reissuance of the Bonds and the location and nature of the Project to be heard; and (iii) no members of the public appeared at the Public Hearing and expressed objections to the reissuance of the Bonds for federal income tax purposes to facilitate the Borrower in refinancing a portion of the costs of the Project which caused the City Council to decline to approve the Amendments and the deemed reissuance of the Bonds for purposes of Section 147(f) of the Code. The City hereby approves the Amendments and the deemed reissuance of the Bonds for purposes of Section 147(f) of the Code.

SECTION 7. NO PERSONAL LIABILITY. No representation, statement, covenant, warranty, stipulation, obligation or agreement herein contained, or contained in the Bonds or the documents referred to herein or any certificate or other instrument to be executed on behalf of the City in connection with the Amendments and the deemed reissuance of the Bonds, shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation or agreement of any member, officer, employee or agent of the City in his or her individual capacity, and none of the foregoing persons nor any officer of the City executing the Bonds or any document referred to herein or any certificate or other instrument to be executed in connection with the amendment and deemed reissuance of the Bonds shall be liable personally thereon or be subject, to any personal liability or accountability by reason of the execution or deliver thereof.

SECTION 8. NO THIRD PARTY BENEFICIARIES. Except as otherwise expressly provided herein, in the Bonds, in the Amendments or in the other documents referred to herein, nothing in this Resolution, the Bonds or in the other documents referred to herein, express or implied, is intended or shall be construed to confer upon any person, firm, corporation or other organization, other than the City, the Borrower and the holder of the Bonds (and subsequent holders from time to time of the Bonds) any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, or of the Bonds or the other documents referred to herein, all provision hereof and thereof being intended to be and being for the sole and exclusive benefit of the City, the Borrower, and the holder of the Bonds (and subsequent holders from time to time of the Bonds).

SECTION 9. PREREQUISITES PERFORMED. All acts, conditions and things relating to the passage of this Resolution, and to the execution and delivery of the Amendments and the replacement Bonds, required to happen under the Constitution or other laws of the State, exist and be performed precedent to the passage hereof, and precedent to the execution and delivery of the Amendments, the replacement Bonds and the other related documents described herein, have either happened, exist and have been performed as so required or will have happened, will exist and will have been performed prior to such execution and delivery.

SECTION 10. LIMITED OBLIGATION. THE BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY, THE STATE OF FLORIDA NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER, OR TO LEVY AD VALOREM TAXES ON ANY PROPERTY WITHIN THEIR TERRITORIAL LIMITS TO PAY THE

PRINCIPAL OR PREMIUM, IF ANY, OR INTEREST ON SUCH BONDS OR OTHER PECUNIARY OBLIGATIONS OR TO PAY THE SAME FROM ANY FUNDS THEREOF OTHER THAN THE AMOUNTS RECEIVED FROM THE BORROWER IN REPAYMENT OF THE LOAN AND THE BONDS SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OWNED BY THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, OTHER THAN THE CITY'S INTEREST IN THE AMENDED AND RESTATED LOAN AGREEMENT AND BORROWER PAYMENTS PLEDGED TO THE REPAYMENT OF THE LOAN UNDER AND AS PROVIDED IN THE AMENDED AND RESTATED INDENTURE, THE AMENDED AND RESTATED LOAN AGREEMENT AND THE OTHER AGREEMENTS SECURING THE BONDS.

SECTION 11. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions hereof or of the Bonds.

SECTION 12. REPEALING CLAUSE. All resolutions or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

[The remainder of this page is intentionally blank; signature page follows.]

SECTION 13. EFFECTIVE DATE. This Resolution shall become effective immediately.

CITY OF PORT ORANGE, FLORIDA

(SEAL)

By: _____
Donald O. Burnette, Mayor

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

Adopted on the _____ day of _____, 2024

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

EXHIBIT A

AFFIDAVIT OF PUBLICATION OF NOTICE OF PUBLIC HEARING

(See attached.)

THE DAYTONA BEACH
NEWS-JOURNAL PO Box 631244 Cincinnati, OH 45263-1244

AFFIDAVIT OF PUBLICATION

Timothy J. Bramwell
Akerman Llp
50 North Laura Street Suite 3100
Jacksonville FL 32202

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of The News-Journal, published in Volusia and Flagler Counties, Florida; that the attached copy of advertisement, being a Govt Public Notices, was published on the publicly accessible website of Volusia and Flagler Counties, Florida, or in a newspaper by print in the issues of, on:

05/24/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.
Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 05/24/2024

Legal Clerk

Notary, State of WI, County of Brown

3-7-27
My commission expires

Publication Cost:	$476.60	
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THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KAITLYN FELTY
Notary Public
State of Wisconsin

NOTICE OF PUBLIC HEARING
City of Port Orange, Florida

Notice is hereby given that the City of Port Orange, Florida (the "City") will conduct a public hearing concerning the request and proposal by Palmer College Foundation, an Iowa nonprofit corporation doing business as Palmer College of Chiropractic, also known as Palmer College Foundation, Inc. in the State of Florida (the "Borrower"), that the City of Port Orange, Florida approve certain amendments to that certain Indenture of Trust dated as June 1, 2019, pursuant to which the City issued its City of Port Orange, Florida Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B, outstanding in the principal amount of $14,860,000 (the "Bonds"), in connection with the tender and remarketing of the Bonds, resulting in the deemed reissuance of the Bonds for federal income tax purposes The proceeds of the "reissued" Bonds will be deemed for federal income tax purposes to have refunded the related loan to the Borrower and refinanced the Borrower's acquisition and construction of its facilities described below Existing facility to be refinanced Palmer College of Chiropractic, consisting of (i) classrooms, offices, clinic and other educations facilities, aggregating approximately 96,000 square feet, located at 4777 City Center Parkway, Port Orange, Florida, and (ii) classrooms, offices, clinic and other educations facilities, aggregating approximately 600,000 square feet, located at 1000 Brady Street, Davenport, Iowa

The public hearing will be held at the following time and location

TIME	LOCATION
6 30 P M June 4, 2024	City Council Chamber 1000 City Center Circle Port Orange, Florida 32129

The Bonds will be a limited obligation of the City payable solely from the payments to be made by the owner of the facility under the financing documents and from the other sources specified in such financing documents

The public hearing is required by Section 147(f) of the Internal Revenue Code of 1986 (the "Code") Any person interested in the proposed issuance of the Bonds or the project to be financed may appear and be heard Subsequent to the hearing, the City Council will consider whether to approve the issuance of the Bonds, as required by Section 147(f) of the Code

Interested persons are invited to submit written comments or present oral comments at the hearing regarding the proposed issuance of the Bonds Written comments should be received by the City on or before June 3, 2024 or may be submitted at the hearing Oral comments will be limited to no more than 10 minutes per person Written comments or notice of intent to present oral comments should be directed to

City of Port Orange, Florida
1000 City Center Circle
Port Orange, Florida, 32129
Attention City Manager

SECTION 286 0105, FLORIDA STATUTES STATES THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY A BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, 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

#10204087 5/24/2024 1t

COMPOSITE EXHIBIT B

FORMS OF

1) FORM OF AMENDED AND RESTATED INDENTURE OF TRUST

2) FORM AMENDED AND RESTATED LOAN AGREEMENT

3) REDLINED CHANGE-PAGES (A) COMPARING AMENDED AND RESTATED INDENTURE OF TRUST TO INDENTURE OF TRUST DATED JUNE 1, 2019 AND (B) COMPARING AMENDED AND RESTATED LOAN AGREEMENT TO LOAN AGREEMENT DATED AS OF JUNE 1, 2019

CITY OF PORT ORANGE, FLORIDA

TO

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

as Trustee

AMENDED AND RESTATED INDENTURE OF TRUST

Dated as of June 28, 2024

AMENDED AND RESTATED
INDENTURE OF TRUST

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EXHIBIT A - Form of Purchaser Letter

AMENDED AND RESTATED INDENTURE OF TRUST

THIS AMENDED AND RESTATED INDENTURE OF TRUST, dated as of June 28, 2024, between the City of Port Orange, Florida, a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida (the "Issuer"), and U.S. Bank Trust Company, National Association, a national banking association organized under the laws of the United States with an office located in the City of St. Paul, Minnesota, as successor trustee to U.S. Bank National Association (the "Trustee").

WITNESSETH:

WHEREAS, the Florida Industrial Development Financing Act, Chapter 159, Part II, Florida Statutes (the "Act"), has been enacted by the Legislature of the State of Florida; and

WHEREAS, the Act provides that the Issuer is authorized and shall have the power to enter into loan agreements pursuant to which the Issuer loans the proceeds from the sale of its revenue bonds to private educational institutions for the purpose of financing the cost of a project (as defined in Section 159.27(5) of the Act); and

WHEREAS, the Act provides that the Issuer may issue revenue bonds and loan the proceeds thereof to one or more parties for the purpose of financing or refinancing any such project, payable solely out of the payments to be made by such parties; and

WHEREAS, the Issuer previously issued its Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds"), in the aggregate principal amount of $18,460,000 and currently outstanding in the amount of $14,860,000 pursuant to an Indenture of Trust dated June 1, 2019 between the Issuer and Trustee, as amended by a First Amendment to Indenture of Trust dated June 1, 2023 (together, the "Original Indenture") and loaned the proceeds thereof to Palmer College Foundation, an Iowa nonprofit corporation, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower" or the "University"), under a Loan Agreement dated as of June 1, 2019 (as amended, supplemented or otherwise modified from time to time, the "Agreement") between the Issuer and the Borrower, for the purpose of (i) refinance the acquisition and construction of certain educational facilities (collectively, the "Project"), on the campuses of the College at 4777 City Center Parkway, Port Orange, Florida, 32129, and 1000 Brady Street, Davenport, Iowa, (ii) paying the swap termination payment in connection with the cancellation of a hedging agreement associated with the prior financing, if any, and (iii) paying costs of issuance of the Bonds; and

WHEREAS, the Borrower originally sold the Bonds to U.S. Bank National Association and now desires to transfer the Bonds to The Northern Trust Company, as purchaser (the "Purchaser"); and

WHEREAS, the initial Bank Purchase Date under the Original Indenture is approaching and the parties wish to convert the Bonds to another Index Rate Period (as defined below), to make other modifications to the Original Indenture and to amend and restate the Original Indenture hereto (this Amended and Restated Indenture, which incorporates the Original Indenture and new amendments altogether, the "Indenture"); and

WHEREAS, the Bonds and Trustee's certificate of authentication to be endorsed on the Bonds are to be in substantially the following form, with appropriate variations, omissions and insertions as permitted or required by this Indenture, to wit:

(FORM OF BOND)

No. R-__ $_____

UNITED STATES OF AMERICA

STATE OF FLORIDA

CITY OF PORT ORANGE, FLORIDA

PRIVATE COLLEGE FACILITY REVENUE BONDS

(PALMER COLLEGE OF CHIROPRACTIC PROJECT)

SERIES 2019B

THE TRANSFER OF THIS BOND IS RESTRICTED
AS SET FORTH IN THE INDENTURE.

Interest Rate	Maturity Date	Date of Exchange
Variable, Index Rate	July 1, 2037	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS that the City of Port Orange, Florida, a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida (the "Issuer"), for value received, promises to pay from the source and as hereinafter provided, to the Registered Owner set forth above, or its registered assigns, the principal amount set forth above in accordance with the schedule set forth as Exhibit A attached hereto with the final payment due on the maturity date set forth above and in like manner to pay interest on the principal amount outstanding from time to time from the date hereof at an Index Rate, a Daily Rate, a Weekly Rate, or a Long-Term Rate, payable on each interest payment date as described in the Indenture referred to herein, until said principal amount is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto. The principal of and interest on this Bond shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of and redemption premium, if any, on this Bond shall be payable by check or draft to the Registered Owner at the maturity or redemption date upon presentation and surrender of this Bond at the designated corporate trust office of U.S. Bank Trust Company, National Association, in the City of St. Louis, Missouri (the "Trustee"), provided that during any Index Rate Period payments of the principal of this Bond shall be made without the requirement of presentation or surrender except upon the final payment

thereof. The interest payable on this Bond on any interest payment date shall be paid by the Trustee to the Registered Owner of this Bond appearing on the bond register maintained by the Trustee at the close of business on the Record Date for such interest, and shall be paid by (1) check or draft of the Trustee mailed to such Registered Owner at his address as it appears on such bond register or at such other address furnished in writing by such Registered Owner to the Trustee, or (2) with respect to Bonds held by a Securities Depository, or at the written request addressed to the Trustee by any Registered Owner of Bonds in the aggregate principal amount of at least $1,000,000, by electronic transfer in immediately available funds, such request to be signed by such Registered Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the account number to which credit shall be made and be filed with the Trustee no later than 10 Business Days before the applicable Record Date preceding such payment date. Notwithstanding the foregoing during any Index Rate Period, payments may be made directly to the Bank pursuant to the terms of the Indenture.

This Bond is one of an authorized issue of Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds"), originally issued in the aggregate principal amount of $18,460,000 in order to refinance certain capital improvements for the benefit of Palmer College Foundation, an Iowa nonprofit corporation, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower"), in the City of Port Orange, Florida, and to pay costs of issuance of the Bonds. The proceeds of the Bonds were loaned to the Borrower under the terms of a Loan Agreement dated as of June 1, 2019, between Issuer and Borrower (which Agreement, as from time to time amended and supplemented, in particular as amended and restated as of June 28, 2024, is hereinafter referred to as the "Agreement"). Reference is hereby made to the Agreement for a description of the terms and conditions of the loan of the proceeds of the Bonds to the Borrower and the provisions for repayment of the loan.

The Bonds are issued under and are equally and ratably secured by and entitled to the protection of an Amended and Restated Indenture of Trust dated as of June 28, 2024, by and between Issuer and Trustee (which Indenture, as from time to time amended and supplemented, is hereinafter referred to as the "Indenture"), duly executed and delivered by Issuer to Trustee and pursuant to which all payments due from Borrower to Issuer under the Agreement are assigned to Trustee to secure the payment of principal of, premium, if any, and interest on the Bonds. The Indenture is on file in the offices of the Issuer and Trustee and reference is hereby made to the Indenture for a more complete description of the property pledged and assigned, the provisions with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Trustee and the holders of the Bonds, and the terms upon which the Bonds are issued and secured.

This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the designated office of the Trustee in the City of St. Paul, Minnesota, but only in the manner, subject to limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds may be issued in authorized denominations for the same aggregate principal amount issued to the transferee in exchange therefore. In the event that this Bond is called for redemption in part only, and upon surrender and cancellation of this Bond, the Issuer shall execute and the Trustee shall authenticate and deliver to the Registered Owner hereof

without charge a new Bond or Bonds of the same series and of the same maturity of authorized denominations in aggregate principal amount equal to the unredeemed portion hereof so surrendered, which new Bond or Bonds shall be fully registered (provided that during any Index Rate Period no surrender and cancellation is required). Issuer and Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and premium, if any, and interest due hereon and for all other purposes and neither Issuer nor Trustee shall be affected by any notice to the contrary.

The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Florida, particularly Chapter 159, Part II, *Florida Statutes*, and pursuant to an Ordinance duly enacted by the Issuer which also authorizes the execution and delivery of the Agreement and the Indenture. THE BONDS REPRESENT LIMITED OBLIGATIONS OF THE ISSUER. THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE PAYABLE SOLELY OUT OF THE REVENUES DERIVED FROM THE AGREEMENT AND ARE NOT OTHERWISE AN OBLIGATION OF ISSUER. THE BONDS AND THE INTEREST THEREON SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE ISSUER OR THE STATE OF FLORIDA WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION, AND SHALL NOT CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF ISSUER OR THE STATE OF FLORIDA OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER OR THE STATE OF FLORIDA OR THE TAXING POWERS OF THE STATE OF FLORIDA. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Bonds are to be paid to the Trustee for the account of the Issuer and deposited in a special account created by Issuer, maintained by Trustee and designated "City of Port Orange, Florida Private College Facility Revenue Bond Fund (Palmer College of Chiropractic Project)" and have been duly pledged and assigned by Issuer for that purpose. The rights of Issuer under the Agreement have been assigned to Trustee to secure payment of such principal of, premium, if any, and interest under the Indenture.

Interest Rate Provisions. On the Date of Exchange and through the remaining Initial Period, the Bonds shall bear interest at the SOFR Index Rate from time to time in effect, subject to any adjustments set forth in the Indenture. After the Initial Period, the Bonds may bear interest at an Index Rate, a Daily Rate, a Weekly Rate or a Long-Term Rate, determined as provided in the Indenture, from their date or from the most recent Interest Payment Date to which interest has been paid or duly provided for; provided that, subject to the provisions of the Indenture, in no event will the interest rate on any Bonds exceed the Maximum Rate. The Bonds may operate at any time in any one rate period, provided that all Bonds shall operate in the same Interest Rate Mode at any given time.

Interest shall be payable in arrears on each Interest Payment Date, commencing on August 1, 2024. Interest shall be calculated on the basis of (a) with respect to Bonds bearing interest at the Term Rate or SOFR Index Rate, a 360-day year for the actual days elapsed, (b) with respect to SIFMA Index Rate Bonds, a 365-day year for the actual days elapsed, (c) with respect to Long-Term Rate Bonds, a 360-day year of twelve 30-day months, (d) with respect to Bonds bearing interest at a Daily Rate, on the basis of a 365- or 366- day year, whichever is applicable, and the number of days actually elapsed, (e) with respect to Bonds bearing interest at a Weekly

Rate, on the basis of a 365- or 366- day year, whichever is applicable, and the number of days actually elapsed, and (f) with respect to Bonds bearing interest at a Term Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed.

Determination of Interest Rates.

(1) All Bonds shall operate in the same Interest Rate Mode.

(2) Subject to the provisions of the Indenture, interest on the Bonds shall not exceed the Maximum Rate.

(3) On the Date of Exchange, the Bonds shall bear interest at a SOFR Index Rate from time to time in effect, subject to any modifications set forth in the Indenture. Subject to the provisions of the Indenture, the interest rate borne by the Bonds may be converted to another Index Rate, a Daily Rate, a Weekly Rate or a Long-Term Rate.

(4) Index Rate Bonds. The Index Rate shall be determined in accordance with the Indenture. The Calculation Agent shall notify the Trustee and the Borrower of the Index Rate for each applicable period in accordance with the Indenture; provided that, if the Index Rate is converted to a Term Rate, such rate shall be established on or before the first day of the applicable Term Rate Period as provided in the Indenture. All Index Rate Bonds shall bear interest accruing at the same Index Rate.

(5) Long-Term Rate Bonds. Subject to the further provisions of the Indenture with respect to Long-Term Rates or conversions between Long-Term Rates, the interest rate on the Bonds during any Long-Term Interest Period shall be determined by the Remarketing Agent as provided in the Indenture, and notice thereof shall be given as follows:

(A) The interest rate for the Long-Term Interest Period in question shall be determined by the Remarketing Agent on the date or dates and at the time or times required pursuant to Section 2.03(c) of the Indenture. The interest rate to be determined for the Long-Term Interest Period shall be the lowest rate of interest that, in the reasonable judgment of the Remarketing Agent, would cause the Bonds in question to have a price equal to the principal amount thereof under prevailing market conditions for the relevant period as of the date of determination, except as otherwise provided in the Indenture.

(B) If the Remarketing Agent fails for any reason to determine the Long-Term Rate for any Long-Term Rate Period, as applicable, when required hereunder, or a court holds that the Long-Term Rate for Long-Term Rate Period, is invalid, illegal or unenforceable and, in each case, then the interest rate on the Bonds shall be equal to the SIFMA Index, until the interest rate on such Bonds is again validly determined by the Remarketing Agent.

(C) All Long-Term Rate Bonds shall bear interest accruing at the same Long-Term Rate.

(6) Daily Rates. A Daily Rate shall be determined for each Daily Rate Period as follows:

(A) Daily Rate Periods shall commence on a Daily Rate Conversion Date which shall be a Business Day and thereafter on each Business Day until the type of rate period of the Bonds is converted to another type of rate period, and shall extend to, but not include, the next succeeding Business Day.

(B) The Daily Rate for each Daily Rate Period shall be effective from and including the commencement date thereof and remain in effect to, but not including, the next succeeding Business Day. Each such Daily Rate shall be determined by the Remarketing Agent on the first Business Day of the Daily Rate Period to which it relates and provided to the Trustee by the Remarketing Agent by Electronic Notice by 10:00 a.m., New York City Time, on that same day.

(7) Weekly Rates. A Weekly Rate shall be determined for each Weekly Rate Period as follows:

(A) Weekly Rate Periods shall commence on a Thursday and end on Wednesday of the following week and each Weekly Rate Period shall be followed by another Weekly Rate Period until the rate period of the Bonds is converted to another type of rate period; provided that (i) in the case of a conversion to a Weekly Rate Period from a different rate period, the Weekly Rate Period shall commence on the Weekly Rate Conversion Date and shall end on Wednesday of the following week; (ii) in the case of a conversion from a Weekly Rate Period to a different rate period, the last Weekly Rate Period prior to conversion shall end on the day immediately preceding the Conversion Date to the new rate period; and (iii) the day of the week on which Weekly Rate Periods shall commence may be changed by the Remarketing Agent with the consent of the Borrower, if the scheduled rate determination day has become inappropriate (taking into account general market practice), as determined in the reasonable exercise of the Remarketing Agent's judgment, upon notice to the Trustee and the Tender Agent not less than 14 days before the change, which notice shall promptly be communicated by the Trustee, by first class mail to the Owners of Bonds, provided, that such notice to the Trustee is accompanied by an Opinion of Bond Counsel, which opinion shall also be addressed and delivered to the Issuer and the Trustee, to the effect that the change will not adversely affect the exclusion from gross income of the interest on any Bonds for federal income tax purposes.

(B) The Weekly Rate for each Weekly Rate Period shall be effective from and including the commencement date thereof and remain in effect to and including the last day thereof. Each such Weekly Rate shall be determined by the Remarketing Agent on the Business Day next preceding the commencement date of the Weekly Rate Period to which it relates (or if not a Business Day on the next succeeding Business Day), and provided to the Trustee by the Remarketing Agent by Electronic Notice by 5:00 p.m., New York City Time, on such preceding Business Day.

(8) Unremarketed Bonds. Unremarketed Bonds shall bear interest at the Default Rate determined in accordance with the terms and provisions of the Continuing Covenant Agreement relating to such Unremarketed Bonds, as more fully set forth in the Indenture.

Conversions.

At the option of the Borrower, the interest rate with respect to all (but not less than all) Bonds may be (i) converted from an Index Rate to a new Index Rate or (ii) converted to a Daily Rate, Weekly Rate or Long-Term Rate, as follows:

(1) Conversion Date. In any such case, the Conversion Date shall be the first day following the last day of an Interest Payment Period for the Interest Rate Mode from which such Bonds are to be converted; provided, however, that for Long-Term Rate Bonds, such conversion shall only occur on a date that such Long-Term Rate Bonds are subject to purchase pursuant to Section 3.09(a)(3) of the Indenture and that for Term Rate Bonds, such conversion shall only occur on a date that such Term Rate Bonds are subject to purchase pursuant to Section 3.09(a)(1). Interest shall accrue on such Bonds at the new interest rate commencing on such Conversion Date, whether or not a Business Day. Any action required to be taken on such Conversion Date, if such day is not a Business Day, may be taken on the next succeeding Business Day as if it had occurred on such Conversion Date.

(2) Notice of Intent to Convert. The Borrower shall give written notice of its intent to exercise its option to effect any such conversion to the Bank, during an Index Rate Period, to the Credit Bank, during a Weekly Rate Period or a Daily Rate Period, the Remarketing Agent, the Tender Agent, and the Trustee by Electronic Notice not fewer than five days (or such shorter period as shall be acceptable to the applicable parties) prior to the date on which the Trustee is required to provide notice to the Holders; provided, however, that during any Index Rate Period the Interest Rate Mode may not be changed to another Interest Rate Mode including, without limitation, a new Index Rate Period without the prior written consent of the Bank and is subject to any conditions set forth in the Agreement. Such notice shall specify the proposed Conversion Date (as well as the Bonds to which the conversion will be applicable). If the Borrower does not elect in a timely fashion to convert to a new Interest Rate Mode, the Interest Rate Mode then in effect shall continue until changed by timely notice.

Additionally, such notice shall confirm the appointment, subject to and in accordance with the requirements of the Indenture (including Section 3.11 thereof) of a qualified Remarketing Agent to act as Remarketing Agent for the Bonds in connection with the mandatory tender of such Bonds by reason of such conversion and the appointment, subject to and in accordance with this Indenture (including Section 3.07 thereof), of a qualified Tender Agent to act as Tender Agent in such connection; provided, however, that no such confirmation and no such appointments shall be required if such Bonds are then Index Rate Bonds or Long-Term Rate Bonds with a Long-Term Rate Period that lasts to maturity and the Market Agent, the Remarketing Agent and the Tender Agent then acting with respect to such Bonds are obligated to perform their duties and responsibilities with respect to the mandatory tender of such Bonds by reason of such conversion. Notwithstanding the forgoing, upon the conversion of the Bonds to an Index Rate Period, such notice shall confirm the appointment, subject to and in accordance with the requirements of this Indenture, of a qualified Market Agent to act as Market Agent for the Bonds.

In addition, if an Index Rate is to be in effect immediately following such Conversion Date, such notice shall state whether such Index Rate shall be a SIFMA Index Rate, a Daily Simple SOFR Index Rate or a Term Rate, the new Bank Purchase Date and, in the case of the SIFMA Index Rate or a Daily Simple SOFR Index Rate, the new Applicable Spread. The new

Applicable Spread (in the case of a SIFMA Index Rate or Daily Simple SOFR Index Rate) or, if applicable, the Term Rate, shall be determined by the Market Agent such that the applicable Index Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which a Person will agree to purchase the Bonds on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof. In addition, if a SIFMA Index Rate or Daily Simple SOFR Index Rate is to be in effect immediately following such Conversion Date, the Borrower shall provide a copy of such notice to the Calculation Agent contemporaneously with the Trustee.

(3) Notice of Conversion and Mandatory Tender. Not fewer than 30 days prior to the proposed Conversion Date (or 7 days in the case of conversions from a Daily Rate Period or a Weekly Rate Period), the Trustee shall give Electronic Notice, confirmed by first class mail, of the conversion and of mandatory tender of the Bonds (except in the case of conversions between Daily and Weekly Rate Periods) to the Holders of such Bonds at their addresses as they appear on the registration books of the Trustee as of the date notice of the election is received by the Trustee from the Borrower. The notice given pursuant to this paragraph shall set forth the information required by Section 3.09(e) of the Indenture.

(4) Opinion of Bond Counsel. Any conversion pursuant to this Section shall be subject to the conditions that, on or before the Conversion Date, the Borrower shall have delivered to the Bank (during an Index Rate Period), the Credit Bank (during a Daily Rate Period or a Weekly Rate Period), the Trustee, and the Market Agent with respect to the affected Bonds or Remarketing Agent, as applicable, an Opinion of Bond Counsel to the effect that the conversion is authorized by this Indenture and will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes.

Redemption of Bonds Prior to Maturity. The Bonds are subject to optional and mandatory redemption prior to the stated maturity, in accordance with the terms and provisions of the Indenture.

Mandatory and Optional Purchase of Bonds.

(a) Bonds shall be subject to mandatory tender for purchase by the Tender Agent at the Purchase Price on the following Purchase Dates with respect to the Bonds:

(1) Each Bank Purchase Date;

(2) Each Conversion Date for the Bonds (unless such Conversion Date is already a Purchase Date, in which case no separate mandatory tender by operation of this Section 3.09 of the Indenture shall occur);

(3) Each Long-Term Rate Mandatory Purchase Date for such Bonds; and

(4) Upon the 5th Business Day prior to the expiration or termination of the Letter of Credit if the Trustee has not received evidence as required by Sections 7.01 and 7.02 of the Indenture by the 30th day preceding the scheduled Letter of Credit expiration or termination

date of either an extension of the then existing Letter of Credit or the issuance of an Alternative Letter of Credit meeting the requirements therefor set forth in the Indenture.

(b) Bonds may be subject to optional tender for purchase by the Tender Agent at the Purchase Price on the following Purchase Dates with respect to the Bonds:

(1) Bonds accruing interest at Daily Rates may be tendered for purchase at the purchase price payable in immediately available funds on any Business Day upon Electronic Notice of tender given to the Tender Agent not later than 10:15 a.m., New York City Time, on the purchase date.

(2) Bonds accruing interest at Weekly Rates may be tendered for purchase at the purchase price payable in immediately available funds on any Business Day upon Electronic Notice of tender given to the Tender Agent not later than 5:00 p.m., New York City Time, on a Business Day not fewer than 7 days prior to the purchase date.

(c) Bonds to be purchased pursuant to Section 3.09 of the Indenture shall be delivered by the Holders thereof to the Tender Agent (together with necessary assignments and endorsements) at or prior to 1:00 p.m. New York City time on the applicable Purchase Date.

(d) Any Bonds to be purchased by the Tender Agent pursuant to Section 3.09 of the Indenture that are not delivered for purchase on or prior to the Purchase Date, for which there has been irrevocably deposited in trust with the Trustee or the Tender Agent an amount sufficient to pay the Purchase Price of such Bonds, shall be deemed to have been tendered to the Tender Agent for purchase, and the Holders of such Bonds shall not be entitled to any payment (including any interest to accrue on or after the Purchase Date) other than the respective Purchase Prices of such Bonds, and such Bonds shall not be entitled to any benefits of this Indenture, except for payment of such Purchase Price out of the moneys deposited for such payment as aforesaid, subject, however, to the defeasance provisions under the Indenture.

Except as provided in the Indenture, Registered Owners of the Bonds are not entitled to enforce the provisions of the Indenture or to institute, appear in or defend any suit, action or proceeding to enforce any provisions of the Indenture or to take any action with respect to any event of default under the Indenture. In certain events, in the condition, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may become due or may be declared due and payable before the stated maturity thereof, together with interest thereon.

The Bonds shall not constitute the personal obligation, either jointly or severally, of the members, officers or employees of the Issuer.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of Issuer and the rights of the holders of the Bonds at any time by Issuer with the consent of the holders of 66-2/3% in aggregate principal amount of the Bonds at the time outstanding, as defined in the Indenture. Any such consent or waiver by the holder of this Bond shall be conclusive and binding upon such holder and upon all future holders of this Bond and of any Bond issued in replacement thereof, whether or not notation of such consent or waiver is made upon this Bond. The Indenture also contains

provisions permitting Trustee to waive certain past defaults under the Indenture and their consequences. The Indenture also contains provisions permitting amendment thereof without the consent of the Bondholders in limited instances involving changes to cure defects or ambiguities or which do not prejudice the Bondholders.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this Bond and the issue of which it forms a part, together with all other obligations of Issuer, does not exceed or violate any constitutional or statutory limitation.

This Bond is issued with the intent that the laws of the State of Florida will govern its construction.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been signed by Trustee.

IN WITNESS WHEREOF, the City of Port Orange, Florida has caused this Bond to be executed in its name by the manual signature of its Mayor and its corporate seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Clerk, all as of the Date of Exchange.

CITY OF PORT ORANGE, FLORIDA

By:_____
Mayor

Attest:

_____
City Clerk

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Bond is one of the Bonds of the issue described in the within mentioned Indenture of Trust.

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By:_____
Authorized Signatory

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Private College Facility Revenue Bond and does hereby irrevocably constitute and appoint _____ Registrar, attorney in fact to transfer the said Bond on the records kept for registration of the within Bond, with full power of substitution in the premises.

Dated: _____

_____
(Signature of Registered Owner(s))

_____
(Person(s) executing this Assignment sign(s) here)

SIGNATURE)
GUARANTEED) _____

IMPORTANT - READ CAREFULLY

The signature(s) to this Power must correspond with the name(s) as written upon the fact of the certificate(s) or bond(s) in every particular without alteration or enlargement or any change whatever. Signature guarantee should be made by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

INFORMATION REQUIRED FOR REGISTRATION OF TRANSFER

Name of Transferee(s) _____
Address of Transferee(s) _____
Social Security or Tax
Identification Number of
Transferee(s) _____
Transferee is a(n):
Individual* _____ Corporation _____
Partnership _____ Trust _____

*If the certificate is to be registered in the names of multiple individual owners, the names of all such owners and one address and social security number must be provided.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though written out in full according to applicable laws or regulations:

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with right of
survivorship and not as tenants in common

UNIF GIFT MIN ACT - .....Custodian.....
(Cust) (Minors)
under Uniform Gifts to Minors
Act.....
(State)

(End of Bond form)

WHEREAS, all things necessary to make the Bonds, when authenticated by Trustee and issued as in this Indenture provided, the valid, binding and legal limited obligations of Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts pledged to the payment of the principal of, premium, if any, and interest on the Bonds, and a valid assignment of the rights of Issuer under the Agreement, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

GRANTING CLAUSES

That Issuer, in consideration of the premises and the acceptance by Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders or owners thereof, and of the sum of one dollar, lawful money of the United States of America, to it duly paid by Trustee and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and premium, if any, and interest on the Bonds according to their tenor and effect and to secure the performance and observance by Issuer of all the covenants expressed or implied herein and in the Bonds, and payment and performance of the obligations of the Borrower under any Credit Agreement in effect or any Continuing Covenant Agreement in effect does hereby assign, sell, pledge, mortgage, convey, transfer and grant a security interest in the following to U.S. Bank Trust Company, National Association, as Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of Issuer hereinafter set forth:

GRANTING CLAUSE FIRST

The Agreement, including all extensions and renewals of the term thereof, if any, together with all right, title and interest of Issuer under the Agreement, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Agreement, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Issuer under the Agreement or any successor under the Agreement is or may become entitled to.

GRANTING CLAUSE SECOND

All moneys and securities from time to time held by Trustee under the terms of this Indenture, except for moneys and securities held in the Purchase Fund or elsewhere to pay the purchase price of Bonds tendered for purchase pursuant to Article III hereof or deposited with or paid to Trustee for the redemption of Bonds, notice of the redemption of which has been duly given.

EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the lien and operation of this Indenture amounts held by the Trustee in the Rebate Fund established hereunder.

TO HAVE AND TO HOLD all and singular the Trust estate, whether now owned or hereafter acquired, unto Trustee and its respective successors in said Trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds, from time to time, issued under or to be issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds by reason of designation, number, date of authorization, issuance, role, execution or delivery, date of the Bonds or of maturity, or otherwise, so that each and all Bonds shall have the same right, lien and privilege under this Indenture and shall be equally and ratably secured hereby as if all the Bonds had been made, issued and negotiated simultaneously with the delivery of this Indenture;

PROVIDED, HOWEVER, that if Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, and shall cause the payments to be made on the Bonds as required under Article IV hereof, or shall provide, as permitted herein, for the payment thereof by depositing with Trustee the entire amount due or to become due thereon, and shall well and truly cause to be kept, performed and observed all of its covenants and conditions pursuant to the terms of this Indenture, and shall pay or cause to be paid to Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, and if the Borrower shall pay and perform all of its covenants and obligations under the Continuing Covenant Agreement or Credit Agreement, as applicable, then upon the final payment thereof this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture shall remain in full force and effect.

And it is expressly declared that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the payments pursuant to the Agreement and other amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as herein expressed, and Issuer has agreed and covenanted, and does hereby agree and covenant with Trustee and with the respective holders and owners of the Bonds as follows (subject, however, to the provisions of Section 2.05 hereof):

ARTICLE I

DEFINITIONS

All words and phrases defined in Article I of the Agreement shall have the same meaning in this Indenture. Any term defined herein by reference to the Continuing Covenant Agreement (as defined in this Article I) shall have no effect in the event the Continuing Covenant Agreement ceases to be in effect or the term does not exist in the Continuing Covenant Agreement. In addition, the following words and phrases shall have the following meanings:

"Act of Bankruptcy" means any of the following: Dissolution or liquidation of the Borrower or the filing by the Borrower of a voluntary petition in bankruptcy, or failure by the Borrower to promptly satisfy and remove any execution, garnishment or attachment of such consequence as would impair the ability of Borrower to carry on its operation of the Facilities, or adjudication of Borrower as bankrupt, or assignment by Borrower for the benefit of creditors, or admission in writing by Borrower of its inability to pay its debts generally as they become due, or the entry into an agreement of composition with creditors, or appointment of a receiver for Borrower of any portion of the property of Borrower, or the approval by a court of competent jurisdiction of a petition applicable to Borrower in any proceedings instituted under the provisions of the federal bankruptcy laws or under any similar acts which may hereafter be enacted.

"Agreement" means the Loan Agreement dated as of the date of this Indenture between Issuer and Borrower, as amended, restated, supplemented or otherwise modified from time to time.

"Alternate Letter of Credit" means any substitute or replacement letter of credit or other credit facility securing the payment of principal of and interest on the Bonds, and the purchase price of Bonds tendered for purchase, delivered in accordance with Section 7.02 of this Indenture in substitution and replacement for a Letter of Credit.

"Applicable Factor" means (i) during the Initial Period, 79%; and (ii) during any other Index Rate Period, 79% or such other percentage as may be designated by the Market Agent as the Applicable Factor for such Index Rate Period, subject to an Opinion of Bond Counsel to the effect that the selection of such other percentage as the Applicable Factor will not, in of itself, cause the interest on the Bonds to be includable in the gross income of the Holders for federal income tax purposes.

"Applicable Spread" means, with respect to each Index Rate Period, the following:

(a) During the Initial Period, eighty basis points (0.80%).

(b) During any Index Rate Period other than the Initial Period, the number of basis points determined by the Market Agent on or before the first day of such Index Rate Period and designated by the Borrower in accordance with Section 2.03(d)(2) that, when added to the SIFMA Index or the product of Daily Simple SOFR multiplied by the Applicable Factor, as applicable, would equal the minimum interest rate per annum that would enable the Bonds to be

sold on such date at a price equal to the principal amount thereof (without regard to accrued interest, if any, thereon).

"Authorized Denomination" means (a) during any Index Rate Period, $250,000 or any integral multiple of $5,000 in excess thereof, (b) with respect to Long-Term Rate Bonds, $5,000 or any integral multiple thereof; and (c) with respect to Daily Rate Bonds or Weekly Rate Bonds, $100,000 or any integral multiple of $5,000 in excess thereof.

"Bank" means, during any Index Rate Period, the Holder of the Bonds, provided that there is a single Holder of all of the Bonds and provided further that the Bonds are not then held under the Book-Entry System. If there is more than one Holder of the Bonds during any Index Rate Period, "Bank" means Holders owning a majority of the aggregate principal amount of the Bonds then Outstanding. If the Bonds are then held under the Book-Entry System, "Bank" means the Beneficial Owner of the Bonds, provided that there is a single Beneficial Owner of all of the Bonds. If there is more than one Beneficial Owner of the Bonds during any Index Rate Period, "Bank" means Beneficial Owners who are the beneficial owners of a majority of the aggregate principal amount of the Bonds then Outstanding. The initial Bank on the date hereof is The Northern Trust Company.

"Bank Bonds" means Bonds held by the Bank following a failure to purchase Bonds as described in Section 3.10 hereof.

"Banking Day" means a day on which Bank is generally open for banking business at its main office in Chicago, Illinois.

"Bank Purchase Date" means, (i) the Initial Bank Purchase Date, (ii) during any Index Rate Period (other than the Initial Period), the date designated by the Borrower pursuant to Section 2.03(d)(2), and (iii) the date which is five calendar days (or if such fifth calendar day is not a Business Day, the next Business Day) after the date on which the Trustee receives written notice from the Bank under the Continuing Covenant Agreement which (x) advises the Trustee of the occurrence and continuance of an "Event of Default" under and as defined in the Continuing Covenant Agreement and (y) directs the Trustee to cause a mandatory tender of the Bonds by reason of such "Event of Default."

"Beneficial Owner" means the person in whose name a Bond is recorded as the beneficial owner on the records of a participant in the Book-Entry System.

"Bondholder" or "Holder" or "owner of the Bonds" means the Registered Owner of any Bond registered as to principal and interest.

"Book-Entry System" means the system maintained by DTC for holding securities in the form of one global certificate for each maturity registered as to principal and interest in the name of DTC or its nominee.

"Borrower Bonds" means (a) Bonds purchased with moneys provided to the Tender Agent for the account of the Borrower, or (b) Bonds registered in the name of the Borrower designated as being held for the account of the Borrower, that are not Pledged Bonds.

"Business Day" means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the Trustee, any Paying Agent or the Tender Agent is located are required or authorized by law to remain closed, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal offices of the Calculation Agent or the Bank or Credit Bank are closed.

"Calculation Agent" means the Bank or any other party appointed by the Borrower, with the consent of the Bank.

"Computation Date" means with respect to Index Rate Bonds, bearing interest at the SIFMA Index Rate or the SOFR Index Rate, (i) during each SIFMA Index Rate Period, Wednesday of each week, or if any Wednesday is not a Business Day, the next preceding Business Day and (ii) while the Bonds bear interest at Daily Simple SOFR, the day that is five (5) U.S. Government Securities Business Days prior to each Daily Simple SOFR Reset Date.

"Continuing Covenant Agreement" means during the Initial Period, the Continuing Covenant Agreement dated as of June 24, 2024 between the Borrower and the Bank and related to the Bonds, as the same may be amended, restated, supplemented or otherwise modified from time to time, and during any Index Rate Period other than the Initial Period, any agreement between the Borrower and the related Bank which shall be designated as the Continuing Covenant Agreement.

"Conversion Date" means an (i) Index Rate Conversion Date; (ii) a Long-Term Rate Conversion Date; or (iii) the day on which a Daily Rate or Weekly Rate becomes effective for Bonds which is not immediately preceded by a day on which such Bonds have accrued interest at the same type of interest rate. Each Conversion Date shall be an Interest Payment Date for the rate period from which the Bonds are converted.

"Credit Agreement" means any agreement entered into between the Borrower and the Credit Bank providing for the issuance of a Letter of Credit with respect to the Bonds.

"Credit Bank" means a bank in its capacity as issuer of a Letter of Credit in existence no later than any Conversion Date which causes the Bonds to be in a Daily Rate or a Weekly Rate, and its successors and assigns, and if an Alternate Letter of Credit is issued in accordance with Section 7.02 hereof, "Credit Bank" shall include the issuer or provider of such Alternate Letter of Credit, and its successors and assigns.

"Daily Rate" means the per annum interest rate on the Bonds during a Daily Rate Period determined on a daily basis as provided in Section 2.03(a)(6) hereof.

"Daily Rate Bonds" means Bonds bearing interest at a Daily Rate.

"Daily Rate Conversion Date" means the day on which the Bonds begin to accrue interest at a Daily Rate pursuant to Section 2.03(d) hereof which is immediately preceded by a day on which the Bonds did not accrue interest at a Daily Rate.

"Daily Rate Period" means each period described in Section 2.03(a)(6) hereof during which Bonds accrue interest at a Daily Rate.

"Daily Simple SOFR Reset Date" means each Banking Day.

"Daily Simple SOFR" means, for any day (a "SOFR Rate Day"), a rate per annum equal to the greater of (a) SOFR for the day (such day, a "SOFR Determination Day") that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day and (b) the Index Floor. If by 5:00 P.M., New York City time, on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Day, the SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator's Website then the SOFR for such SOFR Determination Day will be the SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculating Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to Borrower.

The terms "default," "Default," "event of default" and "Event of Default" mean any occurrence or event specified in and defined by Section 9.01 hereof.

"Default Rate" has the meaning set forth in the Continuing Covenant Agreement, and if such agreement is not in effect, then the meaning as set forth in any Credit Agreement.

"DTC" means The Depository Trust Company or any successor book-entry securities depository.

"Electronic Notice" means notice transmitted through a time-sharing terminal or facsimile machine, if operative as between any two parties, or if not operative, in writing or by telephone (promptly confirmed in writing).

"Excess Interest" has the meaning set forth in Section 2.03(b)(3)(iii) hereof.

"Fitch" means Fitch, Inc., and any successor rating agency.

"Government Obligations" means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the full and timely payment of the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the

payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Trustee.

"Indenture" means this Amended and Restated Indenture of Trust, which incorporates the original Indenture of Trust dated as of June 1, 2019, as amended by an Amendment to Indenture of Trust dated June 1, 2023 and as further amended, supplemented or otherwise modified from time to time.

"Index Floor" means a per annum rate of interest equal top zero percent (0%)

"Index Rate" means the SOFR Index Rate, the Default Rate, the Taxable Rate, the SIFMA Index Rate or the Term Rate, as applicable.

"Index Rate Bonds" means Bonds that bear interest at an Index Rate.

"Index Rate Conversion Date" means each date on which interest begins to accrue on the Bonds at an Index Rate following conversion or, in either case, the then current Index Rate Period is changed to a new Index Rate Period pursuant to Section 2.03(d).

"Index Rate Period" means any period during which the Bonds bear interest at an Index Rate.

"Initial Bank Purchase Date" means July 1, 2029.

"Initial Period" means the initial Index Rate Period commencing on the date hereof and ending on the first to occur of (i) the Initial Bank Purchase Date, (ii) the Conversion Date (provided that the Bank shall have consented thereto in writing), (iii) the Maturity Date or other date on which the Bonds are otherwise paid in full, and (iv) a Bank Purchase Date.

"Interest Payment Date" means:

(a) with respect to Index Rate Bonds, the first Business Day of each month (commencing on August 1, 2024) and any day that is a Conversion Date or a Bank Purchase Date for such Index Rate Bonds;

(b) with respect to Long-Term Rate Bonds and Term Rate Bonds, each January 1 and July 1 and any day that is a Conversion Date for such Bonds and the Maturity Date;

(c) with respect to Daily Rate Bonds, the first Business Day of each calendar month following the Daily Rate Period for which interest is payable, and any such day which is a Conversion Date from a Daily Rate Period;

(d) with respect to Weekly Rate Bonds, the first Business Day of each calendar month following the Weekly Rate Period for which interest is payable, and any day which is a Conversion Date from a Weekly Rate Period.

(e) with respect to the Bonds, the Maturity Date for the Bonds; and

(f) with respect to each Unremarketed Bond, the dates set forth in the Continuing Covenant Agreement relating to the payment of interest on such Unremarketed Bond.

"Interest Payment Period" means:

(a) with respect to Index Rate Bonds, Daily Rate Bonds and Weekly Rate Bonds, the period from and including the date of issuance of the Bonds or the Index Rate Conversion Date, Daily Rate Conversion Date or Weekly Rate Conversion Date, as applicable, to and including the calendar day preceding the first Interest Payment Date (or the calendar day immediately preceding a day that is a Conversion Date for such Index Rate Bonds, Daily Rate Bonds or Weekly Rate Bonds) and thereafter, the period from and including the first calendar day of each month to and including the calendar day preceding the each Interest Payment Date;

(b) with respect to Long-Term Rate Bonds, the period from and including the Long-Term Rate Conversion Date, as applicable, to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds and thereafter, the period from and including each Interest Payment Date for such Bonds to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds.

"Interest Rate Mode" means the Index Rate, the Long-Term Rate, the Daily Rate or the Weekly Rate, as applicable.

"Letter of Credit" means any irrevocable direct-pay letter of credit issued by the Credit Bank to the Trustee pursuant to any letter of credit and reimbursement agreement entered into between Borrower and the related Credit Bank, and any extensions thereof, and upon the issuance and delivery of an Alternate Letter of Credit in accordance with Section 7.02 hereof, "Letter of Credit" shall include such Alternate Letter of Credit, and any subsequent extensions or replacements thereof.

"Letter of Credit Account" means the account of that name established in the Bond Fund as provided in Section 5.04 hereof.

"Long-Term Interest Period" means each period during which a particular Long-Term Rate is in effect with respect to the Bonds pursuant to Section 2.03(c)(1).

"Long-Term Rate" means an interest rate for the Bonds that is determined for a term of at least 12 months for such Bonds pursuant to Section 2.03(c)(1) hereof.

"Long-Term Rate Bonds" means Bonds which bear interest at a Long-Term Rate.

"Long-Term Rate Conversion Date" means each day on which interest begins to accrue on the Bonds at a Long-Term Rate following conversion pursuant to Section 2.03(d).

"Long-Term Rate Mandatory Purchase Date" means the first day after the last day of each Long-Term Interest Period.

"Long-Term Rate Period" means a period during which the Bonds are Long-Term Rate Bonds.

"Margin Rate Factor" means, for any day, (a) one minus the Maximum Federal Corporate Tax Rate then in effect divided by (b) one minus the Maximum Federal Corporate Tax Rate in effect on the Closing Date. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

"Market Agent" means any Person appointed by the Borrower to serve as market agent in connection with a conversion to an Index Rate Period.

"Maturity Date" means July 1, 2037.

"Maximum Federal Corporate Tax Rate" means, for any day, the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect as of such day (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Bank, the maximum statutory rate of federal income taxation which could apply to the Bank as of such day).

"Maximum Rate" means (a) with respect to any Bonds other than Pledged Bonds or Bonds bearing interest at an Index Rate or Unremarketed Bonds, the lesser of (i) 12% per annum and (ii) the maximum nonusurious lawful rate of interest permitted by the laws of the State of Florida, if any, and (b) with respect to Pledged Bonds and Bonds bearing interest at an Index Rate and Unremarketed Bonds, the maximum nonusurious lawful rate of interest permitted by the laws of the State of Florida, if any.

"Moody's" means Moody's Investors Service, Inc. and any successor rating agency.

"New York Banking Day" means any day (other than a Saturday or Sunday) on which commercial banks are open for business in New York, New York.

"New York City Time" means the time of day in effect from time to time in the City of New York, New York.

"Opinion of Bond Counsel" when used with reference to this Indenture means a written opinion of Bond Counsel covering the matters set forth in the Section of the Indenture which requires the delivery of such opinion, which opinion may be based on a ruling or rulings of the Internal Revenue Service.

The terms "Outstanding" or "Bonds Outstanding" mean all Bonds which have been authenticated and delivered by Trustee under this Indenture, except:

(a) Bonds canceled after purchase in the open market or because of payment at, or redemption prior to, maturity;

(b) Bonds for the payment or redemption, but not purchase, of which cash funds shall have been theretofore deposited with Trustee (whether upon or prior to the maturity

or redemption date of any such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to Trustee shall have been made therefor, or waiver of such notice satisfactory in form to Trustee shall have been filed with Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.09 (Bonds mutilated, lost, stolen or destroyed) hereof.

"Paying Agent" means any bank or trust company at any time designated pursuant to this Indenture to serve in addition to Trustee as the paying agencies or places of payment for the Bonds, and successors designated pursuant to this Indenture.

"Pledged Bonds" means Bonds purchased with moneys provided to the Tender Agent pursuant to a draw on the Letter of Credit.

"Principal Corporate Trust Office" means the office of U.S. Bank Trust Company, National Association located at 505 N. 7th Street, St. Louis, Missouri 63101.

"Purchase Date" means each date on which (i) Bonds are subject to mandatory purchase, pursuant to Section 3.08 and Section 3.09 of this Indenture and (ii) a Bank Purchase Date.

"Purchase Fund" means the fund by that name established pursuant to Section 3.08 of this Indenture (it being expressly stated, for the avoidance of any doubt, that the Purchase Fund shall be separate from the purchase funds for any other series of bonds of the Issuer).

"Purchase Price" means, with respect to an Index Rate Bond or a Bond subject to purchase on a Purchase Date, an amount equal to the principal amount thereof plus, if such Purchase Date is not an Interest Payment Date therefor, accrued and unpaid interest thereon to such Purchase Date.

"Purchaser Letter" means a letter substantively in the form set forth in Exhibit A hereto.

"Rating Agency" means any of S&P, Moody's and Fitch, as applicable.

"Rating Service" means any nationally recognized securities rating service that issues and maintains a rating on the Bonds.

"Rebate Fund" mean the fund by that name established as provided in Section 5.17 hereof.

"Record Date" means the close of business on either (a) in the case of Bonds accruing interest at an Index Rate, the day (whether or not a Business Day) immediately preceding an Interest Payment Date, or (b) in the case of Bonds accruing interest at a Long-Term Rate, the fifteenth day (whether or not a Business Day) of the calendar month immediately preceding the Interest Payment Date.

"Redemption Price" means, with respect to any Bond (or portion thereof), the principal amount of such Bond (or portion thereof) plus the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such Bond and this Indenture.

"Registered Owner" or "Owner" means the person or persons in whose name or names a Bond shall be registered as to principal and interest on records of Trustee kept for that purpose in accordance with provisions of this Indenture.

"Remarketing Account" means the account by that name in the Purchase Fund established pursuant to Section 3.08.

"Remarketing Agent" means the remarketing agent appointed with respect to the Bonds pursuant to Section 3.11 or any successor thereto appointed pursuant to Section 3.11.

"Remarketing Agreement" means a remarketing agreement entered into by the Borrower and the Remarketing Agent with respect to such Bonds and any other similar agreement entered into with a successor Remarketing Agent with respect to such Bonds or in conjunction with a Long Term Rate Conversion Date with respect to such Bonds, in each case, as such agreement may from time to time be amended.

"Responsible Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"S&P" means S&P Global Ratings, a Standard & Poor's Financial Services LLC business, and any successor rating agency.

"S&P Weekly High Grade Index" means for a Computation Date, the level of the "S&P Weekly High Grade Index" (formerly known as the J.J. Kenny Index) maintained by Standard and Poor's Securities Evaluations Inc. for a one-week maturity as published each Wednesday, or if any Wednesday is not a Business Day, on the next succeeding Business Day.

"SIFMA" means the Securities Industry & Financial Markets Association (formerly the Bond Market Association).

"SIFMA Index" means, for any Computation Date, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by SIFMA and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next preceding Business Day. If the SIFMA Index is no longer published, then "SIFMA Index" shall mean the S&P Weekly High Grade Index. If the S&P Weekly High Grade Index is no longer published, then "SIFMA Index" shall mean the prevailing rate determined by the Calculation Agent for tax-exempt state and local government bonds meeting criteria determined in good faith by the Calculation Agent to be comparable under the circumstances to the criteria used by SIFMA to determine the SIFMA Index immediately prior to the date on which SIFMA ceased publication of the SIFMA Index.

"SIFMA Index Rate" means a per annum rate of interest established on each Computation Date equal to the product of (x) the sum of the Applicable Spread plus the SIFMA Index and (y) the Margin Rate Factor.

"SIFMA Index Rate Conversion Date" means (a) the date on which the Bonds begin to bear interest at the SIFMA Index Rate or (b) if the Bonds have previously borne interest at the SIFMA Index Rate during a SIFMA Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending SIFMA Index Rate Period.

"SIFMA Index Rate Period" means each period from and including a SIFMA Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.

"SIFMA Rate Reset Date" means Thursday of each week.

"Securities Depository" means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

"SOFR" means, a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Index Rate Conversion Date" means (a) the date on which the Bonds begin to bear interest at the SOFR Index Rate or (b) if the Bonds have previously borne interest at the SOFR Index Rate during a SOFR Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending SOFR Index Rate Period.

"SOFR Index Rate" means a per annum rate of interest established on each Computation Date equal to the product of (x) the sum of (a) the Applicable Spread plus (b) the product of (i) Daily Simple SOFR multiplied by (ii) the Applicable Factor and (y) the Margin Rate Factor.

"SOFR Index Rate Period" means (a) the portion of the Initial Period commencing on the date hereof and ending on the Initial Bank Purchase Date and (b) each period thereafter from and including a SOFR Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.

"Special Record Date" means the date established by the Trustee pursuant to Section 2.02 as a record date for the payment of defaulted interest on Bonds.

"Tax Certificate" means the Tax Certificate and Agreement of the Borrower executed in connection with the Bonds on the date hereof.

"Taxable Date" has the meaning set forth in the Continuing Covenant Agreement.

"Taxable Rate" means an interest rate per annum at all times equal to the product of the Index Rate then in effect multiplied by the Taxable Rate Factor.

"Taxable Rate Factor" means, for each day that the Taxable Rate is determined, the quotient of (i) one *divided by* (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day.

"Tender Agent" means, initially, the Trustee, and any successor Tender Agent as determined or designated under or pursuant to this Indenture.

"Term Rate" means any fixed rate of interest per annum determined in accordance with Section 2.03(b)(2)(iii) hereof.

"Term Rate Bonds" means Bonds which bear interest at a Term Rate.

"Term Rate Period" means any period in which a Term Rate is in effect.

"Trust Estate" means the property conveyed to Trustee pursuant to the Granting Clauses hereof.

"Trustee" means U.S. Bank Trust Company, National Association, and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

"Undelivered Bond" means any Bond which is subject to purchase pursuant to Section 3.08 and Section 3.09 on a Purchase Date and which is not tendered and delivered for purchase on such Purchase Date but as to which the Tender Agent holds in the Purchase Fund sufficient funds to pay the Purchase Price of such Bond, as applicable.

"Undelivered Bond Payment Account" means the account by that name in the Purchase Fund established pursuant to Section 3.08.

"Unremarketed Bonds" means Index Rate Bonds which, on the applicable Purchase Date, have not been remarketed to a party other than the Bank.

"U.S. Government Securities Business Day" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"Weekly Rate" means the per annum interest rate on the Bonds during a Weekly Rate Period determined on a weekly basis as provided in Section 2.03(a)(7) hereof.

"Weekly Rate Bonds" means the Bonds bearing interest at a Weekly Rate.

"Weekly Rate Conversion Date" means each day on which Bonds begin to accrue interest at a Weekly Rate pursuant to Section 2.03(d) hereof which is immediately preceded by a day on which such Bonds did not accrue interest at a Weekly Rate.

"Weekly Rate Period" means each period described in Section 2.03(a)(7) during which Bonds accrue interest at a Weekly Rate.

(End of Article I)

ARTICLE II

THE BONDS

Section 2.01 Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The Bonds shall be issued under and secured by this Indenture. The total principal amount of Bonds issued under the Original Indenture was 18,460,000 and on the dated hereof the Bonds shall be exchanged in an amount not to exceed $14,860,000 except as provided in Section 2.16 hereof.

Section 2.02 Issuance of Bonds. The Bonds were and will continue to be designated as the "City of Port Orange, Florida Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B" and shall be exchanged on the date hereof in the aggregate principal amount of $14,860,000. The Bonds shall be fully registered Bonds without coupons in Authorized Denominations in substantially the form as set forth above, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture. The fully registered Bonds shall be lettered and numbered from R-3 consecutively upward.

The Bonds shall bear interest at the SOFR Index Rate from the date hereof until the Initial Bank Purchase Date payable on each Interest Payment Date. After the Initial Bank Purchase Date (or earlier conversion thereof), the Bonds may also bear interest at another Index Rate, or a Daily Rate, Weekly Rate or Long-Term Rate, payable on each applicable Interest Payment Date. On the date of issuance, the Bonds shall be registered in the name of the Bank. Except as otherwise directed by the Holder thereof, Bonds bearing interest at an Index Rate shall be issued in the form of one single definitive certificated bond for the aggregate principal amount of the Bonds registered in the name of the Holder thereof or as otherwise directed by such Holder. The Bonds shall be dated the date of their original issuance and delivery, and shall bear interest from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for (or with respect to Index Rate Bonds for such Interest Payment Period), at the interest rates determined in accordance with Section 2.03 hereof, payable on each Interest Payment Date as herein provided until payment of the principal or redemption price thereof is made or provided for, whether at maturity, upon redemption, acceleration or otherwise to bondholders of record on each Record Date. Each Bond bearing interest at an Index Rate shall contain a legend indicating that the transferability of such Bond is subject to the restrictions set forth in the Indenture. Registered ownership of the Bonds, or any portion thereof, may not thereafter be transferred except as set forth in Section 2.04.

The Bonds shall mature on the Maturity Date.

Interest shall be calculated on the basis of (a) with respect to SOFR Index Rate Bonds and Unremarketed Bonds, a 360-day year for the actual days elapsed, (b) with respect to SIFMA Index Rate Bonds, a 365-day year for the actual days elapsed, (c) with respect to Bonds bearing interest at a Long-Term Rate, a 360-day year of twelve 30-day months, (d) with respect to Bonds bearing interest at a Daily Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed, (e) with respect to Bonds bearing interest at a Weekly Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed, and (f) with respect to Bonds

bearing interest at a Term Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed.

The principal of, redemption premium, if any, and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

The principal of and the redemption premium, if any, on all Bonds shall be payable by check or draft at maturity or upon earlier redemption to the Persons in whose names such Bonds are registered on the bond register maintained by the Trustee at the maturity or redemption date thereof, upon the presentation and surrender of such Bonds at the designated corporate trust office of the Trustee or of any Paying Agent named in the Bonds; provided, however, that during any Index Rate Period, or while Bonds constitute Unremarketed Bonds, payments of principal of the Bonds shall be made without the requirement for presentation and surrender by the Bank, provided that principal which is payable at maturity shall be made only upon presentation and surrender at the principal office of the Trustee.

The interest payable on each Bond on any Interest Payment Date shall be paid by the Trustee to the Owner of such Bond as shown on the bond register at the close of business on the Record Date for such interest, (1) by check or draft mailed to such Owner at his address as it appears on the bond register or at such other address as is furnished to the Trustee in writing by such Owner, or (2) with respect to Bonds held by a Securities Depository, or at the written request addressed to the Trustee by any Owner of Bonds in the aggregate principal amount of at least $1,000,000 or during any Index Rate Period, or while Bonds constitute Unremarketed Bonds, by electronic transfer in immediately available funds, such request to be signed by such Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the account number to which credit shall be made and be filed with the Trustee no later than 10 Business Days before the applicable Record Date preceding such payment date. The Bonds issued under this Indenture shall not be held in book-entry form while bearing interest at an Index Rate unless otherwise required by the Bank, but shall be subject to the procedures of DTC while the Bonds are held in book-entry form.

Notwithstanding anything herein to the contrary, for so long as the Bonds bear interest at an Index Rate, or while Bonds constitute Unremarketed Bonds (the "Bank Direct Payment Period"), the Issuer and the Trustee agree that all amounts payable to the Bank with respect to any Bonds held by the Bank may be made by the Borrower directly to the Bank, upon the Bank's written notice to the Trustee and the Issuer (without any presentment thereof, except upon the payment of the final installment of principal, and without any notation of such payment being made thereon), in such manner or at such address in the United States as may be designated by the Bank in writing to the Trustee and the Issuer, including by the Bank debiting an account of the Borrower, as may be provided in the Continuing Covenant Agreement, as applicable. During any Bank Direct Payment Period, (i) any payment made shall be accompanied by sufficient information to identify the source and proper application of such payment, (ii) the Bank shall notify the Trustee in writing of any failure of the Borrower to make any payment of the principal of or interest on the Bonds when due, and the Trustee shall not be deemed to have any notice of such failure unless it has received such notice in writing, and (iii) if any Bonds are sold or transferred, the Bank shall notify the Trustee and the Issuer in writing of the name and address of

the transferee, the effective date of the transfer, the principal amount of the Bonds transferred and the payment information notated on the Bonds as hereinafter described, and it will, prior to delivery of such Bonds, make a notation on such Bonds of the date to which interest has been paid thereon and of the amount of any prepayments made on account of the principal thereof. Furthermore, to the extent that the Borrower has made the required payments to the Bank during any Bank Direct Payment Period, the Paying Agent shall have no obligations to make payments of the principal of or interest on the Bonds, to act as Registrar or to take any other action in respect thereof, except at the express written direction of the Bank or the Issuer.

The determination of the Index Rate, Daily Rate, Weekly Rate and the Long-Term Rate by the Remarketing Agent or the Calculation Agent, as applicable, shall be conclusive and binding upon the Holders of the Bonds, the Borrower, the Issuer and the Trustee, absent manifest error. The determination of the Applicable Spread by the Market Agent (during any Index Rate Period other than the Initial Period) shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Remarketing Agent and the Holders or Beneficial Owners of such Bonds.

Failure by the Trustee to give any notice required hereunder, or any defect therein, shall not affect the interest rate borne by any of the Bonds. The Issuer, the Trustee, the Remarketing Agent, the Market Agent and the Calculation Agent, shall not be liable to any Holders or Beneficial Owners for failure to give any such notice, or any defect therein, or for failure of any Holders or Beneficial Owners to receive any such notice.

Interest on any Bond that is due and payable but not paid on the date due ("Defaulted Interest") shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on a special record date (the "Special Record Date") for the payment of such Defaulted Interest, which Special Record Date shall be fixed in the following manner: The Borrower shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment; money deposited with the Trustee shall be held in trust for the benefit of the Owners of the Bonds entitled to such Defaulted Interest as provided in this Section. Following receipt of such funds the Trustee shall fix the Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Borrower of such Special Record Date and, in the name and at the expense of the Borrower, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the bond register not less than 10 days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond and each

such Bond shall bear interest from such date, that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

Section 2.03 Determination of Interest Rates on the Bonds; Conversions Between Index Rates or Long-Term Rate Bonds.

(a) Determination of Interest Rates.

(1) All Bonds shall operate in the same Interest Rate Mode.

(2) Subject to the provisions of Section 2.03(b)(3)(ii) hereof, interest on the Bonds shall not exceed the Maximum Rate.

(3) The Bonds shall be issued as Index Rate Bonds and shall bear interest initially at the SOFR Index Rate. The Bonds may be converted to another Interest Rate Mode pursuant to the provisions hereof.

(4) Index Rate Bonds. The Index Rate shall be determined in accordance with Section 2.03(b). The Calculation Agent shall notify the Trustee and the Borrower of the Index Rate for each applicable period in accordance with Section 2.03(b); provided that any failure to so notify the Trustee or the Borrower shall not affect the rate of interest applicable to the Bonds and the Calculation Agent shall not have any liability for any such failure; provided further that, if the Index Rate is the Term Rate, such rate shall be established on or before the first day of the applicable Index Rate Period as provided in Section 2.03(b)(2)(iii). All Index Rate Bonds shall bear interest accruing at the same Index Rate.

(5) Long-Term Rate Bonds. Subject to the further provisions of this Section 2.03 with respect to Long-Term Rates or conversions between Long-Term Rates, the interest rate on the Bonds during any Long-Term Interest Period shall be determined by the Remarketing Agent as provided in this Section 2.03, and notice thereof shall be given as follows:

(A) The interest rate for the Long-Term Interest Period in question shall be determined by the Remarketing Agent on the date or dates and at the time or times required pursuant to Section 2.03(c) below. The interest rate to be determined for the Long-Term Interest Period shall be the lowest rate of interest that, in the reasonable judgment of the Remarketing Agent, would cause the Bonds in question to have a price equal to the principal amount thereof under prevailing market conditions for the relevant period as of the date of determination, except as otherwise provided in Section 2.03(c).

(B) If the Remarketing Agent fails for any reason to determine the Long-Term Rate for any Long-Term Rate Period, as applicable, when required hereunder, or a court holds that

the Long-Term Rate for Long-Term Rate Period, is invalid, illegal or unenforceable and, in each case, then the interest rate on the Bonds shall be equal to the SIFMA Index, until the interest rate on such Bonds is again validly determined by the Remarketing Agent.

(C) All Long-Term Rate Bonds shall bear interest accruing at the same Long-Term Rate.

(6) Daily Rates. A Daily Rate shall be determined each Daily Rate Period as follows:

(A) Daily Rate Periods shall commence on a Daily Rate Conversion Date which shall be a Business Day and thereafter on each Business Day until the type of rate period of the Bonds is converted to another type of rate period, and shall extend to, but not include, the next succeeding Business Day.

(B) The Daily Rate for each Daily Rate Period shall be effective from and including the commencement date thereof and remain in effect to, but not including, the next succeeding Business Day. Each such Daily Rate shall be determined by the Remarketing Agent on the first Business Day of the Daily Rate Period to which it relates and provided to the Trustee by the Remarketing Agent by Electronic Notice by 10:00 a.m., New York City Time, on that same day.

(C) The Daily Rate shall be the interest rate per annum determined by the Remarketing Agent (based upon tax exempt obligations comparable, in the judgment of the Remarketing Agent, to the Bonds and known to the Remarketing Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate which would enable the Remarketing Agent to sell the Bonds on the effective date at a price (without regard to accrued interest) equal to the principal amount thereof. In the event that the Remarketing Agent fails to establish a Daily Rate for any Business Day, then the Daily Rate for such Business Day shall be equal to the rate in effect on the immediately preceding Business Day.

(7) Weekly Rates. A Weekly Rate shall be determined for each Weekly Rate Period as follows:

(A) Weekly Rate Periods shall commence on a Thursday and end on Wednesday of the following week and each Weekly Rate Period shall be followed by another Weekly Rate Period until the rate period of the Bonds is converted to another type of rate period; provided that (i) in the case of a conversion to a Weekly Rate Period from a different rate period, the Weekly Rate Period shall commence on the Weekly Rate Conversion Date and shall end on Wednesday of the following week; (ii) in the case of a conversion from a Weekly Rate Period to a different rate period, the last Weekly Rate Period prior to conversion shall end on the day immediately preceding the Conversion Date to the new rate period; and (iii) the day of the week on which Weekly Rate Periods shall commence may be changed by the Remarketing Agent with the consent of the Borrower, if the scheduled rate determination day has become inappropriate (taking into account general market practice), as determined in the reasonable exercise of the Remarketing Agent's judgment, upon notice to the Trustee and the Tender Agent not less than 14 days before the change, which notice shall promptly be communicated by the Trustee, by first class mail to the Owners of Bonds, provided, that such notice to the Trustee is accompanied by an Opinion of Bond Counsel, which opinion shall also be addressed and delivered to the Issuer and the Trustee, to the effect that the change will not adversely affect the exclusion from gross income of the interest on any Bonds for federal income tax purposes.

(B) The Weekly Rate for each Weekly Rate Period shall be effective from and including the commencement date thereof and remain in effect to and including the last day thereof. Each such Weekly Rate shall be determined by the Remarketing Agent on the Business Day next preceding the commencement date of the Weekly Rate Period to which it relates (or if not a Business Day on the next succeeding Business Day), and provided to the Trustee by the Remarketing Agent by Electronic Notice by 5:00 p.m., New York City Time, on such preceding Business Day.

(C) The Weekly Rate shall be the interest rate per annum determined by the Remarketing Agent (based upon tax exempt obligations comparable, in the judgment of the Remarketing Agent, to the Bonds and known to the Remarketing Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate which would enable the Remarketing Agent to sell the

Bonds on the effective date at a price (without regard to accrued interest) equal to the principal amount thereof. In the event that the Remarketing Agent fails to establish a Weekly Rate for any week, then the Daily Rate for such week shall be equal to the rate in effect on the immediately preceding week.

(8) Unremarketed Bonds. Unremarketed Bonds shall bear interest at the Default Rate determined in accordance with the terms and provisions of the Continuing Covenant Agreement relating to such Unremarketed Bonds, as more fully set forth in Section 2.05 hereof.

(b) Index Rate.

(1) Initial Interest Rate. The Bonds shall bear interest at a SOFR Index Rate from and after the date hereof until the end of the Initial Period. At all times prior to the date hereof, the interest rate on the Bonds was determined in accordance with the terms of the Original Indenture.

(2) Determination of Index Rate. (i) SIFMA Index Rate. During each SIFMA Index Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the SIFMA Index Rate. The Calculation Agent shall determine the SIFMA Index Rate on each Computation Date during the SIFMA Index Rate Period, and such rate shall become effective on the SIFMA Rate Reset Date next succeeding such Computation Date and interest at such rate shall accrue each day during such SIFMA Index Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. The SIFMA Index Rate shall be rounded upward to the second decimal place. Promptly following the determination of the SIFMA Index Rate, the Calculation Agent shall give notice thereof to the Trustee. If the SIFMA Index Rate is not determined by the Calculation Agent on the Computation Date, the rate of interest born on such Index Rate Bonds shall be the rate in effect for the immediately preceding Interest Payment Period until the Calculation Agent next determines the SIFMA Index Rate as required hereunder.

(ii) SOFR Index Rate. During each SOFR Index Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the SOFR Index Rate. The Calculation Agent shall determine the SOFR Index Rate on each Computation Date during the SOFR Index Rate Period, and such SOFR Index Rate shall become effective from and including each Daily Simple SOFR Reset Date next succeeding to, but excluding, the earlier of (X) the immediately succeeding Daily Simple SOFR Reset Date, and (Y) the immediately succeeding Bank Purchase Date. The SOFR Index Rate shall be rounded upward to the third decimal place. Promptly following the determination of the SOFR Index Rate, the Calculation Agent shall give notice thereof to the Trustee

and the Holder of the Bonds. From and including the original issuance of Bonds to and excluding the Amendment Date, the interest rate on the Bonds was determined in accordance with the terms of this Indenture prior to the Amendment Date. The Amendment Date is not a Conversion Date with respect to the Bonds.

If Daily Simple SOFR shall or has become permanently unavailable or ceases to exist, the Bank may, in its discretion, designate a successor to the interest rate described above (which may include a successor index, a multiplier and a spread adjustment), taking into consideration any selection or recommendation of a replacement rate by any relevant agency or authority and evolving or prevailing market conventions. In connection with the selection and implementation of any such replacement rate, the Bank may make any technical, administrative or operational changes that Bank decides may be appropriate to reflect the adoption and implementation of such replacement rate. The Bank does not warrant or accept any responsibility for the administration or submission of, or any other matter related to SOFR or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation whether any such alternative, successor or replacement rate will have the same value as, or be economically equivalent to, SOFR. The Purchaser's internal records of applicable interest rates shall be determinative in the absence of manifest error.

Upon a transition from an index rate utilizing Daily Simple SOFR as the Index Rate to a replacement rate, either: (a) the Borrower, at its own expense, will deliver to the bank an Opinion of Bond Counsel acceptable to the Purchaser that the replacement of the then-current index rate with a replacement rate will not adversely affect the exclusion from gross income of interest on the Bonds of the Bank, or (b) if no such opinion is delivered, the Bonds shall bear interest at the Taxable Rate, calculated using the replacement rate, until such an Opinion is delivered.

(iii) Term Rate. During each Term Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the Term Rate. The Market Agent shall determine the Term Rate prior to the first day of such Term Rate Period and interest at such rate shall accrue each day during such Term Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. The new Term Rate shall be determined by the Market Agent such that the Term Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to

the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which the Bonds may be sold on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof.

(3) Adjustments to Index Rates. (i) Taxable Rate. From and after any Taxable Date, the interest rate on Bonds in an Index Rate Period shall be established at a rate at all times equal to the Taxable Rate. The Trustee shall be notified of any Taxable Date and the effective date of Taxable Rate.

(ii) Default Rate. Notwithstanding the foregoing provisions of this Section 2.03 but subject to the interest rate limitations of Section 2.03(a), in the event of a failure to pay the principal of or interest on the Bonds when due (whether by scheduled maturity, required prepayment, redemption or otherwise) or upon the occurrence and continuation of an Event of Default, from and after the effective date of such Event of Default, the interest rate for Bonds in an Index Rate Period and Unremarketed Bonds shall be established at a rate at all times equal to the greater of (A) the Default Rate and (B) the interest rate that otherwise would be applicable to the Bonds but for the provisions of this paragraph, payable on demand to the Bank. Interest shall accrue and be paid on both defaulted interest and defaulted principal.

(iii) Excess Interest. Notwithstanding anything in this Indenture to the contrary, if during an Index Rate Period (or at any time the Bonds constitute Unremarketed Bonds) the rate of interest on the Bonds exceeds the Maximum Rate for such Bonds, then (i) such Bonds shall bear interest at the Maximum Rate and (ii) interest on such Bonds calculated at the rate equal to the difference between (A) the rate of interest for such Bonds as calculated pursuant to this Indenture and (B) the Maximum Rate (the "Excess Interest") shall be deferred until such date as the rate of interest borne by such Bonds as calculated pursuant to Section 2.03(b) hereunder is below the Maximum Rate, at which time Excess Interest shall be payable with respect to such Bonds. Payments of deferred Excess Interest shall no longer be due and payable upon the earlier to occur of the date on which such subseries is tendered for purchase in accordance with Section 3.09 hereof and are so paid or such Bonds are paid in full.

(c) Long-Term Rates.

(1) Interest Period. Whenever Bonds are to bear interest accruing at a Long-Term Rate, Long-Term Interest Periods shall commence on a Long-Term

Rate Conversion Date or, thereafter, the effective date of a subsequent Long-Term Interest Period, and end on a day which is at least 12 months after such Long-Term Rate Conversion Date which is the day preceding (A) the effective date of a subsequent Long-Term Interest Period, (B) the Conversion Date on which a different Interest Payment Period shall become effective or (C) the maturity date for such Bonds. The term of each Long-Term Interest Period with respect to the Bonds shall be specified in writing by the Borrower to the Remarketing Agent, the Trustee, and the Tender Agent, at least 5 days prior to its commencement.

(2) Effective Period. The interest rate for each Long-Term Interest Period shall be effective from and including the commencement date of that Long-Term Interest Period and shall remain in effect through and including the last day thereof.

(3) Determination Time. Each Long-Term Rate shall be determined by the Remarketing Agent by 4:00 p.m., New York City time, on the Business Day immediately preceding the commencement date of the Long-Term Interest Period to which it relates. Notice of each Long-Term Rate shall be given by the Remarketing Agent to the Trustee, the Tender Agent, and the Borrower, by Electronic Notice not later than 5:00 p.m., New York City time, on the date of determination. The Trustee shall inform the Holders of each Long-Term Rate determined by the Remarketing Agent upon request.

(4) Remarketing. The Long-Term Rate for each Long-Term Interest Period for the Bonds shall be the rate of interest per annum borne by the Bonds which shall be the lowest rate of interest that, in the judgment of the Remarketing Agent, would cause such Bonds to have a price equal to the principal amount thereof plus accrued interest, if any, under prevailing market conditions as of the date of determination. Notwithstanding the foregoing, the Long-Term Rate for a Long-Term Interest Period for the Bonds may be the rate of interest per annum determined by the Remarketing Agent to be the interest rate which, if borne by the Bonds, would enable the Remarketing Agent to sell such Bonds on the date and at the time of such determination at a price which will result in the lowest net interest cost for such Bonds, after taking into account any premium or discount at which such Bonds are sold by the Remarketing Agent, provided that in connection with selling such Bonds at a premium or discount:

(A) The Remarketing Agent certifies to the Borrower, the Trustee and the Tender Agent that the sale of the Bonds at the interest rate and premium or discount specified by the Remarketing Agent is expected to result in the lowest net interest cost for such Bonds on the commencement date of the Long-Term Interest Period;

(B) The Borrower consents in writing to the sale of the Bonds by the Remarketing Agent at such premium or discount;

(C) In the case of Bonds to be sold at a discount the Borrower agrees to transfer to the Tender Agent on the commencement date of such Long-Term Interest Period, in immediately available funds, for deposit in the Purchase Fund, an amount equal to such discount;

(D) In the case of Bonds to be sold at a premium, the Remarketing Agent shall transfer to the Trustee for deposit in the Bond Fund an amount equal to such premium;

(E) On or before the date of the determination of the Long-Term Rate, the Borrower delivers to the Trustee and the Remarketing Agent a letter of Bond Counsel to the effect that Bond Counsel expects to be able to give an Opinion of Bond Counsel to the effect that such conversion of the interest rate will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes, on or before the commencement date of the Long-Term Interest Period; and

(F) On or before the commencement date of the Long-Term Interest Period, the Internal Revenue Service has amended its published guidance relating to the reissuance of tax-exempt bonds to provide that remarketing of bonds in such an interest mode at a premium or discount will not result in a reissuance, and an Opinion of Bond Counsel to the effect that such determination of the interest rate will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes shall have been received by the Trustee and the Borrower and confirmed to the Remarketing Agent.

(d) Conversions. At the option of the Borrower, the interest rate with respect to all (but not less than all) Bonds may be converted from one type of Interest Rate Mode to another as follows:

(1) Conversion Date. In any such case, the Conversion Date shall be the first day following the last day of an Interest Payment Period for the Interest Rate Mode from which such Bonds are to be converted; provided, however, that for Long-Term Rate Bonds, such conversion shall only occur on a date that such Long-Term Rate Bonds are subject to purchase pursuant to Section 3.09(a)(3) and that for Term Rate Bonds, such conversion shall only occur on a date that such Term Rate Bonds are subject to purchase on the respective Bank Purchase Date, or such other date as agreed to by the Bank. Interest shall accrue on such Bonds at the new interest rate commencing on such Conversion Date, whether or not a Business Day. Any action required to be taken on such Conversion Date, if such

day is not a Business Day, may be taken on the next succeeding Business Day as if it had occurred on such Conversion Date.

(2) Notice of Intent to Convert. The Borrower shall give written notice of its intent to exercise its option to effect any such conversion to the Bank, during an Index Rate Period, to the Credit Bank, during a Weekly Rate Period or a Daily Rate Period, the Remarketing Agent with respect to the affected Bonds, the Tender Agent, and the Trustee with respect to the affected Bonds by Electronic Notice not fewer than five days (or such shorter period as shall be acceptable to the applicable parties) prior to the date on which the Trustee is required to provide notice to the Holders; provided, however, that during any Index Rate Period the Interest Rate Mode may not be changed to another Interest Rate Mode including, without limitation, a new Index Rate Period without the prior written consent of the Bank and is subject to any conditions set forth in the Agreement. Such notice shall specify the proposed Conversion Date (as well as the Bonds to which the conversion will be applicable). If the Borrower does not elect in a timely fashion to convert to a new Interest Rate Mode, the Interest Rate Mode then in effect shall continue until changed by timely notice.

Additionally, such notice shall confirm the appointment, subject to and in accordance with the requirements of this Indenture (including Section 3.11) of a qualified Remarketing Agent to act as Remarketing Agent for the Bonds in connection with the mandatory tender of such Bonds by reason of such conversion and the appointment, subject to and in accordance with this Indenture (including Section 3.07), of a qualified Tender Agent to act as Tender Agent in such connection; provided, however, that no such confirmation and no such appointments shall be required if such Bonds are then Index Rate Bonds or Long-Term Rate Bonds with a Long-Term Rate Period that lasts to maturity and the Market Agent, the Remarketing Agent and the Tender Agent then acting with respect to such Bonds are obligated to perform their duties and responsibilities with respect to the mandatory tender of such Bonds by reason of such conversion. Notwithstanding the forgoing, upon the conversion of the Bonds to an Index Rate Period or Term Rate Period, such notice shall confirm he appointment, subject to and in accordance with the requirements of this Indenture, of a qualified Market Agent to act as Market Agent for the Bonds.

In addition, if an Index Rate is to be in effect immediately following such Conversion Date, such notice shall state whether such Index Rate shall be a SIFMA Index Rate, a SOFR Index Rate or a Term Rate, the new Bank Purchase Date and, in the case of the SIFMA Index Rate or the SOFR Index Rate, the new Applicable Spread. The new Applicable Spread (in the case of a SIFMA Index Rate or SOFR Index Rate) or, in the case of a conversion to a Term Rate, the Term Rate, as applicable, shall be determined by the Market Agent such that the applicable Index Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which the Bonds may be sold on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof. In addition, if a SIFMA Index Rate or a SOFR Index Rate is to be in effect immediately following such Conversion Date, the Borrower shall provide a copy of such notice to the Calculation Agent contemporaneously with the Trustee.

(3) Notice of Conversion and Mandatory Tender. Not fewer than 30 days prior to the proposed Conversion Date (or 7 days in the case of conversions from Daily Rate Periods or Weekly Rate Periods), the Trustee shall give Electronic Notice, confirmed by first class mail, of the conversion and of mandatory tender of the Bonds (except in the case of conversions between Daily and Weekly Rate Periods) to the Holders of such Bonds at their addresses as they appear on the registration books of the Trustee as of the date notice of the election is received by the Trustee from the Borrower. The notice given pursuant to this paragraph shall set forth the information required by Section 3.09(e) hereof.

(4) Opinion of Bond Counsel. Any conversion pursuant to this Section shall be subject to the conditions that, on or before the Conversion Date, the Borrower shall have delivered to the Bank (during an Index Rate Period), the Credit Bank (during a Daily Rate Period or a Weekly Rate Period), the Trustee, and the Market Agent with respect to the affected Bonds or Remarketing Agent, as applicable, an Opinion of Bond Counsel to the effect that the conversion is authorized by this Indenture and will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes.

(5) Conditions to Conversion. Notwithstanding the Borrower's delivery of notice of the exercise of its option to effect a conversion pursuant to Section 2.03(d)(2), as long as such Conversion Date is not also a Bank Purchase Date, such conversion to the new Interest Rate Mode shall not take effect if:

(A) the Borrower withdraws such notice of the exercise of its option to effect conversion not later than the Business Day preceding the date on which the interest rate at the new Interest Rate Mode is to be determined;

(B) the Market Agent or the Remarketing Agent fails to determine, when required, the interest rate for the new Interest Rate Mode;

(C) the notice to Holders of Bonds required by Section 2.03(d)(3) is not given when required;

(D) the Borrower fails to deliver to the Trustee, the Bank, if applicable and the Market Agent the opinion referred to in Section 2.03(d)(4); or

(E) sufficient funds are not available by Noon (New York City time) on the Conversion Date to purchase all of the Bonds required to be purchased on such Conversion Date.

In any of such events,

(i) the Conversion Date shall not occur, whether or not notice of the conversion has been given to the Holders;

(ii) the Bonds:

(a) bearing interest at an Index Rate shall continue to bear interest at an Index Rate determined as otherwise provided in Section 2.03(b);

(b) bearing interest at a Long-Term Rate shall bear interest as determined in Section 2.03(c) until all of such Bonds have been remarketed; and

(c) bearing interest at a Daily Rate or Weekly Rate shall bear interest as determined in Section 2.03(a)(6) or (7) respectively.

(iii) the mandatory tender of the Bonds on the Conversion Date pursuant to Section 3.09(a)(2) shall not occur, whether or not notice of the conversion has been given to the Holders. Notice of withdrawal of a conversion notice shall be given by the Borrower to the Trustee, the Bank, if applicable, the Remarketing Agent, the Tender Agent, and the Calculation Agent, if any, by telephone, promptly confirmed in writing, and shall thereafter be promptly given to the Holders of the Bonds (other than Long-Term Rate Bonds) by the Trustee by Electronic Notice, confirmed by first class mail. No cancellation of a conversion pursuant to this Section 2.03(d)(5) shall constitute an Event of Default hereunder.

(6) Conversions of the Long-Term Interest Rate to Maturity. All Bonds shall have the same maturity date and bear interest at the same Long-Term Rate on and after the Long-Term Rate Conversion Date unless on the date the Remarketing Agent determines the Long-Term Rate the Remarketing Agent also determines that such Bonds would bear a lower effective net interest cost if such Bonds were serial bonds or serial bonds and term bonds with mandatory sinking fund dates and principal amounts, in which event such Bonds shall become serial bonds or serial bonds and term bonds with maturity and mandatory sinking fund dates and principal amounts and shall bear separate Long-Term Rates for each maturity. The foregoing notwithstanding, the Borrower may agree to a different amortization of the principal of the Bonds after the Conversion Date if there is delivered to the Trustee by the Borrower an Opinion of Bond Counsel to the effect that utilization of such other method will not, in and of itself, adversely affect the validity of any Bonds or any exclusion from federal income taxation to which the interest on the Bonds would otherwise be entitled.

Section 2.04 Transfer of Bonds. Subject to the limitations set forth below with respect to Index Rate Bonds and Long-Term Rate Bonds, any Bond may, in accordance with its terms, be transferred, upon the registration books required to be kept pursuant to the provisions herein, by the person in whose name it is registered, in person or by his attorney duly authorized in writing, upon surrender of such Bond for cancellation at the Principal Corporate Trust Office of the Trustee, accompanied by delivery of a written instrument of transfer, duly executed in a form approved by the Trustee. Except pursuant to and in accordance with Article III, transfer of a Bond shall not be permitted by the Trustee if the Trustee has received written notice from the Tender Agent that the Tender Agent has received notice from the Holder of such Bond that such Bond will be delivered to the Tender Agent for purchase on or before the next Interest Payment Date.

Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Authorized Denominations of the same maturity and series and for a like aggregate principal amount. The Trustee shall require the Holder requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer.

In no event (other than pursuant to and in accordance with Article III) shall any Bond selected by the Trustee for redemption or with respect to which the Tender Agent has received notice from the Holder thereof that such Bond will be delivered for purchase on or before the next Interest Payment Date be transferred under this Section.

Index Rate Bonds may be transferred without limitation to any Affiliate of the Bank subject to the limitations, if any, set forth in the Continuing Covenant Agreement. Index Rate Bonds may be transferred to another purchaser (other than an Affiliate of the Bank), if (i) written notice of such transfer, together with addresses and related information with respect to such purchaser is delivered to the Borrower and the Trustee by such transferor and (ii) such purchaser shall have delivered to the Issuer, the Borrower, the Trustee and the transferor a Purchaser Letter in the form attached hereto as *Exhibit A* executed by a duly authorized officer of such purchaser; provided that each such purchaser (other than an Affiliate of the Bank) shall constitute a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any such case, having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of not less than $5,000,000,000, unless otherwise agreed to by the Issuer and the Borrower. Long-Term Rate Bonds may be transferred to another purchaser, if (i) written notice of such transfer, together with addresses and related information with respect to such purchaser is delivered to the Borrower and the Trustee by such transferor and (ii) such purchaser shall have delivered to the Issuer, the Borrower, the Trustee and the transferor a Purchaser Letter in the form attached hereto as *Exhibit A* executed by a duly authorized officer of such purchaser; provided that each such purchaser shall constitute a qualified institutional buyer as defined in Regulation D of Rule 501 under the Securities Act of 1933, unless otherwise agreed to by the Issuer and the Borrower. The Trustee shall have no duty or obligation to determine whether or not any transferee meets the requirements set forth herein and shall be fully protected in relying on any Purchaser Letter delivered to it in accordance herewith if so required to be delivered.

Notwithstanding the foregoing, if and when the Bonds are held under the Book Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository, but subject to the limitations set forth in the preceding paragraph.

Section 2.05 Unremarketed Bonds. Notwithstanding anything in this Indenture to the contrary, (a) each Unremarketed Bond shall bear interest on the outstanding principal amount thereof at the Default Rate applicable to such Unremarketed Bond in accordance with the Continuing Covenant Agreement (as calculated by the Calculation Agent) for each day from and including the day such Bond becomes an Unremarketed Bond to and excluding the day such Bond ceases to be an Unremarketed Bond or is paid in full, (b) interest on each Unremarketed Bond shall be calculated on the basis of a 360 day year, and the actual number of days elapsed, and (c) interest on each Unremarketed Bond shall be payable on such dates as are specified in the Continuing Covenant Agreement (each such date an "Interest Payment Date" for such Unremarketed Bond or if no such dates are specified, on demand). A Bond shall cease to be an Unremarketed Bond only if such Unremarketed Bond is remarketed and transferred or such Unremarketed Bond is redeemed in full.

Section 2.06 Execution; Limited Obligation. The Bonds shall be executed on behalf of Issuer with the manual or facsimile signature of its Mayor and shall have impressed or imprinted thereon the official seal of Issuer or a facsimile thereof and be attested with the manual or facsimile signature of the City Clerk of Issuer. All authorized facsimile signatures shall have the same force and effect as if manually signed. In case any official of Issuer whose signature shall appear on the Bonds shall cease to be such official before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. THE BONDS SHALL REPRESENT LIMITED OBLIGATIONS OF THE ISSUER. THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE PAYABLE SOLELY OUT OF THE REVENUES DERIVED FROM THE AGREEMENT AND ARE NOT OTHERWISE AN OBLIGATION OF ISSUER. THE BONDS AND THE INTEREST THEREON SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE ISSUER OR THE STATE OF FLORIDA WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION, AND SHALL NOT CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER OR THE STATE OF FLORIDA OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER OR THE STATE OF FLORIDA OR THE TAXING POWERS OF THE STATE OF FLORIDA. The principal of, premium, if any, and interest on the Bonds shall be payable solely from the payments, revenues and other amounts derived from the Agreement or pledged pursuant to this Indenture (except to the extent paid out of moneys attributable to the proceeds derived from the sale of the Bonds or to income from the temporary investment thereof and, under certain circumstances, to proceeds from insurance and condemnation awards). The Bonds shall be a valid claim of the respective holders thereof against the Bond Fund and other moneys held by Trustee and the amounts derived from the Agreement, which amounts are hereby pledged, assigned and otherwise secured for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture.

Section 2.07 Tender and Payment Procedures. The Bonds shall initially be issued as one certificated bond. The Bonds may subsequently be converted to a Book Entry System with the agreement of the Issuer, the Borrower, the Bank and the Trustee. Notwithstanding anything in this Indenture to the contrary, if and when a Book Entry System is in effect with respect to the Bonds, (i) all tenders and deliveries of Bonds, as well as payment of the Purchase Price of tendered and/or deemed tendered Bonds, under the provisions of this Indenture shall be made pursuant to the delivery order or other applicable procedures of the Securities Depository as in effect from time to time, and (ii) all references in this Indenture to "Holder" and to "Bonds" in the context of tenders and rights and obligations to tender, remarket and/or purchase (including, without limitation, in Sections 3.08, 3.09 and 3.10 hereof) shall be deemed to be references to "holders of beneficial interests in bonds" and to "beneficial interests in Bonds," respectively, and are hereinafter referred to in this Section as "Beneficial Owners."

For Bonds registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), the tender option rights of Beneficial Owners of Bonds may be exercised only by a Direct Participant (as defined by DTC) of DTC acting, directly or indirectly, on behalf of a Beneficial Owner of Bonds by giving notice of its election to tender Bonds or portions thereof at the times and in the manner described above. Beneficial Owners will not have any rights to tender Bonds directly to the Tender Agent. Procedures under which a Beneficial Owner may direct a Direct Participant of DTC, or an Indirect Participant of DTC acting through a Direct Participant of DTC, to exercise a tender option right in respect of Bonds or portions thereof in an amount equal to all or a portion of such Beneficial Owner's beneficial ownership interest therein shall be governed by standing instructions and customary practices determined by such Direct Participant or Indirect Participant. For Bonds registered in the name of Cede & Co., as nominee for DTC, delivery of Bonds required to be tendered for purchase shall be effected by the transfer by a Direct Participant on the applicable Purchase Date of a book-entry credit to the account of the Tender Agent of a beneficial interest in such Bonds.

(a) Notwithstanding anything expressed or implied in the Indenture to the contrary, so long as the Book Entry System for the Bonds is maintained:

(1) There shall be no requirement of physical delivery to or by the Trustee or the Remarketing Agent of:

(A) Any Bonds subject to mandatory or optional purchase as a condition to the payment of the Purchase Price therefor;

(B) Any Bonds that have become Bank Bonds; or

(C) Any remarketing proceeds of such Bonds or Bank Bonds; and

(2) Except as expressly provided in the Indenture with respect to Bonds in the Book Entry System, the Tender Agent shall not have any responsibility for paying the Purchase Price of any tendered Bond or for remitting remarketing proceeds to any person.

Section 2.08 Calculation Agent.

(a) During any Index Rate Period, the Calculation Agent shall be the Bank, or such other person as the Borrower may appoint, with the written consent of the Bank meeting the requirements of Section 2.08(b). The Borrower shall appoint any successor Calculation Agent for the Bonds, subject to the conditions set forth in Section 2.08(b). Any Calculation Agent which is not also the Bank shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Borrower and the Trustee in which the Calculation Agent will agree to perform all calculations and provide all notices required of the Calculation Agent under this Indenture.

(b) The Calculation Agent shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Calculation Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Borrower, the Trustee, the Tender Agent and the Remarketing Agent; provided that such resignation shall not be effective unless and until a successor Calculation Agent is appointed and assumes the position in accordance with the provisions hereof. Upon receipt of such notice, during any Interest Rate Mode in which the services of a Calculation Agent are required under this Indenture, the Borrower will diligently seek to appoint a successor Calculation Agent to assume the duties of the Calculation Agent on the effective date of the prior Calculation Agent's resignation with the prior consent of the Bank. In the event that the Borrower shall fail to appoint a successor Calculation Agent in a timely manner when required under this Indenture, the Trustee shall either (i) appoint a Calculation Agent to act as such, or (ii) petition any court of competent jurisdiction for the appointment of a successor Calculation Agent, and such court may thereupon, after such notice, if any, as it may deem proper, appoint such successor Calculation Agent. Pending such appointment the Trustee has no duty or obligation to perform the functions of the Calculation Agent. The Calculation Agent may be removed at any time by written notice from the Borrower to the Trustee, the Tender Agent, the Bank, and the Remarketing Agent, provided that such removal shall not be effective unless and until a successor Calculation Agent is appointed by the Borrower and assumes such position in accordance with the provisions hereof.

(c) The Trustee shall, within 30 days of the resignation or removal of the Calculation Agent or the appointment of a successor Calculation Agent, give notice thereof to the registered owners of the Bonds.

(d) Promptly after determining any interest rate required to be determined by the Calculation Agent under this Indenture, the Calculation Agent shall provide Electronic Notice to the Trustee, the Bank, if applicable, the Tender Agent, the Remarketing Agent and any requesting Holder.

Section 2.09 Authentication. No Bond shall be valid or become obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form hereinabove set forth shall have been duly executed by the Trustee, and such executed certificate of Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered and is entitled to the security and benefit under this Indenture. Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of Trustee, but it

shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds.

Section 2.10 Form of Bonds. The Bonds issued under this Indenture shall be substantially in the form hereinabove set forth with such variations, omissions and insertions as are permitted or required by this Indenture.

Section 2.11 Delivery of Bonds. Upon the execution and delivery of this Indenture, Issuer shall execute and deliver to Trustee and Trustee shall authenticate the Bonds and deliver them to or for the account of the Purchaser thereof as directed by Issuer as hereinafter in this section provided.

Prior to the delivery by Trustee of the Bonds there shall be filed with Trustee:

1. A copy, duly certified by the City Clerk of the Issuer of the Ordinance adopted by Issuer authorizing the issuance and sale of the Bonds and the execution and delivery of this Indenture and the Agreement.

2. Original executed counterparts of the Agreement, the Continuing Covenant Agreement and this Indenture.

3. A request and authorization to Trustee on behalf of Issuer and signed by its Mayor and City Clerk to authenticate and deliver the Bonds to the purchasers therein identified upon payment to Trustee, but for the account of Issuer, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery.

Upon the delivery of the Bonds to the Purchaser thereof as herein provided, the proceeds of the payment received by the Trustee from such Purchaser shall be deposited in the Purchase Fund and paid to the tendering Holders.

Section 2.12 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, Issuer may execute and Trustee may authenticate a new Bond of like date, maturity and denomination to that mutilated, lost, stolen or destroyed; provided that in the case of any mutilated Bond, such mutilated Bond, shall first be surrendered to Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to Issuer and Trustee evidence of such loss, theft or destruction satisfactory to Issuer and Trustee, together with an indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, Issuer may pay the same without surrender thereof. Issuer and Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 2.13 Registration of Bonds; Persons Treated as Owners. Trustee is hereby constituted and appointed the Bond Registrar of Issuer with respect to the Bonds. Trustee shall cause records for the registration and for the transfer of the Bonds as provided in this Indenture to be kept. The Bonds shall be registered as to principal and interest on such records upon presentation thereof to Trustee which shall make notation of such registration thereon. The Bonds may thereafter be transferred only upon an assignment duly executed by the Registered Owner or his attorney duly authorized in writing in such form as shall be satisfactory to Trustee,

such transfer to be made on such records and endorsed on such Bond by Trustee. The principal and interest of all Bonds shall be payable only to or upon the order of the Registered Owner or his legal representative.

The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any Bond shall be made only to or upon the written order of the Registered Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Section 2.14 Destruction of Bonds. Whenever any outstanding Bond shall be delivered to Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount represented thereby, or for replacement pursuant to Section 2.12, such Bond shall be promptly canceled and cremated or otherwise destroyed by Trustee pursuant to Securities and Exchange Commission regulations.

Section 2.15 Additional Bonds. No additional bonds shall be issued under the terms of this Indenture.

Section 2.16 Issuance of Refunding Bonds. The Issuer may, but shall not be obligated to, upon application by the Borrower, issue refunding bonds, to be authenticated and delivered, to the extent permitted by law, at any time for the purpose of providing funds for refunding, so long as the exemption from federal income taxation of interest on any Bonds then outstanding is not adversely affected, all the Bonds then outstanding (including the payment of any redemption premium thereon). Refunding bonds shall be designated substantially as the Bonds to be refunded and shall be stated to mature in each year or years, and shall bear interest at a rate or rates, as set forth in the Indenture pursuant to which the refunding bonds are to be issued and as may then be permitted by law, and may be made redeemable at such times and prices all as may be provided in the Indenture authorizing the issuance of the refunding bonds. No refunding bonds shall be issued unless the proceeds (excluding accrued interest but including any premium) of the refunding bonds, plus any moneys to be withdrawn from any Fund or account created hereunder for such purpose and any other moneys made available for such purpose, together with the interest that shall accrue upon any direct obligations of United States Government or obligations guaranteed by the United States Government as to payment of principal and interest, shall not be less than an amount sufficient to pay the principal of and the redemption premium, if any, on the Bonds to be refunded, the principal installment of any Bonds then outstanding to become due prior to any such redemption date, and the interest which will accrue thereon to the redemption date or maturity dates occurring prior thereto, and all expenses incident to such financing.

(End of Article II)

ARTICLE III

REDEMPTION AND PURCHASE OF BONDS

Section 3.01 Terms of Redemption.

(a) Subject to any limitations set forth in the Continuing Covenant Agreement, during any Index Rate Period, the Bonds are subject to redemption on any Interest Payment Date at the direction of the Borrower, in whole or in part in such amounts as are designated by the Borrower at a Redemption Price equal to the principal amount of Bonds called for redemption, plus interest accrued thereon, if any, to the date fixed for redemption, together with any redemption premium or other amount provided for in the Continuing Covenant Agreement.

(b) Long-Term Rate Bonds are subject to redemption by the Borrower on any Purchase Date therefor, and Long-Term Rate Bonds are subject to redemption by the Borrower on any date after expiration of the applicable call protection period described below, as a whole or in part in such amounts and in such maturities as are designated by the Borrower (or if the Borrower fails to designate such maturities, in inverse order of maturity) and by lot within a maturity, at a Redemption Price equal to the principal amount of Bonds called for redemption, plus accrued interest, if any, to the date fixed for redemption, without premium.

Length of Long-Term Rate Period or Years Remaining to Maturity as of Conversion Date	Initial Redemption Dates (Anniversary of Long-Term Conversion Date)
Equal to or less than 10 years	Not subject to optional redemption
Greater than 10 years	10th anniversary

The foregoing notwithstanding, if the Borrower delivers to the Trustee and the Remarketing Agent prior to any Conversion Date or Purchase Date (for Bonds remaining Long-Term Rate Bonds for an additional Long-Term Interest Rate Period) (1) a notice containing alternative call protection periods and/or Redemption Prices for Long-Term Rate Bonds and (2) an Opinion of Bond Counsel addressed to the Trustee and the Remarketing Agent to the effect that the modifications to the call protection periods and/or Redemption Prices will not, in and of themselves, cause the interest on such Bonds to be includable in the gross income of Holders for purposes of federal income taxation, then the Bonds shall be subject to redemption by the Borrower pursuant to the call protection periods and at the Redemption Prices, if any, set forth in that notice, and this Section 3.01(b) shall be deemed to be modified as set forth in such notice.

(c) Daily Rate Bonds and Weekly Rate Bonds are subject to redemption and payment prior to maturity, on any Interest Payment Date at the option of the Issuer, which shall be exercised upon the written direction of the Borrower (subject to any applicable provisions of the Credit Agreement and with the consent of the Credit Bank), in whole or in part with respect to Bonds which accrue interest at Daily or Weekly Rates, at a redemption price equal to 100% of the principal amount redeemed, plus interest accrued to the redemption date.

(d) Unremarketed Bonds are subject to special mandatory redemption by the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon (at the Default Rate) to but not including the date of such redemption, on the dates and in the manner set forth in the Continuing Covenant Agreement.

Section 3.02 Selection of Bonds for Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of any maturity, the Trustee, as directed by the Borrower, shall select the Bonds to be redeemed from all Bonds in such manner as may be designated by the Borrower or, if the Borrower shall have failed to so designate, by lot, provided, that, with respect to Index Rate Bonds or Long-Term Rate Bonds of the Bonds selected for redemption, the Bonds shall be redeemed in the following order of priority (and by lot within each priority other than the last priority):

First: any Bonds which have been tendered to the Tender Agent for purchase on or prior to the date fixed for redemption; and

Second: any other Bonds.

The Trustee shall promptly notify the Borrower in writing of the Bonds or portions thereof so selected for redemption.

Section 3.03 Notice of Redemption. The Issuer shall, at least 45 days prior to the redemption date fixed by the Issuer pursuant to the written direction of the Borrower (unless a shorter notice shall be satisfactory to the Trustee) give written notice to the Trustee directing the Trustee to call Bonds for redemption and give notice of redemption. Each notice of redemption shall state (a) the series and the maturities of the Bonds or portions thereof which are to be redeemed, (b) the date of redemption, (c) the place or places where the redemption will be made, including the name and address of the Trustee, (d) the Redemption Price, (e) the CUSIP numbers assigned to the Bonds to be redeemed, (f) in case of any Bonds to be redeemed in part only, the amount of such Bonds to be redeemed, (g) the original dated date, interest rate (in the case of Bonds bearing interest at Long Term Rates to maturity), and stated maturity date of each Bond to be redeemed and (h) if funds shall not be irrevocably deposited with the Trustee to pay the Redemption Price of the Bonds to be redeemed plus interest accrued thereon (if any) to the date fixed for redemption on or prior to the date that the redemption notice is first given as aforesaid, such notice shall state that any redemption is conditional on such funds being deposited with the Trustee on the redemption date and that a failure to make such deposit shall not constitute an Event of Default hereunder. Each such notice shall also (1) state that if, on the date fixed for redemption, the Trustee holds sufficient moneys therefor, then, on the date of redemption, the Redemption Price of the Bonds to be redeemed, plus interest accrued thereon (if any) to the date fixed for redemption, shall become due and payable and that from and after said date, interest on such Bonds shall cease to accrue and be payable, and (2) require that on said date such Bonds shall be surrendered, if required pursuant to the terms thereof. Notwithstanding the foregoing, this Section shall not apply in the case of any mandatory redemption of Bonds under this Indenture, and the Trustee shall call Bonds for redemption and shall give notice of redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer or the Borrower and whether or not the Trustee shall hold in the Bond Fund moneys available and sufficient to effect the required redemption.

The Trustee shall take the following actions with respect to such notice of redemption:

(A) at least 30 but not more than 60 days prior to the redemption date for Index Rate Bonds and Long-Term Rate Bonds and at least 15 days prior to the redemption date for Daily Rate Bonds or Weekly Rate Bonds, such notice shall be given to the respective Holders of Bonds designated for redemption by Electronic Notice, confirmed by first class mail, postage prepaid, at their addresses appearing on the registration books maintained by the Trustee as of the close of business on the day before such notice is given; provided that failure of the Trustee to give such notice to any Holder of Bonds or any defect in such notice shall not affect the validity of the redemption of any other Bonds. Notwithstanding anything to the contrary contained herein, in the event all of the Bonds to be redeemed are held in book-entry form by the Nominee, the notice shall be made by Electronic Notice and the notice period required pursuant to this Section 3.3(A) may be less than 30 days prior to the redemption date, as applicable, provided such notice period complies with the operational guidelines of the then current Securities Depository in effect 60 days prior to the date of the scheduled redemption.

(B) A second notice of redemption shall be delivered no more than 60 days after the redemption date, by the same means as the first notice, to any Holder of Bonds who has not turned Bonds in for redemption within 20 days after the redemption date, provided that failure of the Trustee to give such notice to a Holder of Bonds or any defect in such notice shall not affect the validity of the redemption of such Bonds.

(C) The Trustee, if requested by the Borrower, shall also give notice of redemption by Electronic Notice to any securities depositories and/or securities information services as shall be designated in a Certificate of the Borrower.

The Borrower may instruct the Trustee to provide conditional notice of redemption, which may be conditioned upon the receipt of moneys or any other event. The Trustee shall rescind any redemption as soon as practicable by notice of rescission if directed to do so by the Borrower prior to the date of redemption. The Trustee shall give notice of rescission by the same means as is provided for the giving of a notice of redemption. The redemption shall be deemed canceled once the Trustee has given notice of rescission. Neither the rescission nor the failure of funds being made available in part or in whole on or before a redemption date shall constitute an Event of Default.

Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Borrower. Notwithstanding anything to the contrary set forth in this Section 3.03 the Trustee shall not be required to provide any notices of redemptions, other than optional redemptions, during any Index Rate Period.

Section 3.04 Partial Redemption of Bonds. Upon surrender of any Bond redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Borrower, a new Bond or Bonds, of Authorized Denominations and of the same series and maturity, equal in aggregate principal amount to the unredeemed portion of the Bond surrendered: provided, however, that during any Index Rate Period partial redemptions shall be made without the requirement for presentation and surrender by the Bank.

Section 3.05 Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued thereon, if any, to the redemption date on, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice together with interest accrued thereon, if any, to the redemption date, interest on the Bonds (or portions thereof) so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Holders of said Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest, if any.

All Bonds redeemed pursuant to the provisions of this Article, if any, shall be canceled upon surrender thereof in accordance with the Trustee's customary procedures.

Section 3.06 The Tender Agent. The Northern Trust Company is hereby appointed by the Issuer as Tender Agent for the Bonds. The Tender Agent shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder with respect to the Bonds by a written instrument of acceptance delivered to the Issuer and the Trustee. The Tender Agent shall be responsible:

(a) To hold all Index Rate Bonds, Daily Rate Bonds, Weekly Rate Bonds and Long-Term Rate Bonds delivered to it for purchase hereunder as agent and bailee of, and in escrow for the benefit of, the respective Holders which shall have so delivered such Bonds until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Holders;

(b) To hold all moneys delivered to it hereunder for the purchase of Bonds as agent and bailee of, and in escrow for the exclusive benefit of, the person or entity which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity;

(c) To keep such books and records as shall be consistent with prudent industry practice and, upon reasonable advance notice, to make such books and records available for inspection by the Borrower, the Trustee, the Bank, if applicable, and the Remarketing Agent; and

(d) To perform the foregoing duties and obligations subject to and in accordance with the provisions of this Indenture relating thereto and to perform such other duties and responsibilities (including, without limitation, with respect to the Purchase Fund pertaining to the Bonds) as are provided in this Indenture to be performed by the Tender Agent.

The Tender Agent in performing its duties as set forth herein shall have the rights and immunities including, but not limited to, exculpations and indemnifications, of the Trustee as set forth in this Indenture to the same extent and as fully for all intents and purposes as though such rights and immunities had been set forth at length with respect to the Tender Agent.

Section 3.07 Qualifications of Tender Agent.

(a) The Tender Agent shall be duly organized under the laws of the United States of America or any state or territory thereof and be (1) a commercial bank and trust company or (2) a national banking association, have a combined capital stock, surplus and undivided profits of at least Fifty Million Dollars ($50,000,000) and be authorized by law to perform all duties imposed upon it by this Indenture. At all times at which the Bonds are not in the Book Entry System, the Tender Agent shall have an office or agency in New York, New York. The Tender Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Borrower, the Trustee, the Bank, if applicable, and each Remarketing Agent, provided that such resignation shall not take effect until the appointment and acceptance of a successor Tender Agent. The Tender Agent may be removed at any time upon 30 days' written notice by the Borrower upon written notice to the Tender Agent, the Trustee, the Bank, if applicable, and each Remarketing Agent, provided that such removal shall not take effect until the appointment of, and the acceptance of appointment by, a successor Tender Agent.

(b) If no successor Tender Agent shall have been appointed and have accepted appointment within 30 days of the giving notice of resignation or notice of removal as aforesaid, the Borrower may appoint a successor Tender Agent to act until a successor Tender Agent is appointed pursuant to the foregoing provisions of this Section.

(c) If no appointment of a successor Tender Agent shall have been made pursuant to the foregoing provisions of this Section, the Tender Agent resigning or being removed or any Holder (on behalf of himself and all other Holders) may petition any court of competent jurisdiction for the appointment of a successor Tender Agent, and such court may thereupon, after such notice, if any, as it may deem proper, appoint such successor Tender Agent.

(d) Any successor Tender Agent appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Borrower, the Trustee, the Bank, if applicable, each Remarketing Agent and to its predecessor Tender Agent a written acceptance thereof, and thereupon (i) such successor Tender Agent, without further act, deed or conveyance, shall become vested with all the monies, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Tender Agent, with like effect as if originally named Tender Agent herein, and (ii) the Tender Agent shall pay over, transfer, assign and deliver to the successor Tender Agent all the right, title and interest of the Tender Agent in and to all money and all other property held by the Tender Agent subject to and in accordance with this Indenture; but nevertheless at the request of the Borrower, the successor Tender Agent, any Remarketing Agent, such predecessor Tender Agent shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Tender Agent all the right, title and interest of such predecessor Tender Agent in and to all money and all other property held by it under this Indenture. Upon request of the successor Tender Agent, the Issuer shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Tender Agent all money, estates, properties, rights, powers, trusts, duties and obligations of the predecessor Tender Agent. Upon acceptance by a successor Tender Agent as provided in this subsection, the Borrower shall give notice of the succession of such Tender Agent by Electronic Notice, confirmed by first class mail, to the Holders at the addresses shown on the registration books maintained by the Trustee. If the

Borrower fails to deliver such notice within 15 days after the acceptance of appointment by the successor Tender Agent, the Trustee shall cause such notice to be delivered to such Holders within 30 days of such acceptance at the expense of the Borrower.

(e) Any Person into which the Tender Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any Person to which the Tender Agent may sell or transfer all or substantially all of its trust or trust-related business, provided such Person shall be eligible under Section 3.07, shall be the successor to such Tender Agent, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. Upon any such merger, consolidation or sale, the successor Tender Agent shall notify the Borrower, the Bank, if applicable, each Remarketing Agent, and the Trustee and, thereafter, shall deliver to the registered owners of all Outstanding Bonds at the addresses appearing on the registration books maintained by the Trustee notice of the succession of such Tender Agent to the duties of the Tender Agent hereunder.

Section 3.08 Purchase of Bonds by Tender Agent.

(a) The Tender Agent shall establish a special trust fund to be designated the Purchase Fund; and, within such Purchase Fund, the Tender Agent shall establish two separate accounts to be designated the Remarketing Account and the Undelivered Bond Payment Account. Only the Tender Agent shall have any right of withdrawal from the Purchase Fund with respect to the Bonds; and such Purchase Fund and such right of withdrawal shall be for the sole and exclusive benefit of the Holders of the Bonds subject to purchase on a Purchase Date; and the Borrower shall have no legal, beneficial or equitable interest in such Purchase Fund. Amounts on deposit in the Purchase Fund shall be held uninvested and without bearing interest. Amounts in the Purchase Fund shall not be commingled with amounts in the purchase funds for any other series of bond of the Issuer; and amounts in a particular account of the Purchase Fund shall not be commingled with amounts in any other account of such Purchase Fund. Any moneys received by the Tender Agent by reason of the remarketing by the Remarketing Agent with respect to the Bonds subject to purchase on a Purchase Date shall be deposited by the Tender Agent in the Remarketing Account of the Purchase Fund and applied by the Tender Agent in accordance with Section 3.08(d) and Section 3.08(e). Any moneys received by the Tender Agent representing amounts paid by the Borrower for the purchase of Bonds subject to purchase on a Purchase Date shall be deposited by the Tender Agent in the Purchase Fund and applied by the Tender Agent in accordance with Section 3.08(d) and Section 3.08(e). Moneys shall be transferred to the Undelivered Bond Payment Account within the Purchase Fund from the other accounts of such Purchase Fund, in accordance with Section 3.08(d); and moneys shall be applied from the Undelivered Bond Payment Account within a Purchase Fund in accordance with Section 3.08(e).

Simultaneously with the giving (pursuant to Section 3.09(f)) of notice of any mandatory tender of Bonds pursuant to Section 3.09, the Trustee shall give notice by telephone or Electronic Notice, promptly confirmed by a written notice, to the Tender Agent, the Remarketing Agent, and the Borrower specifying the applicable Purchase Date, the aggregate principal amount and Purchase Price of Bonds subject to mandatory tender on such Purchase Date, and the portion, if

any, of such Purchase Price representing accrued and unpaid interest on such Bonds to such Purchase Date.

(b) Not later than Noon, New York City time, on each Purchase Date, the Tender Agent shall determine the amount, if any, by which the Purchase Price of the Bonds to be purchased on such Purchase Date exceeds the amount of the proceeds of the remarketing of such Bonds by the Remarketing Agent for the Bonds on deposit in the Remarketing Account of the Purchase Fund at such time; and

(1) (A) Not later than 12:30 p.m., New York City time, on such Purchase Date, the Tender Agent shall notify the Borrower that the amount of such excess is the amount payable by the Borrower to the Tender Agent not later than 2:30 p.m., New York City time, on such Purchase Date for purposes of causing the Tender Agent to purchase, on behalf of the Borrower, Bonds having a Purchase Price equal to such excess (and, thereby, for the Tender Agent to have sufficient funds to pay the Purchase Price of all Bonds subject to purchase on such Purchase Date), and (B) not later than 2:30 p.m., New York City time, on such Purchase Date, the Tender Agent shall deposit the amount received by the Tender Agent from the Borrower for such purpose in the Purchase Fund.

(c) Not later than 3:00 p.m., New York City time, on each Purchase Date, the Tender Agent shall disburse the Purchase Price of Bonds to be purchased on such Purchase Date to the Holders thereof (upon surrender thereof for payment of such Purchase Price), from the following sources and in the following order of priority:

(1) Moneys on deposit in the Remarketing Account of the Purchase Fund (representing the proceeds of the remarketing by the Remarketing Agent with respect to the Bonds); and

(2) Moneys on deposit in the Purchase Fund (representing amounts paid by the Borrower to the Tender Agent for the purchase of such Bonds).

(d) Any moneys remaining in the Remarketing Account or the Purchase Fund and representing (but not exceeding) the Purchase Price of Bonds subject to purchase on the applicable Purchase Date but not tendered and delivered for purchase on the applicable Purchase Date (following the payments from such Purchase Fund described in Section 3.08(c)), shall be transferred by the Tender Agent to the Undelivered Bond Payment Account of such Purchase Fund not later than 3:30 p.m., New York City time, on the applicable Purchase Date (and retained therein, subject to Section 3.08, for application in accordance with Section 3.08(e)). Any moneys remaining in the Remarketing Account, and the Purchase Fund on the applicable Purchase Date (after the payments from such Purchase Fund described in Section 3.08(c) and the transfer described in the preceding sentence of this Section 3.08(d)) shall be wire transferred by the Tender Agent, in immediately available funds, prior to the close of business on such Purchase Date, to the Remarketing Agent, and the Borrower, respectively.

(e) Moneys transferred to the Undelivered Bond Payment Account of the Purchase Fund on any Purchase Date shall be applied, on or after such Purchase Date, by the

Tender Agent to pay the Purchase Price of Undelivered Bonds in respect of which they were so transferred, upon the surrender of such Bonds to the Tender Agent for such purpose.

(f) Subject only to the provisions of this Section 3.08 permitting the application thereof for the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the Purchase Price of the Bonds tendered and/or deemed tendered for purchase in accordance with this Indenture all the amounts held in the Purchase Fund (and the accounts therein). Said pledge shall constitute a lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after delivery by the Trustee of the Bonds, without any physical delivery thereof or further act.

(g) The Issuer hereby transfers in trust, grants a security interest in and assigns to the Tender Agent, for the benefit of the Holders of the Bonds, as security for the payment of the Purchase Price of Bonds tendered and/or deemed tendered for purchase in accordance with this Indenture, all of the amounts held in the Purchase Fund (and the accounts therein).

Section 3.09 Mandatory and Optional Purchase of Bonds.

(a) Bonds shall be subject to mandatory tender for purchase by the Tender Agent at the Purchase Price on the following Purchase Dates with respect to the Bonds:

(1) Each Bank Purchase Date;

(2) Each Conversion Date for the Bonds (unless such Conversion Date is already a Purchase Date, in which case no separate mandatory tender by operation of this Section 3.09 shall occur);

(3) Each Long-Term Rate Mandatory Purchase Date for such Bonds; and

(4) Upon the 5th Business Day prior to the expiration or termination of the Letter of Credit if the Trustee has not received evidence as required by Sections 7.01 and 7.02 of this Indenture by the 30th day preceding the scheduled Letter of Credit expiration or termination date of either an extension of the then existing Letter of Credit or the issuance of an Alternate Letter of Credit meeting the requirements therefor set forth in this Indenture.

(b) Bonds shall be subject to optional tender for purchase by the Tender Agent at the Purchase Price on the following Purchase Dates with respect to the Bonds:

(1) Bonds accruing interest at a Daily Rate may be tendered for purchase at the purchase price payable in immediately available funds on any Business Day upon Electronic Notice of tender given to the Tender Agent not later than 10:15 a.m., New York City Time, on the purchase date.

(2) Bonds accruing interest at a Weekly Rate may be tendered for purchase at the purchase price payable in immediately available funds on any

Business Day upon Electronic Notice of tender given to the Tender Agent not later than 5:00 p.m., New York City Time, on a Business Day not fewer than 7 days prior to the purchase date.

(c) Bonds to be purchased pursuant to Section 3.09 shall be delivered by the Holders thereof to the Tender Agent (together with necessary assignments and endorsements) at or prior to 1:00 p.m. New York City time on the applicable Purchase Date.

(d) Any Bonds to be purchased by the Tender Agent pursuant to this Section 3.09 that are not delivered for purchase on or prior to the Purchase Date, for which there has been irrevocably deposited in trust with the Trustee or the Tender Agent an amount sufficient to pay the Purchase Price of such Bonds, shall be deemed to have been tendered to the Tender Agent for purchase, and the Holders of such Bonds shall not be entitled to any payment (including any interest to accrue on or after the Purchase Date) other than the respective Purchase Prices of such Bonds, and such Bonds shall not be entitled to any benefits of this Indenture, except for payment of such Purchase Price out of the moneys deposited for such payment as aforesaid, subject, however, to the defeasance provisions under this Indenture.

(e) In addition to any other requirements set forth in this Indenture, notices of mandatory tender of Bonds delivered to Holders shall:

(1) Specify the proposed Purchase Date and the event which gives rise to the proposed Purchase Date;

(2) State that the Bonds shall be subject to mandatory tender for purchase on such date;

(3) State that Holders may not elect to retain Bonds subject to mandatory tender;

(4) State that all Bonds subject to mandatory tender shall be required to be delivered to the Principal Corporate Trust Office of the Tender Agent at or before 1:00 p.m., New York City time, on the Purchase Date;

(5) State that if the Holder of any Bond subject to mandatory tender fails to deliver such Bond to the Tender Agent for purchase on the Purchase Date, and if the Tender Agent is in receipt of funds sufficient to pay the Purchase Price thereof, such Bond (or portion thereof) shall nevertheless be deemed purchased on the Purchase Date and ownership of such Bond (or portion thereof) shall be transferred to the purchaser thereof;

(6) State that any Holder that fails to deliver any Bond for purchase shall have no further rights thereunder or under this Indenture except the right to receive the Purchase Price thereof upon presentation and surrender of said Bond to the Tender Agent and that the Trustee will place a stop transfer against the Bonds subject to mandatory tender registered in the name of such Holder(s) on the registration books;

(7) State that provided that moneys sufficient to effect such purchase shall have been provided through (A) the remarketing of the Bonds by the Remarketing Agent, or (B) funds provided by the Borrower (if applicable), all such Bonds shall be purchased; and

(8) In the case of mandatory tender upon any proposed conversion of the Bonds, state that such conversion and such mandatory tender will not occur by reason of the occurrence of certain events specified in Section 2.03(d) or Section 2.04, as applicable (and summarize such events).

(f) Notice of mandatory tender of the Bonds by reason of a proposed Conversion Date shall be given in accordance with Section 2.03(d) or Section 2.04, as applicable. Notice of mandatory tender of the Bonds by reason of other events described in Section 3.09 shall be given by the Trustee (1) to the Holders of the Bonds subject to mandatory tender (at their addresses as they appear on the registration books of the Trustee as of the date of such notice) by Electronic Notice, confirmed by first class mail, and (2) to the Borrower, the Remarketing Agent, the Tender Agent, and the Calculation Agent, if any, by Electronic Notice not fewer than 10 days prior to the applicable Purchase Date.

(g) If, following the giving of notice of mandatory tender of Bonds pursuant to Section 3.09(e), an event occurs which, in accordance with the terms of this Indenture causes such mandatory tender not to occur, then (i) the Trustee shall so notify the Holders of such Bonds (at their addresses as they appear on the registration books of the Trustee on the date of such notice), by Electronic Notice, confirmed by first class mail, as soon as may be practicable after the applicable Purchase Date, and (ii) the Tender Agent shall return to their Holders any such Bonds tendered to the Tender Agent in connection with such mandatory tender of such Bonds.

Section 3.10 Insufficient Funds for the Payment of Purchase Price.

(a) If the funds available for the purchase of Bonds subject to purchase on a Purchase Date are insufficient to purchase all of the Bonds subject to purchase on such Purchase Date (including Undelivered Bonds), then no purchase of any Bonds shall occur on such Purchase Date and, on such Purchase Date, the Tender Agent shall (i) return all of such Bonds that were tendered to the Holders thereof, (ii) return all moneys received by the Tender Agent for the purchase of such Bonds to the respective Persons that provided such moneys (in the respective amounts in which such moneys were so provided), and (iii) notify the Trustee of the foregoing.

(b) The failure to purchase Bonds on a Purchase Date shall constitute an Event of Default.

(c) If Bonds are not purchased when required pursuant to Section 3.09(a)(1) or (3), such Bonds shall bear interest at the Default Rate from such Purchase Date until such date that all of such Bonds have been remarketed or redeemed in full.

Section 3.11 The Remarketing Agents.

(a) One or more Remarketing Agents may be appointed with respect to the Bonds from time to time by the Borrower. Each Remarketing Agent appointed with respect to the Bonds in accordance with this Indenture shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it as described herein by a written instrument of acceptance delivered to the Borrower and the Trustee, or by executing and delivering a Remarketing Agreement, in either case under which such Remarketing Agent (subject to Section 3.11) will agree, particularly:

(1) To hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the exclusive benefit of the Person or Persons that shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such Person or Persons;

(2) To keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Borrower and the Trustee at all reasonable times;

(3) To determine the Long-Term Rates, Daily Rates and Weekly Rates with respect to the Bonds and give notice of such rates or spread, as applicable in accordance with Article II;

(4) To offer for sale and use its best efforts to find purchasers for the Bonds tendered for purchase, any such sale to be made at a price equal to 100% of the principal amount thereof plus accrued interest to the Purchase Date, in accordance with the terms of this Indenture;

(5) To deliver to the Tender Agent all Bonds held by it in accordance with the terms of this Indenture and the Remarketing Agreement; and

(6) To perform such other duties and responsibilities (including, without limitation, with respect to Bank Bonds) as are provided in this Indenture to be performed by the Remarketing Agent.

(b) One or more firms may serve as co-Remarketing Agents hereunder provided that each co-Remarketing Agent satisfies the requirements of Section 3.12. If co-Remarketing Agents have been appointed and are performing the duties of Remarketing Agent hereunder, all references herein to the Remarketing Agent shall be deemed to refer to all the Remarketing Agents acting jointly; provided that the Remarketing Agreement may provide that one firm may perform certain specified duties hereunder in its sole capacity.

(c) In the event that the Remarketing Agent shall be dissolved, or if the property or affairs of such Remarketing Agent shall be taken under control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, the office of the Remarketing Agent is (or is deemed by the Trustee to be) vacant, and the Borrower shall not have appointed a successor as such Remarketing Agent, the Bank shall ipso facto be deemed to be the Remarketing Agent for all purposes of this Indenture until the appointment by the Borrower of a successor to such Remarketing Agent; provided, however, that the Bank, in its

capacity as such Remarketing Agent, shall not be required to remarket such Bonds or determine the interest rate on such Bonds hereunder.

(d) Each Remarketing Agent may in good faith hold any Bonds or any other form of indebtedness issued by the Issuer; own, accept or negotiate any drafts, bills of exchange, acceptances or obligations thereof; and make disbursements therefor and enter into any commercial or business arrangement therewith; all without any liability on the part of such Remarketing Agent for any real or apparent conflict of interest by reason of any such actions.

Section 3.12 Qualifications of Remarketing Agent. Each Remarketing Agent shall be authorized by law to perform all the duties imposed upon it hereunder. The Remarketing Agent may at any time resign and be discharged of the duties and obligations of the Remarketing Agent described in this Indenture by giving at least 30 days' notice to the Borrower, the Trustee, the Tender Agent, and the Rating Agencies. The Remarketing Agent may be removed at any time upon written notice by the Borrower to such Remarketing Agent, the Tender Agent, the Trustee, and the Rating Agencies.

Section 3.13 Sale of Bonds by Remarketing Agent.

(a) Upon the receipt by the Remarketing Agent notice of mandatory tender of Bonds pursuant to Section 3.09(f), such Remarketing Agent shall offer for sale and use its best efforts subject to the terms of the Remarketing Agreement to solicit purchases of Bonds subject to purchase on the applicable Purchase Date at a price equal to the Purchase Price.

(b) The Remarketing Agent shall direct that the proceeds of all purchases of Bonds solicited and arranged by such Remarketing Agent be paid to the Tender Agent (for deposit in the Remarketing Account of the Purchase Fund), at or prior to Noon, New York City time, on the applicable Purchase Date, in immediately available funds (and, promptly upon receipt thereof, the Tender Agent shall deposit such proceeds (against delivery of remarketed tendered Bonds to the Remarketing Agent) in the Remarketing Account of the Purchase Fund).

(c) At or prior to 4:30 p.m., New York City time, on the Business Day next preceding each Purchase Date with respect to the Bonds, the Remarketing Agent shall give notice by telephone (promptly confirmed by Electronic Notice) to the Tender Agent specifying: (1) the aggregate principal amount and Purchase Price of Bonds subject to purchase on such Purchase Date for which such Remarketing Agent has received indications of interest from prospective purchasers, and (2) the aggregate principal amount and Purchase Price of Bonds subject to purchase on such Purchase Date for which such Remarketing Agent has not received indications of interest from prospective purchasers.

(d) The Remarketing Agent shall offer for sale and use its best efforts to arrange for the sale and remarketing of all Bonds subject to purchase on a Purchase Date that are purchased with moneys provided by the Borrower to the Tender Agent for such purpose (as described in Section 3.08(b).

Section 3.14 Delivery of Bonds.

(a) Upon application of the moneys described in Section 3.13(b) to the purchase of Bonds on a Purchase Date pursuant to Section 3.08(c)(1) (and/or to the transfer thereof to the Undelivered Bond Payment Account of the Purchase Fund on a Purchase Date pursuant to Section 3.08(d)), the Tender Agent shall cause the Trustee to register the transfer of Bonds purchased therewith in the names of the purchasers thereof in accordance with information provided by the Remarketing Agent for such purpose and to have such transferred Bonds available for delivery against payment therefor.

(b) Upon the application of moneys described in Section 3.08(b)(1) to the purchase of Bonds on a Purchase Date pursuant to Section 3.08(c)(2) (and/or to the transfer thereof to the Undelivered Bond Payment Account of the Purchase Fund on a Purchase Date pursuant to Section 3.08(d)), the Bonds purchased (or, in the case of such transfer, provided to be purchased) with such moneys shall be registered in the name of the Borrower and shall, at the direction of the Borrower, be delivered to the Trustee for cancellation (and canceled by the Trustee) or delivered to the Tender Agent for the account of the Borrower and remarketed in accordance with Section 3.13.

(End of Article III)

ARTICLE IV

GENERAL COVENANTS

Section 4.01 Payment of Principal and Premium, if any, and Interest. Issuer covenants that it will promptly pay the principal of and premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof, but solely from the payments and other amounts pledged therefor under the Agreement which are from time to time held by Trustee in the Bond Fund or any other Fund created by this Indenture. The principal of and premium, if any, and interest on the Bonds are payable solely from payments and other amounts derived from the Agreement and said payments are secured as provided herein and in the Agreement, which payments and other amounts are hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or in this Indenture shall be construed as pledging any other funds or assets of Issuer. Neither the State of Florida nor Issuer nor any political subdivision of the State of Florida shall in any event be liable for the payment of the principal of and premium, if any, or interest on any of the Bonds except to the extent that payments and moneys pledged herein are sufficient therefor. Neither the members of the Issuer nor any official executing the Bonds shall be personally liable for the payment of the principal, premium, if any, or interest on the Bonds.

Section 4.02 Performance of Covenants; Issuer. Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture and in the Agreement, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining hereto. Issuer covenants that it is duly authorized under the Constitution and laws of the State of Florida, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this Indenture to secure the property described herein, to assign the Agreement and to pledge the payments under the Agreement and other amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken.

Except for the matters set forth in Section 4.01 hereof, Issuer shall not be obligated to take any action or execute any instrument until it shall have been requested to do so by Borrower or Trustee, and at Issuer's option has received from Borrower reimbursement for Issuer's expenses incurred or to be incurred in connection with such request. Issuer may require that a satisfactory indemnity bond be furnished by Borrower to Issuer for reimbursement of all expenses to which it may be put and to protect it against all liability in connection with the execution of any instrument or any other action requested by Borrower or Trustee.

Section 4.03 Right to Payments under Agreement. Issuer covenants that it will defend its right to the payment of amounts due from Borrower under the Agreement to Trustee, for the benefit of the holders and owners of the Bonds against the claims and demands of all persons whomsoever.

Section 4.04 Instruments of Further Assurance. Issuer will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures

supplemental hereto and such further acts, instruments and transfers as Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto Trustee all and singular the rights in property pledged and assigned hereby to the payment of the principal of and premium, if any, and interest on the Bonds. Issuer, except as herein and in the Agreement provided, will not sell, convey, mortgage, encumber or otherwise dispose of the payments pursuant to the Agreement or any part thereof, together with any additions thereto and substitutions therefor.

Section 4.05 Recording and Filing. There will not be an initial filing of this Indenture. Trustee covenants that, to the extent it receives an opinion of Counsel that it is necessary in order to preserve and protect fully the security of the holders and owners of the Bonds and the rights of Trustee hereunder, it will file continuation statements with respect to each UCC financing statement relating to the trust estate filed by the Issuer; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the Issuer that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Issuer shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the trustee in the preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses. These fees shall be considered "extraordinary services" fees. The Trustee shall not be responsible for filing or for the sufficiency or accuracy of any financing statements initially filed to perfect security interests granted under this Indenture. The Trustee will file continuation statements for recordings filed; provided a copy of any such recording is given to the Trustee. Trustee may rely on an opinion of Counsel with respect to actions necessary under this Section. Any documents required to be filed hereunder shall be prepared by the Counsel providing such opinion and the Trustee has no duty or obligation to confirm the sufficiency of such documents. The costs associated with such opinion, documentation and filing shall be borne by the Borrower.

Section 4.06 Inspection of Books. All books and records in Issuer's possession relating to the Project and the payments and amounts derived pursuant to the Agreement shall at all reasonable times be open to inspection by such accountants or other agencies as Trustee may from time to time designate.

Section 4.07 List of Bondholders. Trustee will keep on file a list of names and addresses of all holders of Bonds. Such list shall include the principal amount of Bonds held by such holders and the numbers of such Bonds. At reasonable times and under reasonable regulations established by Trustee, said list may be inspected and copied by Borrower or by holders or owners (or a designated representative thereof) of five percent (5%) or more in principal amount of Bonds then outstanding, such possession or ownership and the authority of such designated representative to be evidenced to the satisfaction of Trustee.

Section 4.08 Rights Under Agreement. The Agreement, a duly executed counterpart of which has been filed with Trustee, sets forth the covenants and obligations of Issuer and Borrower, including provisions that subsequent to the issuance of Bonds and prior to their

payment in full or provision for payment thereof in accordance with the provisions hereof, the Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of Trustee, and reference is hereby made to the Agreement for a detailed statement of said covenants and obligations of Borrower thereunder, and Issuer agrees that Trustee in its name or in the name of Issuer, without further consent of Issuer, may enforce all rights of Issuer and all obligations of Borrower under and pursuant to the Agreement for and on behalf of the Bondholders, whether or not Issuer is in default hereunder. Nothing herein contained shall be construed to prevent Issuer from enforcing directly any or all of its rights under the Agreement for indemnification or payment of expenses under Sections 5.3(b), 8.2 and 9.5 of the Agreement, incurred in connection with this matter.

(End of Article IV)

ARTICLE V

REVENUES AND FUNDS

Section 5.01 Source of Payment of Bonds. The Bonds herein authorized and all payments by Issuer hereunder are not general obligations of Issuer but are limited special obligations payable solely from Loan Payments and other amounts derived from the Agreement or assigned or pledged hereunder or otherwise from security assigned or pledged hereunder, and as authorized by the Act. The Bonds shall never constitute an indebtedness of Issuer within the meaning of any constitutional provision or statutory limitation and shall not constitute nor give rise to a pecuniary liability of Issuer or a charge against its general credit.

The payments provided in Section 5.2 of the Agreement are to be remitted directly to Trustee for the account of Issuer and deposited in the Bond Fund. Such payments are intended to be sufficient in amount to insure the prompt payment of the principal of and premium, if any, and interest on the Bonds, and are assigned to the payment of such principal, premium and interest. Notwithstanding the foregoing, any payments transferred by Borrower directly to the Bank as permitted under Section 2.02 hereof shall not be required to be collected and received by the Trustee and the Trustee shall have no duty to collect and receive such payments.

Section 5.02 Creation of Bond Fund. There is hereby created by Issuer and ordered established and maintained as a separate account with Trustee a trust fund to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Fund (Palmer College of Chiropractic Project)" (herein called the "Bond Fund"), which shall be used to pay the principal of and premium, if any, and interest on the Bonds. Amounts on deposit in the Bond Fund shall be used in accordance with and subject to the terms of this Indenture for the payment of the principal of and interest on the Bonds, whether at maturity or upon proceedings for redemption or upon acceleration. There shall be created an account within the Bond Fund called the "*Letter of Credit Account.*"

Section 5.03 Payments into Bond Fund. There shall be deposited into the Bond Fund, as and when received, (a) all payments specified in Section 5.2 of the Agreement, and (b) all other moneys received by Trustee under and pursuant to any of the provisions of the Agreement or this Indenture which are required or which are accompanied by directions that such moneys are to be paid into the Bond Fund. Issuer covenants and agrees that, should there be a default under the Agreement, Issuer shall fully cooperate with Trustee and with the Bondholders to fully protect the rights and security of the Bondholders and shall diligently proceed in good faith and use its best efforts so that at all times sufficient amounts will be available to promptly meet and pay the principal of and premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein shall be construed as requiring Issuer to use any of its own funds or revenues to fulfill its obligations hereunder.

Section 5.04 Use of Moneys in Bond Fund. So long as a Letter of Credit is in effect, the Trustee, prior to each Interest Payment Date and each date on which principal is due and payable on the Bonds (whether at maturity or upon proceedings for redemption pursuant to Section 3.01(a), (b) or (c) hereof, or by acceleration), shall draw on the Letter of Credit an amount which shall be sufficient for the purpose of paying the principal of, and premium, if any

(if the Letter of Credit then covers premium) and interest due and payable on the Bonds (other than Pledged Bonds and Borrower Bonds) on such payment date. Such drawing shall be made in a timely manner under the terms of the Letter of Credit, but not later than the times specified in the Letter of Credit, in order that the Trustee may realize funds thereunder in sufficient time to pay Owners on the payment date as provided herein. So long as the Letter of Credit is in force, the Trustee shall deposit all moneys received pursuant to each draw on the Letter of Credit in the Letter of Credit Account in the Bond Fund and shall apply such moneys to the payment of the principal of and interest on or redemption price of Bonds as provided in this Section. Funds held in the Letter of Credit Account of the Bond Fund shall not be invested.

If no Letter of Credit is then in effect, on each Interest Payment Date and each date on which principal is due and payable on the Bonds (whether at maturity or upon proceedings for redemption pursuant to Section 3.01(a), (b) or (c) hereof, or by acceleration), the Trustee shall receive from the Borrower pursuant to Section 5.2 of the Agreement the full amount of principal of, and premium, if any, and interest due on, the Bonds on that date, unless a notice has been executed under Section 2.02 directing the payment to be made directly to the Bank.

The Trustee is authorized and directed to withdraw sufficient funds from the Letter of Credit Account in the Bond Fund to pay principal of, redemption premium, if any, and interest on the Bonds as the same become due and payable at maturity or upon redemption and to make said funds so withdrawn available to any Paying Agent for the purpose of paying said principal, redemption premium, if any, and interest. On the same Business Day on which moneys are disbursed from the Bond Fund pursuant to the preceding sentence, if moneys then remain in the Bond Fund in excess of amounts required for the payment of Bondholders, such moneys shall be disbursed to the Credit Bank to the extent amounts are then owed to the Credit Bank pursuant to the Credit Agreement. The Trustee may rely on a certificate from the Credit Bank that certifies the amounts so owed at any time. In the event of a default under the Letter of Credit, or at such time as no Letter of Credit secures the Bonds, the Trustee shall use all moneys then on deposit in the Bond Fund, to pay principal of, and premium, if any, and interest on, the Bonds.

To the extent that any interest due and payable on the Bonds on any Interest Payment Date or any other date on which principal is due and payable (whether at maturity or upon proceedings for redemption, or by acceleration), cannot be determined by the Trustee as of the time the draw must be submitted to the Credit Bank under the terms of the Letter of Credit, the Trustee shall draw moneys under the Letter of Credit in an amount sufficient to pay such interest as if the Maximum Rate was in effect for the period for which the interest rate cannot be determined.

The Trustee, upon the written instructions from the Issuer given pursuant to written direction of the Borrower accompanied by the written consent of the Credit Bank, shall use excess moneys in the Bond Fund to redeem all or part of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption and redemption premium, if any, on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Borrower, in accordance with the provisions of Article III hereof, so long as the Borrower is not in default with respect to any payments under the Loan Agreement and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption. The Borrower may cause such

excess moneys in the Bond Fund or such part thereof or other moneys provided by the Borrower, as the Borrower may direct, to be applied by the Trustee on a best efforts basis and to the extent practical for the purchase of Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof plus accrued interest thereon to the date of such purchase.

After payment in full of the principal of, redemption premium, if any, and interest on the Bonds (or after provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, Tender Agent, any Paying Agents and the Issuer, and any other amounts required to be paid under this Indenture and the Agreement, all amounts remaining in the Bond Fund shall be paid to the Borrower upon the expiration or sooner termination of the Agreement. Any moneys deposited in the Bond Fund, from whatever source, shall be used for the purposes described herein within a thirteen (13) month period beginning on the date of deposit. Any amounts received from investment of moneys held in the Bond Fund shall be used for the purposes described herein within a twelve (12) month period beginning on the date of receipt. The Bond Fund shall be depleted at least once a year, except for a reasonable carryover amount not exceeding the greater of (a) one year's earnings on the Bond Fund, or (b) one-twelfth of the annual debt service on the Bonds.

Section 5.05 Custody of Moneys in Bond Fund. The Bond Fund shall be in the custody of Trustee but in the name of Issuer, and Issuer hereby authorizes and directs Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and premium, if any, and interest on the Bonds as the same become due and payable, which authorization and direction Trustee hereby accepts.

Section 5.06 Establishment of Cost of Issuance Fund. There is hereby created by Issuer and ordered established and maintained as a separate account with Trustee a fund to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Cost of Issuance Fund (Palmer College of Chiropractic Project)" (herein called the "Cost of Issuance Fund"), which shall be expended in accordance with the provisions of the Agreement and this Indenture.

Section 5.07 Payments into the Cost of Issuance Fund; Disbursements. Amounts in the Cost of Issuance Fund shall be disbursed by the Trustee in accordance with instructions to the Trustee from the Borrower for the payment of costs of issuance of the Bonds. Trustee is hereby authorized and directed to make each disbursement required by Borrower and to issue its checks therefor. Trustee shall keep and maintain adequate records pertaining to the Cost of Issuance Fund and the disbursements therefrom, and file an account thereof with the Issuer and Borrower upon request. Any balance remaining in the Cost of Issuance Fund on December 1, 2019 shall be deposited in the Bond Fund.

Section 5.08 Non-presentment of Bonds. In the event any Bond shall not be presented for payment (if so required pursuant to the terms hereof) when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to Trustee for the benefit of the holder or holders thereof, all liability of Issuer to the holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be

the duty of Trustee to hold such funds, without liability for interest thereon, for the benefit of the holder of such Bond who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond. Any monies deposited with the Trustee that remains unclaimed shall be transferred to the appropriate governmental authorities upon the expiration of the escheat period in accordance with the escheat laws applicable to each of the holders of such Bonds.

Section 5.09 Moneys to be Held in Trust. All moneys required to be deposited with or paid to Trustee for account to any fund referred to in any provision of this Indenture or the Agreement shall be held by Trustee in trust, and except for moneys deposited with or paid to Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, shall, while held by Trustee, constitute part of the Trust Estate and be subject to the lien or security interest created hereby.

Section 5.10 Repayment to Borrower from Bond Fund. Any amounts remaining in the Bond Fund after payment in full of the principal of and premium, if any, and interest on the Bonds, the fees, charges and expenses of Trustee, and all other amounts required to be paid hereunder shall be paid to Borrower upon the expiration or sooner termination of the term of the Agreement as provided in Section 11.1 of the Agreement.

Section 5.11 Custody of Separate Trust Funds. Trustee is authorized and directed to hold all Net Proceeds from any insurance proceeds or condemnation awards and disburse such proceeds in accordance with Article VI of the Agreement. If Borrower directs that any portion of such Net Proceeds be applied to redeem Bonds, Issuer covenants and agrees to take and cause to be taken the necessary steps to redeem on the next succeeding redemption date the amount of Bonds so specified by Borrower.

Section 5.12 Additional Payments Under the Agreement. Pursuant to Section 5.3 of the Agreement, Borrower has agreed to pay the fees and expenses of Trustee and any paying agent and fees and expenses of the Issuer relating to the Bonds and has agreed to make payments for the purchase of Bonds tendered under Article III hereof. All such payments received by Trustee pursuant to Section 5.3 of the Agreement shall not be paid into the Bond Fund but shall be disbursed by Trustee solely for the purposes for which such payments are received.

Section 5.13 Establishment of Rebate Fund. There is hereby created by Issuer and ordered established and maintained as a separate account with Trustee a fund to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Rebate Fund (Palmer College of Chiropractic Project)" (herein called the "Rebate Fund"), which shall be held separate and apart from all other funds and accounts established under this Indenture and from all other moneys of the Trustee. There shall be deposited into the Rebate Fund such amounts as are required to be deposited therein pursuant to, in accordance with, and at the times stated in the Agreement. The Trustee shall remit to the United States of America at the times and in the amounts set forth in written instructions from the Borrower, sums accumulated in the Rebate Fund, plus any interest earnings attributable to such amounts.

All amounts in the Rebate Fund including income earned from investment of the Rebate Fund, shall be held by the Trustee free and clear of the lien of this Indenture, and shall be disbursed in accordance with written instructions from the Borrower.

The Trustee shall not be responsible for any determination or calculation concerning arbitrage rebate with respect to the Bonds, or for determining whether the yield on any investments made in accordance with the Indenture would cause, or whether any other facts exist which would cause, any of the Bonds to become arbitrage bonds under Section 148 of the Code.

(End of Article V)

ARTICLE VI

INVESTMENT OF MONEYS

Except as otherwise provided herein, any moneys held as part of the Bond Fund or any other fund shall be invested and reinvested by Trustee as directed by the Borrower in accordance with the provisions of Section 4.3 of the Agreement. Any such investments shall be held by or under the control of or in the name of the Trustee. The Trustee shall be entitled to rely upon any written investment direction provided to it by the Borrower as required under Section 4.3 of the Agreement as a certification to the Trustee that such investments constitute Qualified Investments. The Trustee shall have no responsibility whatsoever to determine whether any investments made pursuant to such direction of the Borrower are or continue to be Qualified Investments. In the absence of written investment directions from the Borrower, the Trustee shall hold such funds uninvested in cash, without liability for interest. Trustee shall not commingle moneys from the Bond Fund with moneys from any other fund under this Indenture. Any money invested in respect of a particular fund shall be deemed at all times a part of the fund for which such investment was made and the interest accruing thereon and any profit realized or loss resulting from such investment shall be credited or charged against the fund for which such investment was made. Trustee shall not be required to risk or expend its own funds, nor be responsible for any loss, tax, fee, or other charge which is the result of an investment. Trustee shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in the Bond Fund is insufficient to pay the principal of and premium, if any, and interest on the Bonds when due. Issuer covenants and certifies to and for the benefit of the purchasers of the Bonds not to take any action to cause the Bonds to be classified as arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code.

By its execution of the Agreement the Borrower acknowledges that regulations of the Comptroller of the Currency grant Borrower the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Borrower specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur. Notwithstanding the foregoing, to the extent the Trustee receives and invests amounts under this Indenture, the Trustee shall provide the Borrower with periodic cash transactions statements, or other statements, which shall include details for all investment transactions made by the Trustee hereunder.

The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Qualified Investments in such funds and accounts, or to credit to Qualified Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Issuer and the Borrower each acknowledge that the legal obligation to pay the purchase price of any Qualified Investments arises immediately at the time of the purchase. Notwithstanding anything else in this Indenture, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii)

nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

(End of Article VI)

ARTICLE VII

LETTER OF CREDIT

Section 7.01 Letter of Credit. On or before the Conversion Date upon which the Bonds shall bear interest at a Daily Rate or a Weekly Rate, as provided in the Agreement, the Borrower shall cause Credit Bank to issue and deliver to the Trustee the Letter of Credit, which will provide funds for the payment of the principal of and interest on the Bonds at the scheduled Interest Payment Dates, maturity dates, redemption dates or acceleration date thereof, and for the payment of the purchase price of Bonds that have been tendered for purchase and for which proceeds of remarketing have not been received. The Trustee shall hold the Letter of Credit for the benefit of the Owners of the Bonds until the Letter of Credit terminates in accordance with its terms. If at any time during the term of the Letter of Credit the Trustee resigns or is removed, and a successor Trustee is appointed and qualified under this Indenture, the resigning Trustee shall request that the Credit Bank transfer the Letter of Credit to the successor Trustee, and shall take all actions necessary to effect the transfer of the Letter of Credit to the successor Trustee. When the Letter of Credit terminates in accordance with its terms, the Trustee shall immediately surrender the Letter of Credit to the Credit Bank.

As provided in the Agreement, the Borrower shall cause the Letter of Credit to be continuously maintained in full force and effect (except when not required pursuant to this Article) while the Bonds bear interest at a Daily Rate or Weekly Rate, in an amount equal to the principal amount of the Outstanding Bonds plus the amount required for the amount of interest coverage required by each Rating Service at the Maximum Rate, until all of the Bonds have been paid in full or their payment provided for in accordance with Article VIII of this Indenture. The Borrower will exercise its best efforts to extend the term of the Letter of Credit currently in effect or to cause an Alternate Letter of Credit or commitment therefor to be delivered by the Credit Bank to the Trustee not less than 30 days prior to the termination date of the Letter of Credit then in effect pursuant to the provisions of this Article unless the Bonds are converted to a rate which is not the Daily Rate or the Weekly Rate.

The Trustee shall draw amounts under the Letter of Credit in accordance with the terms and conditions set forth therein at the times, in the manner and for the purposes set forth in this Indenture. The Issuer agrees that the Trustee in its name may enforce all rights of the Trustee and of the Issuer and all obligations of the Credit Bank (including the obligations of the Credit Bank to honor drafts duly presented in accordance with the terms and conditions of the Letter of Credit) under and pursuant to the Letter of Credit for the benefit of the Owners of the Bonds. All amounts drawn under the Letter of Credit shall be held by the Trustee in the Letter of Credit Account in the Bond Fund or the Tender Agent in the Bond Purchase Fund and used only for the purposes set forth herein. In no event shall any amounts drawn under the Letter of Credit be used for any purpose other than the payment of the principal of and interest on and purchase price of the Bonds. Anything in this Indenture to the contrary notwithstanding, amounts drawn under the Letter of Credit and deposited with the Trustee or the Tender Agent shall be invested only in Governmental Obligations maturing on an overnight basis or held uninvested.

Section 7.02 Alternate Letter of Credit. The Borrower may at any time, subject to any applicable provisions of the Credit Agreement, arrange for the substitution of an Alternate Letter

of Credit for an existing Letter of Credit, and the Trustee shall accept any Alternate Letter of Credit, subject to the following limitations:

(a) Each Alternate Letter of Credit shall be an irrevocable direct-pay letter of credit, bank bond purchase agreement, bond insurance policy, revolving credit agreement, surety bond or other agreement or instrument issued and delivered in substitution for an existing Letter of Credit, under which any person or entity (other than the Issuer or the Borrower) undertakes to make or provide funds to make payments of the principal of, premium, if any, and interest on the Bonds, as and when due, and payments of the purchase price of Bonds that have been tendered for purchase and for which proceeds of remarketing have not been received, and which meets the requirements and conditions of this Section.

(b) Each Alternate Letter of Credit, or a binding commitment to issue and deliver the Alternate Letter of Credit, must be delivered to the Trustee not less than 30 days prior to the date of expiration of the then existing Letter of Credit, must be effective as of a date on or prior to the date of expiration of the then existing Letter of Credit and shall expire no earlier than the Letter of Credit which it replaces.

(c) Each Alternate Letter of Credit shall be satisfactory in form and substance to the Trustee, and shall be in a stated amount at least equal to the sum of (1) the aggregate principal amount of Bonds at the time outstanding, plus (2) and the amount of interest coverage required by each Rating Service and premium, if any. Any Alternate Letter of Credit replacing an existing Letter of Credit that is expiring or scheduled to expire within one year shall have a term of at least one year and 15 days beginning on the expiration date of the Letter of Credit then in effect.

(d) The Borrower shall give written notice to the Issuer, the Trustee, the Tender Agent and each Rating Service not less than 60 days prior to the expiration or termination date of the Letter of Credit then in effect, specifying that the Borrower intends to replace the existing Letter of Credit with an Alternate Letter of Credit on or before the expiration of the Letter of Credit then in effect. Upon receipt of such notice, the Trustee shall promptly mail a notice of the anticipated delivery of the Alternate Letter of Credit by first-class mail to the Remarketing Agent and each Owner. A draft of each Alternate Letter of Credit and the related Credit Agreement and appropriate information concerning the issuer of such Alternate Letter of Credit shall be submitted to each Rating Service by the Borrower.

(e) The Borrower shall cause to be delivered to the Trustee not less than 30 days prior to the expiration or termination date of the existing Letter of Credit (1) the Alternate Letter of Credit or a commitment by the Credit Bank which will issue the Alternate Letter of Credit, and (2) written notice from each Rating Service stating that the substitution of such Alternate Letter of Credit will not result in a reduction or withdrawal of any rating then in effect on the Bonds. The Bonds shall be subject to mandatory tender as provided herein, if such written notice from any Rating Service indicates that the replacement of the current Letter of Credit with the proposed Alternate Letter of Credit will result in a withdrawal or reduction of the Rating Service's then current rating for the Bonds.

(f) When the Bonds are in a Daily or Weekly Rate Period, the Borrower shall exercise its best efforts to arrange for the delivery to the Trustee of an Alternate Letter of Credit to replace any Letter of Credit then in effect upon the expiration thereof prior to the end of any such rate period or upon the occurrence of any of the following events or circumstances:

(1) If the Credit Bank has rescinded, terminated or repudiated the Letter of Credit, or the Credit Bank or any governmental authority with jurisdiction over the Letter of Credit is challenging the validity of the Letter of Credit or if the Credit Bank is in default under the Letter of Credit.

(2) If the Credit Bank shall refuse to extend the stated termination date with respect to the current Letter of Credit then in effect, but the term of such Alternate Letter of Credit need not (but may) begin prior to the stated termination date of the current Letter of Credit then in effect. The Borrower shall not terminate the current Letter of Credit and Credit Agreement until the term of the Alternate Letter of Credit has begun.

(3) Receipt by the Trustee of written notice from the Credit Bank that an "event of default" as such term is defined in the Credit Agreement has occurred and is continuing under the Credit Agreement and a direction to purchase or redeem the Bonds.

(4) Failure of the Credit Bank to honor any drawing which strictly complies with the terms of the Letter of Credit.

(5) Receipt by the Trustee, within 10 Business Days following a drawing under the Letter of Credit to pay principal, premium, if any, and interest on the Bonds on the due date, or purchase price of Bonds tendered for purchase, of written notice from the Credit Bank that the Credit Bank has not been reimbursed for such drawing on the Letter of Credit and the amount for such drawing has not been reinstated; provided, however, that in such instance the existing Letter of Credit shall be drawn on to fund the mandatory tender under Section 3.07(f.) hereof.

(g) On or prior to the effective date of any Alternate Letter of Credit, the Borrower shall furnish to the Issuer and the Trustee (1) an opinion of counsel from counsel to the Credit Bank issuing such Alternate Letter of Credit to the effect that the Alternate Letter of Credit is a valid and binding obligation of such issuer or provider, enforceable in accordance with its terms, subject to customary exceptions relating to bankruptcy and insolvency, (2) an Opinion of Bond Counsel, which shall also be addressed and delivered to the Issuer, stating that the delivery of such Alternate Letter of Credit to the Trustee is authorized under this Indenture and complies with the terms hereof and does not adversely affect the tax-exempt status of the interest on the Bonds, and (3) written evidence from each Rating Service, to the effect that the Rating Service has reviewed the proposed Alternate Letter of Credit and that the substitution of the proposed Alternate Letter of Credit for the Letter of Credit will not result in a reduction or withdrawal of its rating of the Bonds that prevailed prior to the substitution of the Alternate Letter of Credit. The Bonds shall be subject to mandatory tender as provided herein, if such

written notice from any Rating Service indicates that the replacement of the current Letter of Credit with the proposed Alternate Letter of Credit will result in a withdrawal or reduction of the Rating Service's then current rating for the Bonds.

Section 7.03 Release of Letter of Credit. The Borrower may, with the prior written consent of the Credit Bank, at any time during a Daily Rate Period or a Weekly Rate Period, direct the Trustee to release an existing Letter of Credit and surrender such Letter of Credit to the Credit Bank, without substituting an Alternate Letter of Credit therefor. Upon any such direction, or upon payment of all outstanding principal and redemption premium, if any, of and interest on the Bonds, the Trustee shall release the Letter of Credit and surrender it to the Credit Bank; provided that the Trustee shall not release the Letter of Credit until all draws under the Letter of Credit have been honored. The Bonds shall be subject to mandatory tender pursuant to Section 3.09(a)(4) hereof on the 5th Business Day prior to any such release.

The Borrower shall notify the Trustee, the Tender Agent, each Rating Service and the Credit Bank of its intention to release the existing Letter of Credit at least 30 days prior to the date of such release. Upon receipt of such notice, the Trustee shall promptly mail a notice by first class mail of the anticipated release of the existing Letter of Credit to the Issuer, the Remarketing Agent and each Owner at the Owner's registered address.

Section 7.04 Surrender of Letter of Credit. If at any time an Alternate Letter of Credit is delivered to the Trustee, together with the other documents and opinions required by this Indenture, then the Trustee shall accept such Alternate Letter of Credit and concurrently with the acceptance thereof, the Trustee shall surrender the Letter of Credit previously in effect to the issuer thereof, in accordance with the terms thereof; provided that the Trustee shall not surrender any Letter of Credit until all draws under the Letter of Credit previously made have been honored. If at any time there shall cease to be any Bonds Outstanding under this Indenture, or if the Letter of Credit expires in accordance with the terms of such Letter of Credit, the Trustee shall surrender the Letter of Credit to the issuer thereof for cancellation. The Trustee shall comply with any procedures set forth in the Letter of Credit relating to the termination thereof.

Section 7.05 Rights of Credit Bank. As long as the Letter of Credit is in effect, no Event of Default described in Sections 9.01(h) of this Indenture has occurred and is continuing and the Credit Bank is not insolvent, the Credit Bank shall be deemed to be the Owner of all Bonds that are secured by the Letter of Credit, all Pledged Bonds and all Borrower Bonds for all purposes of this Article and following the occurrence of an Event of Default under the Indenture and for purposes of Article IX (except as provided in Sections 12.03 and 12.04). In any case herein where it is provided that an action can be taken with the consent of the Credit Bank, such action may not be taken without the consent of the Credit Bank unless otherwise provided.

If (i) an Event of Default shall occur and be continuing under the Indenture, or (ii) the Trustee shall draw under the Letter of Credit in connection with the redemption or mandatory tender in whole of the Bonds, and in either such case the Credit Bank shall have provided the Trustee with funds pursuant to the Letter of Credit for the payment in full of principal or redemption price, if any, of and the interest on the Bonds, then, and in such event, the Credit Bank shall be subrogated to all rights theretofore possessed under the Indenture by the Trustee and the Owners in respect of which such principal or redemption price, if any, and interest shall

have been paid with funds provided by the Credit Bank and not fully reimbursed to the Credit Bank. After the payment in full of all Bonds owned by the Owners, any reference herein to the holders of the Bonds or to the Owners shall mean the Credit Bank to the extent of those subrogation rights resulting from the payments made pursuant to the Letter of Credit.

Section 7.06 Limitation on Rights of the Credit Bank. Notwithstanding any provision of this Indenture or the Agreement to the contrary, no consent of or notice to the Credit Bank shall be required under any provision of this Indenture or the Agreement nor shall the Credit Bank have any right to receive notice of, consent to, direct or control any actions, restrictions, rights, remedies, waivers or acceleration pursuant to any provision of this Indenture or the Agreement during any time which:

(a) the Credit Bank has wrongfully failed to honor a properly presented draw made under and in compliance with the terms of the Letter of Credit which failure has not been cured;

(b) the Letter of Credit for any reason ceases to be valid and binding on the Credit Bank or is declared to be null and void, or the validity or enforceability of any provision of the Letter of Credit is denied by the Credit Bank or any governmental agency or authority, or the Credit Bank is denying further liability or obligation under the Letter of Credit, in all of the above cases contrary to the terms of the Letter of Credit;

(c) the Credit Bank has rescinded, repudiated or terminated the Letter of Credit;

(d) a petition has been filed and is pending against the Credit Bank under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and has not been dismissed within 30 Business Days after such filing;

(e) the Credit Bank has filed a petition, which is pending, under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or has consented to the filing of any petition against it under such law;

(f) the Credit Bank is dissolved or confiscated by action of government due to war or peace time emergency or the United States government declares a moratorium on the Credit Bank's activities; or

(g) the Letter of Credit is not in effect and no amounts are due and payable by the Borrower to the Credit Bank under the Credit Agreement.

This Section shall not in any way limit or affect the rights of the Credit Bank as a bond owner, as subrogee of a bond owner or as assignee of a bond owner or to otherwise be reimbursed and indemnified for its costs and expenses and other payment on or in connection with the Bonds or the Letter of Credit either by operation of law or at equity or by contract.

(End of Article VII)

ARTICLE VIII

DISCHARGE OF LIEN

If Issuer shall pay or cause to be paid, or there shall be otherwise paid or provisions for payment made to or for the holders and owners of the Bonds (including the Pledged Bonds and Unremarketed Bonds), the principal of and premium, if any, and interest due or to become due thereon at the times and in the manner stipulated therein, and if Issuer shall not then be in default in any of the other covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, and shall pay or cause to be paid to Trustee and any paying agents all sums of money due or to become due according to the provisions hereof, and if the Borrower shall pay or cause to be paid all amounts payable by the Borrower under the Continuing Covenant Agreement, then these presents and the Trust Estate and rights hereby granted shall cease, determine and be void, whereupon Trustee shall cancel and discharge the lien of this Indenture, and release, assign and deliver unto Issuer any and all instruments as shall be requisite to cancel and discharge the lien of this Indenture, and release, assign and deliver any and all of the Trust Estate, right, title and interest in and to any and all rights assigned to Trustee or otherwise subject to the lien of this Indenture, except amounts in the Bond Fund required to be paid to Borrower under Section 5.12 hereof and except moneys or securities held by Trustee for the payment of the principal of and premium, if any, and interest on the Bonds.

Any Bond shall be deemed to be paid within the meaning of this Article VIII and for all purposes of this Indenture when (a) payment of the principal of and the applicable redemption premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided by irrevocably depositing with Trustee, in trust, and Trustee shall have irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Governmental Obligations maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, the sufficiency of which money shall be verified by an independent certified public accountant selected by the Issuer, and (b) all necessary and proper fees, compensation and expenses of Trustee pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of it. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Governmental Obligations.

Notwithstanding the foregoing, no deposit under clause (a)(ii) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until: (a)(i) proper notice of redemption of such Bonds shall have been previously given in accordance with Article III of this Indenture, or in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, until Borrower shall have given Trustee on behalf of Issuer, in form satisfactory to Trustee, irrevocable instructions to notify, as soon as practicable, the holders or owners of the Bonds, in accordance with Article III hereof, that the deposit required by (a)(ii) above has been made with Trustee and that said Bonds are deemed to have been paid in accordance with this Article VIII and stating such maturity or redemption date upon

which moneys are to be available for the payment of the principal or redemption price, if applicable, on said Bonds, (ii) notification shall have been received by the Trustee from each Rating Service that any then current rating on the Bonds will not be lowered or withdrawn as a result of the Bonds being deemed paid as aforesaid; or (b) the maturity of such Bonds.

Any moneys so deposited with Trustee as provided in this Article may at the direction of Borrower also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of Trustee pursuant to this Article VIII which is not required for the payment of the Bonds and interest and premium thereon with respect to which such moneys shall have been so deposited, shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in that fund.

Issuer hereby covenants that no deposit will be made hereunder and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code and the regulations promulgated or proposed thereunder, or in any way affect the tax-exempt status of interest on any of the Bonds.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Article VIII, all moneys or Governmental Obligations set aside and held in trust pursuant to the provisions of this Article for the payment of Bonds (including interest and premium thereon, if any) shall be applied to and used solely for the payment of the particular Bonds (including interest and premium thereon, if any) with respect to which such moneys and Governmental Obligations have been so set aside in trust.

(End of Article VIII)

ARTICLE IX

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 9.01 Defaults; Events of Default. If any one or more of the following events occur, subject to the provisions of Section 9.12 hereof, it is hereby defined as and declared to be and to constitute an "event of default":

(a) Failure to pay any interest on any Bond when due and payable; provided however, that during any Index Rate Period, such failure shall not constitute an event of default until such failure has continued for ten (10) Business Days.

(b) Failure to pay the principal of, or premium, if any, on any Bond, when due, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or by acceleration; provided however, that during any Index Rate Period, such failure shall not constitute an event of default until such failure has continued for ten (10) Business Days.

(c) Default in the payment of the Purchase Price due to the Owner of any Bond upon tender of such Bond to the Tender Agent for purchase pursuant to this Indenture when such payment has become due and payable.

(d) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Bonds and such default shall remain unremedied for a period of thirty (30) Business Days after the occurrence thereof.

(e) The occurrence of an "event of default" under Section 9.1 of the Agreement.

(f) Failure to purchase Bonds on a Purchase Date except as provided in Section 3.10(b) pursuant to Section 3.08 hereof.

(g) During an Index Rate Period or in the event any Bonds constitute Unremarketed Bonds, the Trustee shall receive a written notice from the Bank that an event of default has occurred under the Continuing Covenant Agreement, which notice may in addition instruct the Trustee to accelerate the Bonds.

(h) The Credit Bank has wrongfully failed to honor a properly presented and conforming draw made under and in compliance with the terms of the Letter of Credit which failure has not been cured.

(i) Notice from the Credit Bank that an event of default has occurred under the Credit Agreement and direction from the Credit Bank to accelerate the Bonds.

The term "default" hereunder means default by the Issuer in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Indenture or in the Bonds or default by Borrower in connection with the matters referred to in the

provisions identified in paragraph (e) above, exclusive of any period of grace required to constitute a default an "event of default" as hereinabove provided.

If an event of default described in paragraphs (a), (b), (c), (f) or (g) above shall occur, the Trustee shall, within five (5) Business Days after knowledge of such event of default, give written notice, by first-class mail, of such event of default to the Issuer, Borrower, and each known Bondholder.

Section 9.02 Acceleration. Upon the occurrence and during the continuation of any Event of Default, the Trustee may, with the prior written consent of the Bank, if any, or the Credit Bank, if any, and shall, at the written direction of Bank, if any, or the Credit Bank, if any, and otherwise at the written direction of the Holders of 50% in aggregate principal amount of the Bonds then Outstanding, declare the principal of the Bonds then Outstanding to be immediately due and payable, whereupon that portion of the principal of the Bonds thereby coming due and the interest thereon accrued to the date of payment shall without further action, become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding.

Any such declaration, however, is subject to the condition that if, at any time after such declaration and before any final judgment or decree in any suit, action or other proceeding instituted for the payment of the moneys due shall have been obtained or entered, the Borrower shall deposit with the Trustee a sum sufficient to pay all the principal or Redemption Price of and installments of interest on the Bonds payment of which is overdue, with interest on such overdue principal at the rate borne by the respective Bonds, and the reasonable charges and expenses of the Trustee, and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Holders of more than 50% in aggregate principal amount of the Bonds then Outstanding, by written notice to the Borrower, and the Trustee, or the Trustee may, on behalf of the Holders of all of the Bonds, and in any event upon the written consent of the Bank, if any, rescind and annul such declaration and its consequences and waive such default; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Section 9.03 Remedies; Rights of Bondholders. Upon the occurrence and during the continuation of an Event of Default, the Trustee may, with the prior written consent of the Bank, if any, or the Credit Bank, if any, and upon the written direction of the Bank, if any, or the Credit Bank, if any, or otherwise the Holders of more than 50% in aggregate principal amount of the Bonds then Outstanding, and shall have been indemnified as provided in Section 10.01(l). shall take whatever action at law or in equity it deems, or such Bank, Credit Bank or Holders, as applicable, deem, necessary or desirable (1) to collect any amounts then due under this Indenture or such Bonds, (2) to enforce performance of any obligation, agreement or covenant of the Borrower under this Indenture or the Bonds or the Tax Certificate, or (3) to otherwise enforce any of its rights.

No remedy by the terms of this Indenture conferred upon or reserved to Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default or acquiescence therein; and such right and power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by Trustee or by the Bondholders, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 9.04 Right of Bondholders to Direct Proceedings. Subject to the provisions of Section 9.03 hereof, the holders of a majority in aggregate principal amount of the Bonds then outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, and particularly Sections 9.11 and 10.01(l) hereof, and, pursuant to section 10.01(l) hereof, such holders shall be required to offer to Trustee adequate indemnity acceptable to Trustee against the costs, expenses and liabilities to be incurred therein or thereby.

Section 9.05 Appointment of Receivers. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of Trustee and of the Bondholders under this Indenture, Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the payments, including any rental payments, revenues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 9.06 Application of Moneys. All moneys received by Trustee pursuant to any right given or action taken under the provisions of this Article IX shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by Trustee (it being understood, however, that amounts drawn under the Letter of Credit shall be deposited directly in the Bond Fund and amounts representing the proceeds of the remarketing of Bonds shall be deposited in the Bond Purchase Fund, and in each case such amounts shall not be used for the payment of any of such costs, expenses, liabilities and advances) and the creation of a reasonable reserve for anticipated fees, costs and expenses, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST - To the payment of the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, or the reimbursement of the Credit Bank for all such payments made pursuant to drawings under the Letter of Credit, if any, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - To the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of the Bonds which shall have become due (other than Bonds matured or called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they became due (with interest on overdue installments of interest at the Default Rate, or the reimbursement of the Credit Bank for all such payments made pursuant to drawings under the Letter of Credit, if any, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and interest due on such date, to the persons entitled thereto without any discrimination or privilege;

THIRD - To be held for the payment to the persons entitled thereto as the same shall become due of the principal of and premium, if any, and interest on the Bonds which may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal and interest due on such date to the persons entitled thereto without any discrimination or privilege;

FOURTH - To the payment of any obligations payable to the Bank under the Continuing Covenant Agreement (to the extent not required to be paid at a higher level of priority) or to the Credit Bank under the Credit Agreement, as applicable; and

(b) If the principal of all the Bonds shall become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege, plus if available with interest on overdue installments of interest or principal at the Default Rate or to the reimbursement of the Credit Bank with respect to drawings made under the Letter of Credit to pay the same, and thereafter to the payment of any obligations payable to

the Bank under the Continuing Covenant Agreement (to the extent not required to be paid at a higher level of priority).

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declarations shall thereafter have been rescinded and annulled under the provisions of this Article IX then, subject to the provision of Section 9.06(b) hereof in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of Section 9.06(a) hereof.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.06, such moneys shall be applied at such times, and from time to time, as Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Subject to Section 9.02 hereof, whenever Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the holder of any Bond until such Bond shall be presented to Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever the principal of and premium, if any, and interest on all Bonds have been paid under the provisions of this Section 9.06 and all expenses and charges of Trustee have been paid, any balance remaining in the Bond Fund shall be paid to Borrower as provided in Section 5.12 hereof.

Section 9.07 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto and any such suit or proceeding instituted by Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any holder of the Bonds, and any recovery or judgment shall be for the equal and ratable benefit of the holders of the outstanding Bonds.

Section 9.08 Rights and Remedies of Bondholders. No holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder unless a default has occurred of which Trustee has been notified as provided in Section 10.01(h) hereof, or of which by said subsection Trustee is deemed to have notice, nor unless also such default shall have become an event of default and the holders of thirty-five percent (35%) in aggregate principal amount of Bonds then outstanding shall have made written request to Trustee and shall have provided Trustee reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in Trustee's own name or names, nor unless also they have offered to Trustee indemnity as provided in Section 10.01(l), nor unless Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option

of Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his, her or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the holders of all Bonds then outstanding. However, nothing contained in this Indenture shall affect or impair the right of any Bondholder to enforce the payment of the principal and interest on any Bond at and after the maturity thereof.

Section 9.09 Termination of Proceedings. In case Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case Issuer, Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of Trustee shall continue as if no such proceedings had been taken.

Section 9.10 Waivers of Events of Default. Trustee may at its discretion waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal, and shall do so upon the written request of the holders of (1) more than 66-2/3% in aggregate principal amount of all the Bonds then outstanding in respect of which default in the payment of principal or interest, or both, exists, or (2) more than 66-2/3% in aggregate principal amount of all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived (a) any event of default after the Trustee has drawn on the Letter of Credit, (b) any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (c) any default in the payment when due of the interest on any such Bonds unless prior to such waiver or rescission, all arrears of payments on overdue installments of interest or all arrears of payments of principal when due, as the case may be, both with interest at the Default Rate and all expenses of Trustee, in connection with such default shall have been paid or provided for, and in cases of any such waiver or rescission, or in case any proceeding taken by Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case Issuer, Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon. Notwithstanding the foregoing, in no event shall the Trustee waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal without the prior written consent of the Bank, if any.

Section 9.11 Notice of Defaults Under Section 9.01(d); Opportunity of Issuer and Borrower to Cure Such Defaults. Anything herein to the contrary notwithstanding, no default under Section 9.01(d) hereof shall constitute an event of default until actual notice of such default by registered or certified mail shall be given to Issuer and Borrower by Trustee or by the holders of not less than thirty-five percent (35%) in aggregate principal amount of all Bonds outstanding, and Issuer and Borrower shall have had thirty (30) Business Days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have

corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an event of default if corrective action is instituted by Issuer or Borrower within the applicable period and diligently pursued until the default is corrected and the Issuer or the Borrower provides a certification to the Trustee to such effect.

With regard to any default concerning which notice is given to Issuer and Borrower under the provisions of this Section 9.11, Issuer hereby grants Borrower full authority for account of Issuer to perform any covenant or obligation alleged in said notice to constitute a default, in the name and stead of Issuer with full power to do any and all things and acts to the same extent that Issuer could do and perform any such things and acts and with power of substitution.

Section 9.12 Direction of Remedies by Credit Bank. Notwithstanding anything herein other than Section 7.06 to the contrary, the Credit Bank shall be entitled, but not obligated, to direct the Trustee in the exercise of all rights and remedies under this Article, including, without limitation, acceleration of the Bonds, institution of legal proceedings and the granting of waivers with respect to the foregoing, and neither the Trustee, the Issuer nor the Owners of the Bonds shall have the right or be permitted to exercise any of the rights or remedies granted or permitted to any one or more of them under this Article without the express written consent of the Credit Bank; provided, however, that the Trustee shall have the ability to accelerate the maturity of the Bonds upon the occurrence of an event of default described in Sections 9.01(a), (b), or (c) in the Indenture, hereof without the express written consent of the Credit Bank; and provided, further, that nothing in this Section is intended or shall be construed to affect the obligation of the Trustee, which is absolute and unconditional, to demand and collect all amounts due and payable under the Letter of Credit when and as the same shall become due and payable. Notwithstanding any provision in the Indenture to the contrary, the Credit Bank's right to receive notice of, consent to, direct or control any actions, restrictions, rights, remedies, waivers or acceleration is limited as provided in Section 7.06 hereof.

Section 9.13 Direction of Remedies by Bank. The Bank shall be entitled, but not obligated during any Index Period, to direct the Trustee in the exercise of all rights and remedies under this Article, including, without limitation, acceleration of the Bonds, institution of legal proceedings and the granting of waivers with respect to the foregoing, and neither the Trustee, the Issuer nor the Owners of the Bonds shall have the right or be permitted to exercise any of the rights or remedies granted or permitted to any one or more of them under this Article without the express written consent of the Bank. If the Bank consists of more than one Holder of the Bonds the Bank shall provide the Trustee with satisfactory indemnity prior to taking any such actions.

(End of Article IX)

ARTICLE X

TRUSTEE

Section 10.01 Acceptance of Trusts. Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) Trustee, prior to the occurrence of an event of default and after curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an event of default has occurred (which has not been cured or waived) Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in such exercise, as an ordinary prudent person would exercise or use under similar circumstances in the conduct of its own affairs.

(b) Trustee may exercise any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning its duties hereunder, and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. Trustee may act upon the opinion or advice of Independent Counsel or any attorney approved by Trustee in the exercise of reasonable care. Trustee shall not be responsible for any loss or damage resulting from any action or inaction in good faith in reliance upon such opinion or advice.

(c) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for any recital by Issuer herein or any recital in the Bonds or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by Issuer of this Indenture, or for the validity of execution by Issuer of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the Project; and Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of Issuer or on the part of Borrower under the Agreement; but Trustee may require of Issuer or Borrower full information and advice as to the performance of the covenants, conditions and agreements aforesaid and as to the condition of the property herein conveyed.

(d) Trustee shall not be accountable for the use of the proceeds of any Bonds authenticated or delivered hereunder so long as such proceeds are used consistent with instructions from the Borrower in accordance with the Agreement and this Indenture. Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(e) Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document without further investigation and believed to be genuine and correct and to have been signed or sent by the

proper person or persons. Any action taken by Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, Trustee shall be entitled to rely upon a certificate signed by Issuer Representative or Borrower Representative as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which Trustee has been notified as provided in Section 10.01(h) hereof, or of which by Section 10.01(h) Trustee is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or advisable, but shall in no case be bound to secure the same. Trustee may accept a certificate of the Chairman of Issuer under the seal of Issuer to the effect that a Resolution in the form therein set forth has been adopted by Issuer as conclusive evidence that such Resolution has been duly adopted, and is in full force and effect.

(g) The permissive right of Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its negligence or gross negligence or willful misconduct.

(h) Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by Issuer to cause to be made any of the payments to Trustee required to be made by Article IV hereof or failure by Issuer or Borrower to file with Trustee any document required by this Indenture or the Agreement to be so filed subsequent to the issuance of the Bonds, unless the Responsible Officer shall be specifically notified in writing of such default by Borrower or Issuer or by the holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds then outstanding and all notices or other instruments required by this Indenture to be delivered to Trustee must, in order to be effective be delivered at the office of Trustee identified in Section 13.04, and in the absence of such notice so delivered Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times Trustee, its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the property herein conveyed, including all books and records of Issuer pertaining to the Project and the Bonds, and to take such memoranda from and with regard thereto as may be desired.

(j) Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture with respect to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinion, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, by Trustee deemed desirable for the purpose of establishing the right of

Issuer to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by Trustee.

(l) Before taking the action hereunder, the Trustee may require that a satisfactory indemnification be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or gross negligence or willful default in connection with any such action; provided, however, that the Trustee shall not require indemnification before taking any of the following actions: (i) draws on the Letter of Credit, (ii) acceleration of the maturity of the Bonds in accordance with Section 9.02 hereof, (iii) notification of Bondholders of a redemption of Bonds under Article III hereof, or (iv) payment of the principal of, premium, if any, or interest on the Bonds.

(m) All moneys received by Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(n) Delivery of reports, information and documents to the Trustee under Section 7.3 of the Agreement are for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein, including the Borrower's compliance with any covenants under the Agreement. The Trustee has no duty or obligation to review such information provided to it and shall hold such information solely as a repository on behalf of Bondholders. If any Bondholder requests to review or receive a copy of any such information the Trustee shall without further direction or consent by protected in providing such information to all Bondholders.

(o) The Trustee shall not be liable for any error in judgment exercised in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(p) In no event shall the Trustee be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Trustee has been advised of the likelihood of such damages or penalty and regardless of the form of action.

(q) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(r) To the extent the Trustee is required to receive from or provide any documentation to the Rating Service the Trustee has no duty to determine the appropriate Rating Service and shall be protected in receiving from or providing any documentation to the Rating Service identified by the Borrower or the Issuer.

(s) The Trustee shall be under no responsibility to approve or evaluate any expert or other skilled person selected by the Issuer or the Borrower for any of the purposes expressed in this Indenture or the Agreement.

(t) To the extent amounts are due under any Credit Agreement or Continuing Covenant Agreement the Trustee shall be fully protected in relying on a certification from the Credit Bank or the Bank, respectively.

Section 10.02 Fees, Charges and Expenses of Trustee. Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by Trustee in connection with such services. Upon an event of default, but only upon an event of default, Trustee shall have a first lien with right of payment prior to payment on account of principal of and premium, if any, and interest on any Bond upon the Trust Estate for the foregoing fees, charges and expenses incurred by it, including costs of its own defense unless it is adjudicated to have committed negligence or willful default; provided, however, that the Trustee shall have no interest in or right to receive payment from the proceeds of any draw under the Letter of Credit or from the proceeds of the remarketing of Bonds.

Section 10.03 Notice to Bondholders if Default Occurs. If a default occurs of which Trustee is by Section 10.01(h) hereof required to take notice or if notice of default be given as therein provided, then Trustee shall promptly give written notice thereof by registered or certified mail to the Issuer, the Borrower and the Registered Owner of each Bond shown by the list of Bondholders required by the terms of Section 4.07 hereof to be kept at the office of Trustee.

Section 10.04 Intervention by Trustee. In any judicial proceedings to which Issuer or Borrower is a party and which in the opinion of Trustee and its counsel has a substantial bearing on the interests of owners of the Bonds, Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the owners of at least twenty-five percent (25%) of the aggregate principal amount of Bonds then outstanding, but only if provided with indemnity as set forth in Section 10.01(l).

Section 10.05 Successor Trustee. Any corporation or association into which Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its municipal trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and fully vested with all of the title to the Trust Estate and all the trusts, estates, properties, rights, powers, discretions, immunities, privileges, duties and obligations of its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.06 Resignation by Trustee. Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty (30) days written notice by first-class mail to Issuer and to the owner of each Bond as shown by the list of Bondholders required by Section 4.07 hereof to be kept by Trustee; provided that such resignation shall take effect only

upon the appointment of a successor Trustee by the Bondholders or by Issuer. If no successor Trustee is appointed within 60 days, Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee.

Section 10.07 Removal of Trustee. Trustee may be removed at any time upon thirty (30) days' notice, by an instrument or concurrent instruments in writing delivered to Trustee and to Issuer, and signed by the owners of a majority in aggregate principal amount of Bonds then outstanding or by Borrower, with the consent of the Issuer, if no default then exists hereunder; provided that no such removal shall take effect until the appointment of a successor Trustee by the Bondholders or by Issuer.

Section 10.08 Appointment of Successor Trustee by Bondholders. In case Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by Borrower, with the consent of Issuer, if no default then exists hereunder or by the Registered Owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such Registered Owners, or by their duly authorized attorneys-in-fact, and a copy of which shall be delivered personally or sent by registered mail to Issuer. In case of any such vacancy, Issuer, by an instrument executed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed by the Bondholders in the manner above provided; and such temporary trustee so appointed by Issuer shall immediately and without further act be superseded by Trustee appointed by the Bondholders. Every such Trustee appointed pursuant to the provisions of this Section 10.08 shall be a trust company or bank with trust powers of good standing having a reported capital and surplus of not less than $10,000,000 if there be such an institution willing, qualified and able to accept the trust upon customary terms.

Section 10.09 Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to Issuer and Borrower an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested of the title to the Trust Estate and all the trusts, estates, properties, rights, powers, discretions, immunities, privileges, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of Issuer, or of its successor, execute and deliver an instrument transferring to such successor all of the title to the Trust Estate and all the trusts, estates, properties, rights, powers, discretions, immunities, privileges, duties and obligations of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from Issuer be required by any successor Trustee for more fully and certainly vesting in such successor all of the title to the Trust Estate and all the trusts, estates, properties, rights, powers, discretions, immunities, privileges, duties and obligations intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article

X, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded.

Section 10.10 Right of Trustee to Pay Taxes and Other Charges. In case any tax, assessment, governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Agreement, Trustee may pay such tax, assessment, governmental or other charge, or insurance premium, without prejudice, however, to any rights of Trustee or the Bondholders arising in consequence of such failure; and any amount at any time so paid under this Section 10.10, with interest thereon from the date of payment at the rate of one percent (1%) above the Prime Rate shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over any of the Bonds (provided that the Trustee shall have no interest in any proceeds of any draw under the Letter of Credit) and shall be paid out of the proceeds of revenues collected from the Project, if not otherwise caused to be paid; but Trustee shall not be under any obligation to make any such payment unless it shall have been requested to do so by the holders of at least twenty-five percent (25%) of the aggregate principal amount of Bonds then outstanding and shall have been provided with adequate funds for the purpose of such payment.

Section 10.11 Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State of Florida) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Agreement, and in particular in case of an enforcement of either on default, or in case Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that Trustee appoint an additional individual or institution as a separate or Co-Trustee. The following provisions of this Section 10.11 are adapted to these ends.

Trustee may appoint an additional individual or institution as a separate or Co-Trustee, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to Trustee with respect thereto shall be exercisable by and vest in such separate or Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights and remedies and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any deed, conveyance or instrument in writing from Issuer be required by the separate Trustee or Co-Trustee so appointed by Trustee for more fully and certainly vesting in and confirming to him such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer. In case any separate Trustee or Co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or Co-Trustee so far as permitted by law, shall vest in and be exercised by Trustee until the appointment of a new Trustee or successor to such separate Trustee or Co-Trustee.

Section 10.12 Designation and Succession of Paying Agents. Trustee and any other banks or trust companies, if any, designated as Paying Agent in any supplemental indenture, shall be the Paying Agent for the applicable series of Bonds.

Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent shall be sold, shall be deemed successor of such Paying Agent for the purposes of this Indenture. If the position of Paying Agent shall become vacant for any reason, Issuer shall, within thirty (30) days thereafter, appoint such bank or trust company as shall be specified by Borrower and whose principal office is located in the same city as such Paying Agent to fill such vacancy; provided, however, that if Issuer shall fail to appoint such Paying Agent within such period, Trustee shall make such appointment.

The Paying Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in Section 10.01 hereof with respect to Trustee and shall be entitled to payment for its reasonable fees and expenses as provided in Section 10.02 hereof with respect to Trustee insofar as such provisions may be applicable.

Section 10.13 Dealing in Bonds. The Trustee and Paying Agents, and any of their directors, officers, employees or agents, may in good faith become the owner of Bonds recorded hereby with the same rights which it or they would have hereunder if the Trustee or Paying Agent were not such.

(End of Article X)

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 11.01 Supplemental Indentures Not Requiring Consent of Bondholders. Issuer and Trustee, with the consent of the Bank, if any, or the Credit Bank, if any, but otherwise without consent of, or notice to, any of the Bondholders, may enter into an indenture or indentures supplemental to this Indenture which shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture.

(b) To grant to or confer upon Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or Trustee or any additional security.

(c) To evidence the appointment of a separate Trustee or a Co-Trustee or the succession of a new Trustee hereunder.

(d) To subject to the lien of this Indenture additional moneys or real or personal property.

(e) To alter the manner in which the Remarketing Agent may, in the reasonable exercise of its judgment, act pursuant to Section 2.03(c)(4) hereof to increase the likelihood of achieving the lowest net interest cost during the term of the Bonds, but only if the Borrower provides to the Trustee and the Issuer an Opinion of Bond Counsel to the effect that the amendment will not adversely affect the exclusion from gross income on any Bonds for federal income tax purposes.

Section 11.02 Supplemental Indentures Requiring Consent of Bondholders. Exclusive of supplemental indentures covered by Section 11.01 hereof and subject to the terms and provisions contained in this Section 11.02, and not otherwise, the Bank, if any, and otherwise the holders of not less than 66-2/3% in aggregate principal amount of the Bonds then outstanding, shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by Issuer and Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section 11.02 or in Section 11.01 hereof contained shall permit, or be construed as permitting (a) an extension of the maturity of the principal of, or the interest on, any Bond issued hereunder, or (b) a reduction in the principal amount of, or redemption premium on, any Bond or the rate of interest thereon, or (c) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (d) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indentures, or (e) the creation of any lien ranking prior to or on a parity with the lien of this Indenture on the Trust estate or any part thereof, except as hereinbefore expressly permitted, or (f) the holder of any Bond then outstanding to be deprived of the lien hereby created on the Trust estate.

If at any time Issuer shall request Trustee to enter into any such supplemental indenture for any of the purposes of this Section 11.02, Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be given by registered or certified mail to the owner of each Bond shown by the list of Bondholders required by the terms of Section 4.07 hereof to be kept at the office of Trustee. Such notice shall be prepared by the Issuer and shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of Trustee for inspection by all Bondholders. If, within sixty (60) days or such longer period as shall be prescribed by Issuer following such notice, the Bank, if any, or the Credit Bank, if any, or the holders of not less than 66-2/3% in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain Trustee or Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section 11.02 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XI shall not become effective unless and until Borrower shall have consented to the execution and delivery of such supplemental indenture. In this regard, Trustee shall cause notice of the proposed execution of any such supplemental indenture to be mailed by certified or registered mail to Borrower at least fifteen (15) Business Days prior to the proposed date of execution and delivery of any such supplemental indenture. Borrower shall be deemed to have consented to the execution and delivery of any such supplemental indenture if Trustee does not receive a letter of protest or objection thereto signed by or on behalf of Borrower on or before 4:30 p.m., Central Time, on the fifteenth (15th) Business Day after the mailing of said notice.

Section 11.03 General Amendment Provisions. The Trustee may in its discretion, but shall not be obligated to, enter into any supplemental indenture authorized by Section 11.01 and 11.02 hereof which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise. In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, (i) an Opinion of Counsel that such supplemental indenture is permitted by the terms hereof and (ii) an Opinion of Counsel to the effect that the amendment will not adversely affect the exclusion from gross income on any Bonds for federal income tax purposes.

(End of Article XI)

ARTICLE XII

AMENDMENT OF AGREEMENT

Section 12.01 Amendments, etc., to Agreement Not Requiring Consent of Bondholders. Trustee shall, with the consent of the Borrower, the Bank, if any, and the Credit Bank, if any, but without the consent of or notice to any other Bondholders, consent to any amendment, change or modification of the Agreement as may be required (i) by the provisions of the Agreement or this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) so as to more precisely identify the Project or substitute or add additional equipment to the Project or additional rights or interests in property acquired in accordance with the provisions of the Agreement, or (iv) in connection with any other change therein which, is not to the prejudice of the Bondholders or is not to the prejudice of Trustee. The consent of the Trustee shall not be required to any amendment or waiver of the Agreement so long as any such amendment or waiver does not adversely affect the rights or obligations of the Trustee; provided, however, the Trustee shall consent to or acknowledge any such amendment or waiver upon the request of the Issuer. If the consent of the Trustee is required or requested the Trustee shall receive the opinions set forth in Section 11.03 hereof.

Section 12.02 Amendments, etc., to Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 12.01 hereof neither Issuer nor Trustee shall consent to any other amendment, change or modification of the Agreement without the consent of the Bank, if any, the Credit Bank, if any, and without mailing of notice and the written approval or consent of the holders of not less than 66-2/3% in aggregate principal amount of the Bonds at the time outstanding given as in this Section 12.02 provided. Notwithstanding the foregoing, no amendment, change or modification of the Agreement so as to alter the provisions with respect to payment of Loan Payments under Sections 5.2 and 5.3 thereof is permissible without the consent of all holders of all Bonds then outstanding. If at any time Issuer and Borrower shall request the consent of Trustee to any such proposed amendment, change or modification of the Agreement, Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notices of such proposed amendment, change or modification to be given in the same manner as provided by Section 11.02 hereof with respect to supplemental indentures. Such notices shall be prepared by the Borrower or the Issuer and shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of Trustee for inspection by all Bondholders. If the consent of the Trustee is required the Trustee shall receive the opinions set forth in Section 11.03 hereof.

Section 12.03 No Amendment of Payment Provisions Without Bondholder Consent. Notwithstanding any other provision of this Indenture, no amendment, change or modification of the Agreement so as to alter the provisions with respect to payment of Loan Payments under Sections 5.2 and 5.3 thereof is permissible without the consent of all holders of all Bonds then outstanding.

Section 12.04 Modification of Letter of Credit. The Letter of Credit may not be modified without the written consent of 100% of the owners of the outstanding Bonds (except to correct any formal defects in the Letter of Credit, which modification may be made with the

consent of the Borrower and the Trustee, and without the consent of the Bondholders), other than to (i) effect transfers thereof, (ii) effect extensions thereof, or (iii) effect reductions and reinstatements thereof, all in accordance with the terms of the Letter of Credit. Pursuant to the Agreement, however, the Borrower has the right to obtain an Alternate Letter of Credit without the consent of the Bond owners.

(End of Article XII)

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Consents, etc., of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent documents and may be executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the owner of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds registered to the owners thereof and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration records of Issuer maintained by Trustee pursuant to Section 2.08 hereof.

For all purposes of this Indenture and of the proceedings for the enforcement hereof, any person deemed to be the holder of any Bond in accordance with this Section 13.01 shall be deemed to continue to be such holder of such Bond until Trustee shall have received notice in writing to the contrary.

Section 13.02 Limitation of Rights. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the Bonds, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and their successors and assigns and the holders of the Bonds as herein provided.

Section 13.03 Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 13.04 Notices. Any notice, certificate, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered, or mailed by first-class mail, postage prepaid, or sent by overnight courier, addressed as follows: if to Issuer, to City of Port Orange, Florida, 1000 City Center Circle, Port Orange, FL 32129, Attention: City Manager; if to Trustee, to U.S. Bank Trust Company, National

Association, 505 N. 7th Street, St. Louis, Missouri 63101, Attention: Corporate Trust Department; if to Borrower, to Palmer College Foundation d/b/a Palmer College of Chiropractic, 1000 Brady Street, Davenport, Iowa 52803, Attention: President/Chancellor and Vice Chancellor for Finance; if to Bank, to The Northern Trust Company, 50 South La Salle Street, B-4, Chicago, IL 60603, Attention: Sr. Vice President. Issuer, Borrower, Bank and Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13.05 Payments Due on Sundays and Holidays. In any case where the date of maturity of principal of or interest on the Bonds or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then payment of principal and premium, if any, or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 13.06 Issuer's Obligations Limited. No recourse under or upon any obligation, covenant or agreement contained in this Indenture or in any Bond hereby secured, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Indenture, shall be had against the Issuer.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any record keeping or to provide any legal services, it being understood that such services shall be performed either by the Trustee or the Borrower; (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liability which may be incurred thereby; and (d) the Issuer shall have no obligation to provide money to pay any taxes, assessments or insurance premiums on the Project.

Section 13.07 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.08 Applicable Provisions of Law. This Indenture shall be governed by and construed in accordance with the laws of the State of Florida, provided that the duties and obligations of the Borrower and Issuer will be governed by the laws of the State of Florida.

Section 13.09 Rules of Interpretation. Unless expressly indicated otherwise, references to sections or Articles are to be construed as references to sections or Articles of this instrument as originally executed. Use of the words "herein", "hereby", "hereunder", "hereof ", refer to the Indenture and not solely to the particular portion in which any such word is used.

Section 13.10 Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Indenture.

(End of Article XIII)

IN WITNESS WHEREOF, Issuer has caused this Indenture to be signed in its name and behalf by its Mayor and to be attested by its City Clerk and the seal of the Issuer to be affixed hereto, and to evidence its acceptance of the trusts hereby created Trustee has caused this Indenture to be signed in its name and behalf by its duly authorized officers, as of the day first above written.

CITY OF PORT ORANGE, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

_____
City Clerk

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By:_____
_____, _____

EXHIBIT A

FORM OF PURCHASER LETTER

_____, 20__

City of Port Orange, Florida
Port Orange, Florida

Palmer College Foundation, d/b/a
Palmer College Foundation, Inc.
Davenport, Iowa

City of Port Orange, Florida
Private College Facility Revenue Bonds
(Palmer College of Chiropractic Project), Series 2019B

Ladies and Gentlemen:

_____ ("Purchaser") has agreed to purchase the above-referenced debt obligations (the "Debt Obligations") in the original aggregate principal amount of $18,460,000, which were issued by the City of Port Orange, Florida (the "Issuer") pursuant to the Amended and Restated Indenture of Trust dated as of June 28, 2024 (the "Indenture"), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Indenture. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits represented by the purchase of the Debt Obligations.

2. The Purchaser has authority to purchase the Debt Obligations and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Debt Obligations.

3. The Purchaser is a _____ organized under the laws of the United States of America and is able to bear the economic risks of purchasing the Debt Obligations.

4. The Purchaser understands that a prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Debt Obligations. The Purchaser has made its own inquiry and analysis with respect to the Issuer, Palmer College Foundation a/k/a Palmer College Foundation, Inc. (the "Borrower"), the Debt Obligations and

the security therefor, and other material factors affecting the security for and payment of the Debt Obligations.

5. The Purchaser acknowledges that it has reviewed information, including financial statements and other financial information, regarding the Issuer and the Borrower, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Borrower, the Debt Obligations and the security therefor, so that it has been able to make an informed decision to purchase the Debt Obligations; provided, however, that this letter shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received or any material information which was withheld from its review.

6. The Purchaser understands that the Bonds: (i) are not registered or qualified for sale under any Federal or state law or regulation, (ii) are not listed on any stock or other securities exchange, and (iii) have not been rated by any credit rating agency.

7. The Purchaser has been furnished with and has examined (i) the Indenture; (ii) the Loan Agreement, and (iii) other documents, certificates and the legal opinions delivered in connection with the issuance of the Bonds.

8. The Purchaser has not relied on SJ Advisors, LLC in any way with respect to the credit information it has reviewed, its inquiry and analysis and its decision to make the Loans, and SJ Advisors, LLC has not made any representations to the Lender with respect thereto.

9. The Debt Obligations are being acquired by the Purchaser for its own account and not with a present view toward resale, transfer or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or distribute the Debt Obligations, but agrees that any such sale, transfer or distribution by the Purchaser shall be in accordance with the terms of the Indenture.

[PURCHASER]

_____

AMENDED AND RESTATED
LOAN AGREEMENT

Dated as of June 28, 2024

BETWEEN

CITY OF PORT ORANGE, FLORIDA

as Issuer

and

PALMER COLLEGE FOUNDATION, INC.

as Borrower

LOAN AGREEMENT

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EXHIBIT A - REQUISITION FOR DISBURSEMENT (Cost of Issuance Fund)

This AMENDED AND RESTATED LOAN AGREEMENT (which amends and restates the previously executed Loan Agreement between the same parties dated June 1, 2019, as amended, restated, supplemented, or otherwise modified from time to time, the "Loan Agreement" or the "Agreement"), dated as of June 28, 2024 by and between the CITY OF PORT ORANGE, FLORIDA (together with any successors and assigns, the "Issuer"), a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida, and the PALMER COLLEGE FOUNDATION, a nonprofit corporation organized and existing under the laws of the State of Iowa, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower");

W I T N E S S E T H:

WHEREAS, the Florida Industrial Development Financing Act, Chapter 159, Part II, Florida Statutes (the "Act"), has been enacted by the Legislature of Florida; and

WHEREAS, the Act provides that the Issuer is authorized and shall have the power to enter into loan agreements pursuant to which the Issuer loans the proceeds from the sale of its revenue bonds to private educational institutions for the purpose of financing the cost of a project (as defined in Section 159.27(5) of the Act); and

WHEREAS, the Act provides that the Issuer may issue revenue bonds and loan the proceeds thereof to one or more parties for the purpose of financing or refinancing any such project, payable solely out of the payments to be made by the Borrower; and

WHEREAS, the Issuer previously issued its Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds") in the aggregate principal amount of $18,460,000, and currently outstanding in the amount of $14,860,000, pursuant to an Indenture of Trust dated as of June 1, 2019 between the Issuer and U.S. Bank Trust Company, National Association, as successor trustee to U.S. Bank National Association (the "Trustee"), and will loan the proceeds thereof to the Borrower under this Loan Agreement, for the purpose of purpose of (i) re-financing the acquisition and construction of certain educational facilities (collectively, the "Project"), on the campuses of the College at 4777 City Center Parkway, Port Orange, Florida, 32129, and 1000 Brady Street, Davenport, Iowa, (ii) paying the swap termination payment in connection with the cancellation of a hedging agreement associated with the prior financing, if any, and (iii) paying costs of issuance of the Bonds; and

WHEREAS, the Issuer and Trustee, at the request of Borrower, were asked to make certain amendments to the Original Indenture and has chosen to convert the Bonds, and entered into an Amended and Restated Indenture of Trust dated June 28, 2024, which amended and restated the Original Indenture (the "Indenture"); and

WHEREAS, the Bonds are secured by an assignment to the Trustee of this Loan Agreement and the payments due hereunder (except Unassigned Rights), and by all the moneys and securities in the related Funds and Accounts established under the Indenture for the benefit of the Bonds; and

WHEREAS, the Borrower has arranged for the sale of the Bonds to The Northern Trust Company on the date hereof (together with its successor and assigns, the "Purchaser"); and

NOW, THEREFORE, the parties hereto in consideration of the premises and the mutual covenants and agreements hereinafter contained, do hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. Defined terms not otherwise defined herein shall have the meanings set forth in the Indenture. In this Loan Agreement and any agreement supplemental hereto (except as otherwise expressly provided or unless the context otherwise requires) terms used as defined terms in the recitals hereto shall have the same meanings throughout this Loan Agreement, and in addition, the following terms shall have the meanings specified below:

"Affiliate" shall mean any Person which controls, is controlled by or is under common control with the Borrower. For the purposes of the foregoing, one Person shall be deemed to control another if it owns more than 50% of the voting stock or other equity interest in the other Person or possesses the power (through membership or otherwise) to elect more than 50% of the other Person's governing body.

"Authorized Borrower Representative" shall mean the President/Chancellor or the Treasurer or Vice Chancellor for Finance of the Borrower or any person authorized from time to time in writing by the Borrower, or its successors and assigns, to perform a designated act or execute a designated document.

"Authorized Issuer Representative" shall mean the Mayor or Vice Mayor or City Manager of the Issuer, or any other officer of the Issuer authorized by a duly adopted resolution of the Board of the Issuer.

"Bond Counsel" means Akerman LLP, Jacksonville, Florida or other attorney at law or a firm of attorneys, acceptable to the Issuer and the Borrower, of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions duly admitted to the practice before the highest court of any state of the United States of America.

"Bond Fund" means the Bond Fund created under the Indenture.

"Bonds" means the Issuer's Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B originally issued in the aggregate principal amount of $18,460,000 authorized pursuant to the Indenture and outstanding in the amount of $14,860,000.

"Bond Year" shall mean the one-year period ending on the Interest Payment Date immediately preceding the first anniversary of the date of issuance of the Bonds and each succeeding one-year period.

"Borrower" shall mean the Borrower identified in this Loan Agreement, and its successors and assigns and any surviving, resulting or transfer corporation.

"Borrower Board" shall mean the then-current legally governing body vested with the power of management of the Borrower.

"Business Day" shall have the meaning as defined in the Indenture.

"Certified Public Accountant" shall mean a Person, who shall be Independent, appointed by the Borrower Board, actively engaged in the business of public accounting and duly certified as a certified public accountant under the laws of the State, and not unsatisfactory at any time to the Issuer.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto.

"Continuing Covenant Agreement" shall have the meaning as defined in the Indenture.

"Cost of Issuance Fund" means the Cost of Issuance Fund created under the Indenture.

"Counsel" shall mean an attorney or firm of attorneys (which may include counsel to the Issuer, the Borrower or any Affiliate) not unsatisfactory to the Issuer.

"Default Rate" has the meaning set forth in the Continuing Covenant Agreement, and if such agreement is not in effect, then the meaning as set forth in any credit agreement, if applicable.

"Determination of Taxability" means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the Borrower files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when the Bondholder or any former Bondholder notifies the Issuer and the Borrower that it has received or applied for a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Borrower of such notification from the Bondholder or any former Bondholder, the Borrower shall deliver to the Bondholder and any former Bondholder a ruling or determination letter issued to or on behalf of the Issuer or the Borrower by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service(or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the Issuer or the Borrower shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Borrower, or upon any review or audit of the Borrower or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when the Borrower shall receive notice from the Bondholder or any former Bondholder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on the Bonds due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless the Borrower has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however,* that upon demand from the Bondholder or former Bondholder, the Issuer shall promptly reimburse, but solely from payments made by the Borrower, such Bondholder or former Bondholder for any payments, including any taxes, interest, penalties or other charges, such Bondholder (or former Bondholder) shall be obligated to make as a result of the Determination of Taxability.

"Eligible Costs" with respect to the Project shall be deemed to include those items included in the cost of acquiring and installing any part of the Project within the meaning of the Act, including, but not limited to:

(i) payment to the Borrower of such amounts, if any, as shall be necessary to reimburse the Borrower in full for all advances and payments made by it at any time prior to or after the delivery of the Bonds for expenditures in connection with the acquisition of any portion of the Project Site, and preparation, clearing, landscaping, or other expenses incident to the improving of the Project Site;

(ii) payment for labor, services, materials, and supplies used or furnished for site preparation and in the installation and remodeling of the Project, payment for the cost of the acquisition of any equipment and the installation thereof in connection with the Project, payment for the cost of the construction, acquisition, expansion and installation of utility services or other facilities and all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous expenses incidental to any of the foregoing items;

(iii) the cost of performance bonds or other bonds necessary in connection with the acquisition and installation of the Project and any and all types of insurance that may be necessary or appropriate to have in effect during the course of the acquisition and installation of the Project;

(iv) all costs of issuance and other expenses incurred in connection with the issuance of the Bonds, including, without limitation, the compensation and expenses of Trustee, feasibility studies, compensation to any financial consultants, placement agents, or underwriters, issuer's fees, legal fees and expenses including fees and expenses of Bond Counsel, counsel to the Issuer, counsel to Borrower, and counsel to the Purchaser, costs of printing and engraving, and all recording and filing fees;

(v) all costs which Borrower shall be required to pay under the terms of any contract or contracts for acquisition and installation of the Project;

(vi) interest on the Bonds for a reasonable period prior to acquisition of the Project, during installation and for up to six (6) months after completion of installation; and

(vii) any sums required to reimburse Borrower for advances made for any of the above items or for any other costs incurred, including interim financing, and for work done which are properly chargeable to the Project and permitted under the Act.

*"*Event of Taxability*"* means a (i) change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Borrower, or the failure to take any action by the Borrower, or the making by the Borrower of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bonds) which has the effect of causing interest paid or payable on the Bonds to become includable, in whole or in part, in the gross income of the Bondholder or any former Bondholder for federal income tax purposes or (ii) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on the Bonds to become includable, in whole or in part, in the gross income of the Bondholder or any former Bondholder for federal income tax purposes with respect to the Bonds.

"Facilities" means the real estate and the buildings located thereon which constitute the campus of the Borrower in Port Orange, Florida.

"Fiscal Year" with reference to the Borrower shall mean the period of twelve months beginning July 1 of each year or such other period of 12 months as may be adopted from time to time by the Borrower as its fiscal year.

"Generally Accepted Accounting Principles" or "GAAP" shall mean those accounting principles, as in effect from time to time, applicable in the preparation of financial statements of institutions of higher education as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board, which are applicable to the circumstances as of the date of determination.

"Government Obligations" shall have the meaning set forth in the Indenture.

"Indenture" shall mean the Indenture of Trust dated as of June 1, 2019 of the Issuer to the Trustee as amended, restated, supplemented or otherwise modified from time to time as therein provided.

"Independent" shall mean a Person who is not a member of the Issuer's Board, the Borrower's Board, or the board of an Affiliate, an officer or employee of the Issuer or an officer or employee of the Borrower or an Affiliate, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Issuer's Board or the Borrower's Board or the board of an Affiliate, or an officer or employee of the Issuer or the Borrower or an Affiliate; provided, however, that the fact that such Person is retained regularly by or transacts business with the Issuer or the Borrower or an Affiliate shall not make such Person an employee within the meaning of this definition.

"Interest Payment Date" means any date on which interest payments are due on the Bonds as set forth in the Indenture.

"Loan" shall mean the loan of the proceeds of the Bonds to the Borrower pursuant to this Agreement.

"Loan Documents" shall mean collectively, singularly, or in any combination, as the context in which the phrase is used so indicates, the Indenture, the Continuing Covenant Agreement and this Loan Agreement, and any other agreement, document or instrument, made or executed pursuant to this Loan Agreement or in connection with the issuance of the Bonds.

"Loan Payments" means, unless the context otherwise requires, the payments required to be made by Borrower pursuant to Sections 5.2 and 5.3 of this Loan Agreement.

"Net Proceeds", when used with respect to any insurance proceeds from policies referred to in Section 6.2 of this Agreement or any condemnation award, means any amount remaining after deducting all expenses (including attorney's fees) incurred in the collection of such proceeds or award from the gross proceeds thereof.

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, a governmental body or any other political subdivision, a municipality, a municipal authority or any other group or entity.

"Principal Payment Date" means any date on which principal payments are due on the Bonds as set forth in the Indenture.

"Project" means the facilities described in the preambles of this Agreement to be financed with a portion of the proceeds of the Bonds.

"Project Site" means each of the parcels of real estate on which the individual components of the Project are or will be situated.

"Purchaser" or "Bank" means The Northern Trust Company, as purchaser of the Bonds on the dated hereof and any other person that is the "Bank" as set forth in the Indenture.

"Qualified Investments" shall mean any of the following which are at the time of investment legal investments under the laws of the State for the moneys proposed to be invested therein:

(i) Government Obligations;

(ii) bonds, participation certificates or other obligations of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and Federal Home Loan Banks;

(iii) certificates of deposit, bankers' acceptances or other obligations issued by commercial banks or savings and loan associations which are fully insured by the Federal Deposit Insurance Corporation or certificates of deposit, bankers' acceptances or other obligations issued by commercial banks whose unsecured obligations are rated at the time of investment in one of the three highest rating categories by either Moody's or S&P;

(iv) commercial paper rated at the time of investment in one of the three highest categories by either Moody's or S&P;

(v) obligations issued or guaranteed by a state or political subdivision of a state rated at the time of investment in one of the three highest rating categories by either Moody's or S&P;

(vi) housing authority bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States;

(vii) investments in a taxable or tax-exempt money market fund having a rating at the time of investment by Moody's of "Aaa" or by S&P of "AAA";

(viii) investment agreements with financial institutions whose unsecured debt obligations are rated at the time of time of investment by S&P and Moody's in one of the three highest rating categories or that are collateralized by investments of the type described in clause (i) of this definition having an aggregate fair market value at all times of not less than 100% of the original principal amount of such investment;

(ix) repurchase agreements with a term of one year or less with any institution with debt rated at the time of investment "A" or commercial paper rated "A-2" (in each case by S&P);

(x) repurchase agreements collateralized by Government Obligations described in clause (i) of the definition thereof with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligations rated at the time of investment "Prime-2" or "A" or better by Moody's, and "A-2" or "A-" or better by S&P, provided:

(a) a master repurchase agreement or specific written, repurchase agreement governs the transaction;

(b) the securities are held free and clear of any lien by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (1) a Federal Reserve Bank, or (2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than $25 million, and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee;

(c) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. in such securities is created for the benefit of the Trustee;

(d) the repurchase agreement has a term of thirty days or less, or the Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two Business Days of such valuation;

(xi) forward delivery agreements with financial institutions whose unsecured debt obligations are rated at the time of investment by S&P and Moody's in one of the three highest rating categories that deliver investments of the type described in clause (i) through (iv).

"Rating Agency" means a nationally recognized securities rating agency which at the time in question is rating any of the Bonds.

"Refunded Note" means the City of Port Orange, Florida Tax-Exempt Revenue Note, Series 2010 (Palmer College Project)

"State" means the State of Florida.

"Trustee" shall mean U.S. Bank Trust Company, National Association, as successor trustee to U.S. Bank National Association under the Indenture, and any successors and assigns.

"Trust Estate" shall mean all of the Issuer's right, title and interest in and to (i) this Loan Agreement assigned for the benefit of the holders of the Bonds (except Unassigned Rights) and all revenues and security granted therefor under this Loan Agreement, (ii) all moneys and securities held from time to time in the Funds and Accounts pledged under the Indenture for the benefit of the holders of the Bonds, except the Rebate Fund, (iii) all amounts derived by the Issuer or the Trustee from the exercise of its rights under this Loan Agreement assigned for the benefit of the holders of the Bonds, and (iv) all other property held by the Trustee and pledged under the Indenture for the benefit of the holders of the Bonds.

"Unassigned Rights" shall mean the right of the Issuer to be paid fees and expenses related to the Bonds under this Loan Agreement and the right of the Issuer to receive

indemnification from the Borrower pursuant to this Loan Agreement, which rights are not assigned to the Trustee pursuant to the Indenture.

Section 1.2 Rules of Interpretation. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) "This Agreement" or "this Loan Agreement" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein", "hereof", "hereunder" and "herewith" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with Generally Accepted Accounting Principles.

(e) The terms defined elsewhere in this Agreement shall have the meanings therein prescribed for them.

(f) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(g) The headings used in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

(h) Whenever the term "principal office" is used herein, it shall mean the office designated as such by the applicable entity via a writing to the Trustee.

(i) As used herein, references to the "knowledge" of a person mean the actual knowledge of the person as well as such knowledge as the person would have had in the exercise of such care as would be exercised by an ordinarily prudent person in similar circumstances.

(j) As used herein, the term "material," when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable person would attach importance in determining whether to make a loan to the Borrower.

(End of Article I)

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties by the Borrower. The Borrower makes the following representations, warranties, covenants and agreements to the Issuer and the Bondholders:

(a) Existence and Rights. The Borrower is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Iowa and Florida and the Borrower is duly qualified to transact operations in all places where such qualification is necessary. The Borrower has the power and adequate authority, rights and franchises to own its property and to carry on its business as now conducted. The Borrower has the power, adequate authority and legal right to enter into this Loan Agreement and each of the Loan Documents and to perform its obligations hereunder and thereunder.

(b) Organization for Educational Purposes. The Borrower is organized and operated exclusively for educational purposes and not for pecuniary profit, and no part of the net income of the Borrower inures to the benefit of any person, private stockholder or individual. The Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from federal taxation under Section 501(a) of the Code, and the Borrower is not a private foundation within the meaning of Section 509(a) of the Code. To the knowledge of the officers of the Borrower, there is no fact which materially adversely affects the status of the Borrower as an organization exempt from taxation under Section 501(a) of the Code.

(c) Loan Agreement Authorized. The making and performance by the Borrower of this Loan Agreement and each of the Loan Documents: (i) have been duly authorized by all necessary corporate action, (ii) do not require the consent or approval of, or any declaration or filing with, any governmental body, regulatory authority, court or official, (iii) do not violate or contravene or constitute a default under any provision of law or regulation or the charter or bylaws of the Borrower or of any judgment, injunction, order, or mortgage, security agreement, indenture or other agreement or instrument, to which the Borrower is a party or by which the Borrower or any of its property may be bound or affected, and (iv) will not result in the creation or imposition of any lien or security interest on any property of the Borrower. This Loan Agreement and each of the other Loan Documents are the valid, legal and binding obligations of the Borrower enforceable in accordance with their terms.

(d) Financial Information. The statement of financial position of the Borrower as of June 30, 2018 and the related statement of activities and statement of cash flows for the fiscal year then ended, a copy of which has been delivered to the Purchaser, fairly present, in conformity with Generally Accepted Accounting Principles, the financial position of the Borrower as of such date and its results of operations and changes in financial position for such fiscal year. Since such date there has been no

material adverse change in the business, financial position, results of operation or prospects of the Borrower.

(e) Permits and Licenses. The Borrower has, to the best of its knowledge, all necessary permits, licenses, accreditations and certifications or other necessary approvals which are currently obtainable to conduct its business as it is presently being conducted, subject to minor exceptions and deficiencies that are not material and do not affect the conduct of its business.

(f) Litigation. There is no suit, tax claim or other proceeding pending against, or to the knowledge of the officers of the Borrower, threatened against or affecting, the Borrower or any of its property before any court or by or before any governmental authority, which, if adversely determined, would have a material and adverse effect on the financial condition or operations of the Borrower or would materially affect the Borrower's ability to make and perform its obligations under this Loan Agreement and each of the Loan Documents.

(g) No Event of Default. No Event of Default or other event which, with the giving of notice or the lapse of time or both, would become an Event of Default, has occurred and is continuing or will occur by reason of the execution, filing or recordation of any of the Loan Documents or the borrowing of the Loan.

(h) Usury. The obligations of the Borrower under this Loan Agreement are not subject to any law, rule or regulation prescribing a maximum rate of interest.

(i) Taxes. The Borrower has filed all federal, state, and local income, sales and other tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns and the Borrower does not know of any basis for additional assessment in respect of such taxes.

(j) Amount Financed. The amount of Bond proceeds to be used to refinance the Eligible Costs of the Project is $14,860,000.

(k) Use of Project. The Borrower agrees not to use or occupy, nor permit any use of, the Project or any part thereof contrary in any material respect to any applicable law, ordinance or governmental regulation now or hereafter in force, including any lawful contract provisions, rule or regulation imposed by the United States of America on the Issuer or the Borrower in connection with any grant or other federal aid for the construction of the Project, if any. The Borrower covenants and agrees that throughout the term of this Agreement, at its sole cost and expense, it shall comply promptly, in all material respects, with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state, county and municipal governments, and appropriate departments, commissions, boards and officers thereof, whether or not requiring structural repairs or alterations to the Project or relating to the use or occupancy or manner of use of the Project. Borrower shall also observe and comply, in all material respects, with the requirements respecting the Project of all policies of insurance at any

time in force with respect to any of the buildings, improvements, machinery or equipment constituting a part of the Project. Borrower will not use or occupy the Project or permit its use or occupancy for any unlawful purpose or in any material violation of any law or regulation or any applicable contractual provision or in such manner as may provide a basis for claims, or adverse use or possession by the public or implied dedication to public use of any material part of the Project which may impair the efficient operation, use or control of the Project. Nothing herein shall prohibit Borrower from contesting in good faith any law, ordinance, rule, regulation, order, or contract provision described herein.

(l) Tax-Exempt Status. In order to preserve the tax-exempt status of the Bonds, Borrower covenants that it shall take such actions as are required to prevent the interest on the Bonds from becoming taxable for federal income tax purposes to the holders of the Bonds (other than a holder who is a "substantial user" of the Project or "related person" thereto within the meaning of Section 147(a) of the Code) including, but not limited to, taking all actions required of it under Section 148 of the Code. To this end, Borrower shall:

(1) maintain records identifying all "gross proceeds" attributable to the Bonds; the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Bonds) and any earnings derived from the investment of such arbitrage profit;

(2) make, or cause to be made as of the end of each fifth Bond Year (or more frequently, if required by applicable tax law), the determinations of the amount, if any, of excess arbitrage required to be paid to the United States by Issuer;

(3) pay, or cause to be paid, to the United States at least once every five years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the Bonds are paid in full;

(4) not invest, or permit to be invested, "gross proceeds" in any acquired nonpurpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party;

(5) refrain from investing any "gross proceeds" allocable to the Bonds in acquired nonpurpose obligations at a yield greater than the yield on the Bonds to the extent such "gross proceeds" exceed in any Bond Year more than 150% of the debt service requirements for the Bonds in that year; and

(6) retain all records of the annual determination of the foregoing amounts until six (6) years after the Bonds have been fully paid;

all as provided in Section 148 of the Code and any federal income tax regulations (whether proposed, temporary or final) relating thereto. The Borrower shall retain Bond Counsel or other

qualified professional to assist the Borrower in complying with the rebate requirements of the Code.

(m) Prohibited Uses. No portion of the proceeds of the Bonds are to be used to provide any airplane, skybox or other private luxury box, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(n) Site. The Borrower is a Tenant under an August 15, 2002 Ground Lease with the Port Orange Property Development, Inc., a Florida non-profit corporation. The Ground Lease provides that all structures, buildings and leasehold improvements shall vest in the Borrower for the duration of the Lease which terminates on June 30, 2052.

(o) Conflicts. To the knowledge of the officers of the Borrower, no member of the Issuer or other officer or employee of the Issuer is directly or indirectly interested in this Agreement or any contract, agreement or job hereby contemplated to be entered into or hereby undertaken.

(p) Zoning Restrictions. The Project will comply throughout the Loan term with all presently applicable building and zoning restrictions, health and safety standards and all other industrial requirements or restrictions enacted or permitted by the State of Florida, or any political subdivision thereof, or by the government of the United States, or any agency thereof.

(q) Institution. The Borrower is an “institution” within the meaning of the Act and meets all of the requirements of Section 261A.4(11) of the Act.

(r) Program. The Borrower is empowered to provide a program of education beyond the high school level; is recognized by the Florida Commission for Independent Education as an institution of higher education; and does not, and will not, discriminate on the basis of age, race, sex, color, creed, national origin, religion or disability.

(s) Use of Proceeds. All the proceeds from the sale of the Bonds will be used to refinance the costs of the Project, paying the swap termination payment in connection with the cancellation of a hedging agreement associated with the Refunded Note, if any, and pay costs of issuance of the Bonds, and no changes shall be made in the Project which will affect the qualification of the Project as a "project" under the Act or impair the exemption of interest on the Bonds from federal income taxation. No proceeds from the sale of the Bonds will be used to reimburse any expenditures which were paid prior to the date of issuance of the Bonds. 60 days before the Borrower shall have adopted an Official Intent Resolution pursuant to Treasury Regulation Section 1.150-2, and then only for costs paid following the date of such Resolution and in accordance with such Resolution. In no event shall more than two percent (2%) of the sale proceeds of the Bonds be used to pay costs of issuance described in Section 147(g) of the Code.

(t) Indemnity. The Borrower will indemnify and save harmless the Issuer and the Trustee and their respective officers, agents, employees, directors and representatives

from and against any and all losses, costs, charges, expenses, judgments and liabilities, including reasonable attorneys' fees, incurred by it or them while it or they are acting to carry out the transactions contemplated by this Agreement and the Indenture or to safeguard its or their interests or ascertain, determine or carry out its or their interests or ascertain, determine or carry out its or their obligations under this Agreement, the Indenture or any law or contract applicable to the transactions contemplated by this Agreement and the Indenture, all as more specifically provided and subject to the limits set forth in Section 8.2 of this Agreement.

All representations of the Borrower contained herein or in any certificate or other instrument delivered by the Borrower pursuant hereto, pursuant to the Indenture, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds as representations of facts existing as of the date of execution and delivery of the instrument containing such representation.

Section 2.2 Representations, Covenants and Warranties of the Issuer. The Issuer represents, covenants and warrants as follows:

(a) The Issuer is a body politic and corporate and a public instrumentality organized and existing under the laws of the State. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Agreement and the Indenture, to issue the Bonds and to carry out its obligations hereunder and under the Indenture. The Issuer has been duly authorized by appropriate proceedings of its governing body to execute and deliver this Agreement and the Indenture and to issue the Bonds.

(b) The Issuer agrees that it will assist in the financing of the Project by loaning to the Borrower the proceeds of the sale of the Bonds. Borrower has estimated that the total of the amount to be used to refinance the Project and pay costs of issuance equals or exceeds $14,860,000, and on that basis, Issuer agrees to reissue the Bonds in the aggregate principal amount of $14,860,000. The Issuer shall issue the Bonds concurrently with the execution and delivery of this Agreement.

(c) The Bonds will be issued under the Indenture and will mature at such dates and bear interest at such rates and will be subject to redemption at the time and at the redemption prices as set forth in the Indenture.

(d) The Issuer covenants that it will not assign or pledge the Loan Payments hereunder or any other amounts pledged pursuant to this Agreement or the Indenture other than to secure the Bonds.

(End of Article II)

ARTICLE III

OWNERSHIP OF PROJECT

Issuer and Borrower agree that title to and ownership of the Project shall remain in and be the sole property of Borrower subject to the August 15, 2002 Ground Lease with Port Orange Property Development, Inc., owner of the Site. , and Issuer shall have no interest therein. Issuer does hereby covenant and agree that it will not take any action during the term of this Loan Agreement to interfere with Borrower's ownership of the Project or to prevent Borrower from having possession, custody, use and enjoyment of the Project, other than as may be specifically provided for by provisions of this Loan Agreement.

(End of Article III)

ARTICLE IV

ISSUANCE OF THE BONDS; INVESTMENTS

Section 4.1 Agreement to Issue Bonds; Application of Proceeds. In order to provide funds to loan to the Borrower in order to finance the Project, the Issuer, concurrently with the execution of this Loan Agreement, will issue, sell and deliver to the Purchaser the Bonds, the proceeds of which will be deposited pursuant to the provisions of the Indenture.

Section 4.2 Disbursements. Issuer has, in the Indenture, authorized and directed Trustee to apply the proceeds of the Bonds in accordance with the Closing Memorandum. Disbursements for costs of issuance of the Bonds shall be made upon receipt by Trustee of a certificate, in the form attached hereto as Exhibit A, signed by Borrower. In no event shall more than two percent (2%) of the sale proceeds of the Bonds be used to pay costs of issuance described in Section 147(g) of the Code.

Section 4.3 Investment of Moneys. Any moneys held as a part of the Bond Fund or any other fund created pursuant to the Indenture (other than the Rebate Fund) shall be invested by Trustee, at the written direction of the Borrower, in accordance with the provisions of Article VI of the Indenture, in Qualified Investments. The Trustee may make any or all such investments through its own trust or bond departments and in its own savings accounts, certificates of deposit and money market funds. In the absence of written direction from the Borrower, the Trustee shall hold such amounts uninvested in cash, without liability for interest.

The investments so purchased shall be held by the Trustee and shall be deemed at all times a part of the Bond Fund or any other fund, as the case may be, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund and any losses resulting from such investment shall be charged to such fund and paid by the Borrower. The Trustee shall not be required to risk or expend its own funds, nor be responsible for any loss which is the result of an investment.

Section 4.4 Arbitrage. The Borrower covenants to the Issuer and to and for the benefit of the purchasers and holders of the Bonds from time to time outstanding that so long as any of the Bonds remain outstanding, moneys on deposit in any fund or account in connection with the Bonds, whether or not such moneys were derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and any regulations promulgated or proposed thereunder. The Issuer covenants to the Borrower and to and for the benefit of the purchasers and holders of the Bonds from time to time outstanding not to take any action which would cause the Bonds to be "arbitrage bonds".

Section 4.5 Rebate Fund. The Borrower agrees that it shall comply with the provisions of Section 148 of the Code. Without limiting the generality of the foregoing, the Borrower shall make or cause to be made the calculation(s) required by Section 148 of the Code and shall, upon request, provide such calculations to the Trustee. The Borrower may retain a person to act on its behalf for the purpose of making the calculation(s) required by Section 148

of the Code. The Borrower shall make deposits to the Rebate Fund and shall direct the Trustee to make deposits and disbursements from the Rebate Fund (including rebate payments to the United States required to be made by Section 148 of the Code), in accordance with Section 148 of the Code and to invest the Rebate Fund pursuant to Section 148 of the Code.

(End of Article IV)

ARTICLE V

PAYMENT PROVISIONS; MAINTENANCE; PAYMENT OF TAXES; INSURANCE

Section 5.1 Loan of Bond Proceeds and Assignment of Issuer's Rights. The Issuer agrees, upon the terms and conditions in this Agreement, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. It is understood that all rights of the Issuer to receive amounts payable under Sections 5.2 and 5.3 (other than 5.3(b)) of this Agreement by Borrower are assigned to Trustee pursuant to the Indenture. The Borrower assents to such assignment. The Issuer hereby directs the Borrower and the Borrower hereby agrees to pay to the Trustee (or as otherwise provided in the Indenture) at its principal office all payments by the Borrower pursuant to this Agreement other than those payments the Borrower transfers directly to the Bank as permitted under Section 2.02 of the Indenture.

Section 5.2 Loan Payments and Other Amounts Payable.

(a) The Borrower agrees to pay to the Trustee (or the Bank as permitted under Section 2.02 of the Indenture) in immediately available funds for the account of the Issuer as and for repayment of the Loan, and interest thereon, the following sums on the day when due: (i) on each Interest Payment Date, the amount payable as interest due on the Bonds on that Interest Payment Date until the principal of and interest on the Bonds shall have been fully paid or provisions of the repayment thereof shall have been made in accordance with the Indenture, plus (ii) on each Principal Payment Date, an amount equal to the amount payable as principal, whether at maturity or upon sinking fund redemption, on the Bonds on that Principal Payment Date until the principal of and the interest on the Bonds shall have been paid, or provision for the payment thereof shall have been made in accordance with the Indenture, and (iii) on each acceleration day or optional or mandatory redemption date a sum equal to the amount payable on such date as principal of, premium, if any, and interest on the Bonds as provided in the Indenture. The Borrower shall receive credit under this paragraph for any amounts drawn by the Trustee under any Letter of Credit to pay principal of or premium, if any, or interest on the Bonds; provided that if at any time a Credit Bank should default on its obligations under any Letter of Credit, the Borrower shall remain liable for all amounts due hereunder. The payments due from Borrower hereunder shall be reduced to the extent that investment earnings or amounts other than such payments are on deposit in the Bond Fund.

Each Loan Payment installment paid pursuant to this Section shall at all times be sufficient to pay the total amount of interest and principal and premium, if any, (whether at maturity or upon redemption or acceleration) payable on the Loan Payment date to which it relates; provided, that, any amount held by the Trustee in the Bond Fund on a Loan Payment date shall be credited against the Loan Payment on such date; and provided further, that, if at any time the amount held by the Trustee in the Bond Fund should be sufficient (and remain sufficient) to pay at the times required the principal of, interest and premium, if any, on the Bonds then remaining unpaid, the Borrower shall not be obligated to make any further Loan Payments under the provisions of this Section.

(b) The Borrower also agrees to make the deposits to the Rebate Fund at the times and in the amounts required by Section 4.5 hereof.

In the event the due date of any payment required to be made pursuant to this Section is not a Business Day, such payment shall be due on the next following Business Day.

In the event the Borrower should fail to make any of the payments required in Section 5.2(a) hereof, the item or Loan Payment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon to the extent permitted by law from the due date of said Loan Payment at the Default Rate.

Section 5.3 Additional Payments. The Borrower agrees to pay the following items to the following persons as additional payments under this Agreement:

(a) To the Trustee, when due, all fees of the Trustee for services rendered under the Indenture and all fees and charges of any paying agent, registrars, attorneys, accountants, engineers and others incurred in the performance on request by the Trustee of services under the Indenture for which the Trustee and such other persons are entitled to payment or reimbursement, provided that the Borrower may, without creating a default hereunder, contest in good faith the necessity or reasonableness of any such service, fees or expenses other than the Trustee's fees for ordinary services; and

(b) To the Issuer, all fees and expenses incurred by the Issuer in relation to the issuance of the Bonds which are not otherwise required to be paid by the Borrower under the terms of this Agreement.

(c) To the Credit Bank, if any, the amounts paid by the Credit Bank under the Letter of Credit and other amounts owing to the Credit Bank under any Credit Agreement; and

(d) To the Tender Agent, if any, at the times and in the amounts and manner therein specified, an amount equal to the amount required in order to pay the purchase price of Bonds subject to optional or mandatory tender for purchase pursuant to the Indenture; provided, however, that the amount required to be paid under this paragraph shall be reduced by an amount equal to the sum of the amounts made available for such purpose from the proceeds of the remarketing of such Bonds by the Remarketing Agent or through payments by a Credit Bank under a Letter of Credit, all as contemplated by Section 3.08 of the Indenture. The Borrower authorizes and directs the Trustee to demand money under a Letter of Credit in accordance with the provisions of a Credit Agreement and the Indenture to the extent necessary for the purchase of Bonds pursuant to the Indenture. The Borrower authorizes and directs the Trustee to apply the payments made by the Borrower under this paragraph to the payment of the purchase price of any Bonds subject to optional or mandatory tender for purchase under the Indenture; and

(e) To the Person or Persons entitled thereto, any other amounts which the Borrower has agreed to pay under this Loan Agreement.

Section 5.4 Obligations Of Borrower Hereunder Unconditional. This Agreement is a general obligation of the Borrower and the full faith and credit of the Borrower is pledged to the payment of all sums due hereunder. The obligations of Borrower to make the payments required in Sections 5.2 and 5.3 and other sections hereof and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by Issuer or Trustee or any other party of any obligation to Borrower, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Borrower by Issuer or Trustee or any other party and until such time as the principal of and premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture. Borrower (i) will not suspend or discontinue any payments provided for in Sections 5.2 and 5.3 hereof, (ii) will perform and observe all other agreements contained in this Loan Agreement, and (iii) except as provided in Article X hereof, will not terminate the Loan term for any cause including, without limitation, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or temporary use of the Project or any portion thereof, any failure of consideration, failure of title or commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Florida or any political subdivision of either thereof or any failure of Issuer or Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement, it being the intention of the parties that the payments required hereunder will be paid in full when due without any delay or diminution whatsoever.

(End of Article V)

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 6.1 Damage, Destruction And Condemnation. Unless Borrower shall have been required or elects to prepay the Loan pursuant to the provisions of Article X hereof, if prior to full payment of the Bonds (or provisions for payment thereof in accordance with the provisions of the Indenture) (i) the Project or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty, or (ii) title to, or the temporary use of, the Project or any portion thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Borrower shall be obligated to continue to pay the amounts specified in Sections 5.2 and 5.3 hereof.

Section 6.2 Application Of Net Proceeds. Subject to the August 15, 2002 Ground Lease with Port Orange Property Development, Inc., any Net Proceeds from damage, destruction or condemnation of Project shall be applied in one of the following ways as shall be elected by the Borrower:

(a) To the prompt repair, restoration or improvement of the Project by Borrower; or

(b) To the prepayment of the Loan and redemption of the Bonds in accordance with Section 10.1 of this Agreement and the Indenture.

Section 6.3 Insufficiency Of Net Proceeds. To the extent Net Proceeds are insufficient to pay the full cost of any repair, restoration or improvement, Borrower shall not be entitled to any reimbursement therefor from Issuer or from Trustee or from the holders of any of the Bonds, nor shall Borrower be entitled to any diminution or abatement of the amounts payable under Sections 5.2 and 5.3 hereof.

Section 6.4 The Borrower Entitled to Certain Net Proceeds. The Borrower shall be entitled to the Net Proceeds of any insurance proceeds or condemnation award or portion thereof made for damage to or taking of its property not a part of the Project.

(End of Article VI)

ARTICLE VII

SPECIAL COVENANTS

Section 7.1 No Warranty Of Condition Or Suitability By Issuer. Issuer makes no warranty, either express or implied, as to the Project or the condition thereof, or that the Project will be suitable for the purposes or needs of Borrower or that the proceeds from the sale of the Bonds will be sufficient to pay all costs of refunding the Refunded Note.

Section 7.2 Inspection Of Project. Borrower agrees that Trustee and its duly authorized agent and Issuer shall have the right at all reasonable times to examine and inspect the Project. Borrower further agrees that Issuer, Trustee, and their duly authorized agents shall also be permitted, at all reasonable times, to examine the books and records of Borrower with respect to the Project.

Section 7.3 Annual Audit, Financial Statements and Reports. The Borrower agrees that it will have its financial statements audited annually by its Independent Certified Public Accountant within one hundred fifty (150) days after the close of each Fiscal Year. Promptly upon receipt by the Borrower, it shall furnish to the Trustee, upon request, and the Issuer copies of its audited financial statements which shall consist of a statement of financial position and the related statement of activities and statement of cash flows for that Fiscal Year, all certified as to fairness of presentation, in conformity with Generally Accepted Accounting Principles, by an Independent Certified Public Accountant. At the time the year-end financial statements are provided to the Trustee and the Issuer, the Borrower shall furnish to the Trustee, upon request, and the Issuer a copy of any Compliance Certificate (as defined in the Continuing Covenant Agreement) provided to the Purchaser in accordance with the terms of the Continuing Covenant Agreement. Upon request, the Trustee may distribute such financial statements to the Bondholders and, upon request from the Trustee, the Borrower shall furnish to the Trustee sufficient copies of said financial statements.

The Trustee shall have no duty to review or analyze any such financial statements. The Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed in any manner therein.

Section 7.4 Maintenance Of Security Interests. Borrower shall execute all instruments, including financing statements, deemed necessary or advisable in the opinion of Independent Counsel for perfection of and continuance of the perfection and the maintenance of the priority position of the security interests created by this Loan Agreement and the Indenture.

Section 7.5 Further Assurances And Corrective Instruments. Issuer and Borrower agree that they will from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or for carrying out the expressed intention of this Loan Agreement.

Section 7.6 Issuer and Borrower Representatives. Whenever, under the provisions of this Loan Agreement, the approval of Issuer or Borrower is required or Issuer or Borrower are required to take some action at the request of the other, such approval or such request shall be given for Issuer by the Authorized Issuer Representative and for Borrower by the Authorized Borrower Representative, and any party hereto and Trustee shall be authorized to act on any such approval or request and no party hereto shall have any complaint against any other party or against Trustee as a result of any such action taken.

Section 7.7 Use Of Project. Borrower will use the Project only in furtherance of lawful purposes. The Borrower covenants that the proceeds of the Bonds will be used only for the refunding of the Refunded Note, to make a termination payment in connection with the cancellation of a hedging agreement associated with the Refunded Note, and to pay costs of issuance of the Bonds.

Section 7.8 Issuer and Borrower Not To Adversely Affect Exempt Status Of Interest On The Bonds. The Issuer and Borrower each agrees that it will not knowingly take any affirmative action or omit to take any action, which action or omission will adversely affect the exemption from federal income taxation of interest paid on the Bonds, and, in the event any such action or omission shall be brought to the attention of Issuer or Borrower, each will, at the sole expense of Borrower, promptly upon having any such action or omission brought to its attention, take such reasonable actions based upon advice of counsel as may rescind or otherwise negate or cure such action or omission. With the intent not to limit the generality of the foregoing, Borrower represents, covenants and agrees that:

(a) Borrower will continue to conduct its operations in a manner that will result in its continuing to qualify as a Tax-Exempt Organization under Section 501(c)(3) of the Code;

(b) Borrower will not divert any substantial part of its corpus or income for a purpose or purposes other than those for which it is organized and operated as described;

(c) Borrower has not operated during its five most recent Fiscal Years or during the current Fiscal Year to the date hereof, in a manner that would result in its being classified as an "action" organization within the meaning of Treasury Regulations Section 1.501(c)(3)-(1)(c)(3) including, but not limited to, promoting or attempting to influence legislation by propaganda or otherwise as a substantial part of its activities;

(d) No director, officer or incorporator of Borrower or any organization or corporation controlled by such Person, or any other Person or Persons having a personal or private interest in the activities of Borrower has acquired or received, directly or indirectly, any income or assets of Borrower in any form, for its five most recent Fiscal Years or the current Fiscal Year, as of the date hereof, other than as properly reflected in information returns filed with the Internal Revenue Service (the "IRS") by Borrower;

(e) Borrower is not a "private foundation" within the meaning of Section 509(a) of the Code;

(f) Borrower has not received any indication or notice whatsoever to the effect that its exemption under Section 501(c)(3) of the Code has been revoked or modified, or that the IRS is considering revoking or modifying such exemption, and such exemption is still in full force and effect;

(g) Borrower has timely filed and will in the future timely file with the IRS reports and returns required to be filed by it to maintain Borrower status as an exempt organization under Section 501(c)(3) of the Code, and such reports and returns have not omitted or misstated and will not omit or misstate any material fact;

(h) The proceeds of the Bonds and any investment earnings thereon will be expended for the purposes set forth in this Agreement and in the Indenture and less than five percent (5%) of the Bond proceeds will be used for an unrelated trade or business within the meaning of Section 513(a) of the Code or will be, directly or indirectly, (i) secured by any interest in property used for a private business use or (ii) derived from payments in respect of property or borrowed money used for a private business use.

(i) Borrower will not use the proceeds of the Bonds or any investment earnings thereon in a manner that will result in the Bonds not being classified as qualified 501(c)(3) bonds within the meaning of Section 145 of the Code; and

(j) Borrower shall provide Issuer on the date hereof with all information required to satisfy the informational requirements set forth in Section 149(e) of the Code including the information necessary to complete IRS Form 8038; and

(k) Neither Borrower nor any person related to it within the meaning of Section 147(a)(2) of the Code, pursuant to an arrangement, formal or informal, will purchase the Bonds in an amount related to the total amount payable under and secured by this Agreement.

(l) Borrower agrees, whenever requested by the Issuer, to provide and certify or cause to be provided and certified such information concerning the Project, the Borrower, the finances of the Borrower, and other topics as the Issuer considers necessary to enable Counsel to issue their respective opinions and otherwise advise the Issuer as to the transaction or the capacity of the parties to enter into the same, or to enable Issuer to make any reports or supply any information required by the Indenture, law, governmental regulation or otherwise.

As provided in the Indenture, the Trustee will invest moneys held by the Trustee as directed by the Borrower. The Issuer and the Borrower hereby covenant with each other and with the holders of the Bonds that, notwithstanding any other provisions of this Agreement or any other instrument, they will neither make nor instruct the Trustee to make any investment or other use of the proceeds of the Bonds, or take or omit to take any other action which could cause the Bonds to be arbitrage bonds under Sections 103(b)(2) and 148(a) of the Code and the regulations thereunder, and that they will comply with the requirements of the Code and the regulations thereunder, and that they will comply with the requirements of the Code and

applicable regulations throughout the term of the Bonds so that the interest on the Bonds shall be excluded from gross income for Federal income tax purposes.

Section 7.9 No Establishment of Religion.

(a) Borrower represents that it has not used and has no intention of using the Project or any substantial part thereof primarily as a place of religious worship or as a facility primarily (i) for sectarian instruction or study, or as a place for devotional activities or religious worship, or (ii) in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion;

(b) The foregoing restrictions shall not apply to any properties or facilities of Borrower not financed or refinanced from the proceeds of the Bonds.

Section 7.10 Compliance with Laws. The Borrower covenants that all actions heretofore taken by the Borrower to acquire and carry out the acquisition and construction and equipping of the Project, including the making of contracts, have been in full compliance with all pertinent laws, ordinances, rules, regulations and orders applicable to the Borrower. In connection with the operation, maintenance, repair and replacement of the Project, the Borrower covenants that it shall comply with all applicable ordinances, rules, regulations and orders of the government of the United States of America, the State, the municipality in which the Project or any part thereof is located, and any requirement of any insurance company writing insurance on the Project. The Borrower further covenants and represents that the Project is in compliance with all applicable zoning, subdivision, building, land use and similar laws and ordinances. The Borrower covenants that it shall not take any action or request the Trustee to execute any release which would cause such real estate to be in violation of such laws and ordinances.

Section 7.11 Corporate Existence. The Borrower covenants that it will preserve and maintain its existence as a not-for-profit corporation under the laws of the State of Iowa and Florida, and to the extent permitted by law at any given time, free from federal, state and local income, property, franchise and other taxes, and preserve and maintain its authority to operate the Facilities as an institution of higher education in the State.

The Borrower covenants that it will maintain the necessary accreditation to enable it to maintain its authority to operate as an institution of higher education in the State within the meaning of the Act.

The Borrower covenants that during the term of this Agreement it will not initiate any proceedings or take any action whatsoever to dissolve or liquidate or to terminate its existence as a corporation or otherwise dispose of all or a substantial part of its assets, either in a single transaction or in a series of related transactions, except to consolidate or merge with or sell or otherwise transfer all or a substantial part of its assets to any other corporation, all as provided hereinbelow. The Borrower covenants that during the term of this Agreement it will not merge or consolidate with, sell or transfer all or a substantial part of its assets to, any other entity, unless the following conditions shall be met:

(a) the successor formed by such consolidation or merger shall be a not-for-profit corporation organized under the laws of the United States or any state, district or territory thereof, which is exempt from federal income tax under Section 501(c)(3) of the Code and shall be determined to be an institution of higher education as required by the Act;

(b) the successor or transferee shall expressly assume in writing the full and faithful performance of the Borrower's duties and obligations hereunder to the same extent as if such successor or transferee corporation had been the original Borrower under this Agreement;

(c) immediately after such consolidation, merger, sale or transfer, the Borrower, or such successor or transferee, shall not be in default in the performance or observance of any duties, obligations or covenants of the Borrower under this Agreement;

(d) the Issuer and the Trustee shall have received an Opinion of Bond Counsel to the effect that that the merger, transfer, sale or consolidation will not adversely affect the treatment of interest on the Bonds under the Code.

(End of Article VII)

ARTICLE VIII

ASSIGNMENT; INDEMNIFICATION; REDEMPTION

Section 8.1 Assignment. This Agreement may be assigned by Borrower subject, however, to each of the following conditions:

(a) No assignment shall relieve Borrower from primary liability for any obligation under this Agreement and in the event of any such assignment, Borrower shall continue to remain primarily liable for payment of the amounts specified in Sections 5.2 and 5.3 hereof and for performance and observance of the other agreements on its part herein provided to be performed and observed by Borrower to the same extent as though no assignment had been made.

(b) The assignee shall assume the obligations of the Borrower hereunder to the extent of the interest assigned, whereupon the Borrower and the assignee shall be jointly and severally liable for all obligations of the Borrower under this Agreement to the extent of the interest assigned.

(c) Borrower shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to Purchaser and Trustee a true and complete copy of each assignment or assumption of obligation.

(d) The Borrower shall, prior to such assignment becoming effective, furnish or cause to be furnished to the Purchaser and the Trustee an Opinion of Bond Counsel, to the effect that such assignment shall not affect the tax-exempt status of any Bond.

(e) The Borrower shall have received the prior written consent of the Purchaser at any time prior to the Bank Purchase Date or while the Bonds are in an Index Rate Period.

Section 8.2 Release and Indemnification Covenant.

(a) Borrower agrees to protect, indemnify and save Issuer and Trustee and their respective members, directors, officers, agents, representatives, and employees harmless from and against all liability, losses, damages, costs, expenses (including attorneys' fees), taxes, causes of action, suits, claims, demands and judgments of any nature and form, by or on behalf of any person, firm, corporation or other legal entity arising in any manner from the transaction of which this Loan Agreement is a part or arising in any manner in connection with the Project including, without limiting the generality of the foregoing, (i) any breach or default on the part of Borrower in the performance of any of its obligations under this Loan Agreement, or (ii) any violation of contract, agreement or restriction by Borrower relating to the Project, or (iii) any violation of law, ordinance or regulation affecting the Project or any part thereof or the ownership or occupancy or use thereof, or (iv) any audit or other inquiry or proceeding potentially impacting the tax-exempt status of the Bonds or any inquiry, initiative or

proceeding with respect to the exemption of the Bonds from any registration requirement under the securities laws; provided that the indemnification provided for herein shall not apply to any losses caused by the negligent acts of the Issuer or Trustee and their respective directors, agents, representatives, members, officers or employees. Upon notice from Issuer or Trustee, Borrower shall defend Issuer or Trustee and their respective directors, agents, representatives, members, officers and employees or any of them in any action or proceeding brought in connection with any of the above.

(b) It is the intention of the parties hereto that Issuer and Trustee and their respective directors, agents, representatives, members, officers and employees shall not incur pecuniary liability by reason of the terms of this Loan Agreement or by reason of the undertakings required of Issuer and Trustee or their respective directors, agents, representatives, members, officers or employees hereunder in connection with the issuance of the Bonds, the execution of the Indenture, the performance of any act required of Issuer or Trustee or their respective directors, agents, representatives, members, officers or employees by this Loan Agreement, or the performance of any act requested of Issuer or Trustee or their respective directors, agents, representatives, members, officers or employees by Borrower or in any way arising from the transaction of which this Loan Agreement is a part or arising in any manner in connection with the Project or the financing of the Project; nevertheless, if Issuer or Trustee or their respective directors, agents, representatives, members, officers or employees should incur any such pecuniary liability, Borrower shall indemnify and hold Issuer and Trustee and their respective directors, agents, representatives, members, officers and employees harmless against all claims by or on behalf of any person, firm or corporation or other legal entity, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from Issuer or Trustee, Borrower shall defend Issuer and Trustee and their respective directors, agents, representatives, members, officers and employees in any such action or proceeding, provided that the indemnification provided for herein shall not apply to any losses caused by the negligent acts of the Issuer or Trustee or their respective directors, agents, representatives, members, officers or employees.

Section 8.3 Assignment Of Interest In This Loan Agreement By Issuer. Any assignment or pledge by Issuer to Trustee pursuant to the Indenture of any interest in the Project or this Loan Agreement or any moneys receivable under this Loan Agreement shall be subject and subordinate to this Loan Agreement and the Indenture.

Section 8.4 Restrictions On Assignment Or Pledge By Issuer. Issuer agrees that except for the assignment or pledge of its interest in this Loan Agreement pursuant to the Indenture, it will not assign, transfer or pledge any interest obtained hereunder during the Loan term.

Section 8.5 Redemption Of Bonds. Upon the agreement of Borrower to deposit moneys in the Bond Fund in an amount sufficient to redeem Bonds subject to redemption, Issuer, at the request of Borrower shall forthwith take all steps (other than the payment of money required for such redemption) necessary under the applicable redemption provisions of the

Indenture to effect redemption of all or part of the then outstanding Bonds, as may be specified by Borrower, on the earliest redemption date on which such redemption may be made under such applicable provisions.

Section 8.6 References To Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provisions for payment thereof having been made in accordance with the provisions of the Indenture) and all fees and charges of Trustee, all references in this Loan Agreement to the Bonds and Trustee shall be ineffective and neither Trustee nor the holders of any of the Bonds shall thereafter have any rights hereunder, except those that shall have theretofore vested.

(End of Article VIII)

ARTICLE IX
EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default Defined. The following shall be "events of default" under this Loan Agreement and the terms "event of default" and "default" shall mean, whenever they are used in this Loan Agreement, any one or more of the following events:

(a) Failure by Borrower to timely pay the payments required to be paid under Section 5.2 hereof, or failure to provide moneys for the redemption or tender of the Bonds as may be required by the provisions of the Indenture or this Loan Agreement; provided, however, if the Bonds are then bearing interest at an Index Rate, such failure shall have continued for ten (10) Business Days.

(b) Failure by Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (a) of this section for a period of thirty (30) Business Days after written notice, specifying such failure and requesting that it be remedied, shall have been given to Borrower by Issuer or Trustee, or the Purchaser, if any.

(c) If any material representation or warranty made in writing by or on behalf of the Borrower in this Agreement or in any Loan Document or in any other certificate or writing furnished to the Purchaser or the Issuer pursuant to any of the Loan Documents shall prove to have been false or incorrect in any material respect on the date made.

(d) Dissolution or liquidation of the Borrower or the filing by Borrower of a voluntary petition in bankruptcy, or failure by Borrower to promptly satisfy and remove any execution, garnishment or attachment of such consequence as would impair the ability of Borrower to carry on its operation of the Project, or adjudication of Borrower as bankrupt, or assignment by Borrower for the benefit of creditors, or admission in writing by Borrower of its inability to pay its debts generally as they become due, or the entry into an agreement of composition with creditors or appointment of a receiver for Borrower of any portion of the property of Borrower (including any portion of the Project), or a petition shall be filed commencing a case against the Borrower under the United States Bankruptcy Code or any proceeding shall be instituted against the Borrower seeking liquidation of its assets which petition or proceeding shall remain undismissed for ninety (90) days, or the approval by a court of competent jurisdiction of a petition applicable to Borrower in any proceedings instituted under the provisions of the federal bankruptcy laws or under any similar acts which may hereafter be enacted.

(e) A default occurs in the payment of the principal of or interest on any obligation of Borrower for borrowed money (as principal or guarantor or other surety), as and when the same shall become due, or default under any mortgage, agreement or other instrument under or pursuant to which such indebtedness is issued, or under any lease under which Borrower is tenant or lessee, and any such default shall continue beyond the period of grace, if any, allowed with respect thereto, and such default, in the sole discretion of Trustee, shall materially affect the Project, the rights or security of the

Bondholders, or Borrower's ability to timely perform its obligations under this Loan Agreement.

(f) The occurrence of an "event of default" under the Indenture.

Section 9.2 Remedies On Default. Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, Trustee or Issuer (with the prior written consent of Trustee) may (with the prior written consent of the Bank, if any), and upon the written request of the Bank, if any, or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, shall, proceed to immediately accelerate the Bonds as provided in subparagraph (a) hereof and may take one or any combination of the remedial steps set forth in the following subparagraphs:

(a) By written notice to Borrower to be effective upon dispatch, declare all amounts immediately due and payable on the Bonds pursuant to Section 5.2 hereof (being an amount sufficient to pay the principal of, premium, if any, and interest accrued on the Bonds), assuming acceleration of maturity (as provided in Section 9.02 of the Indenture), to be immediately due and payable as liquidated damages and not as a penalty.

(b) Have access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of Borrower and any books and records pertaining to the Project.

(c) Take whatever action at law or in equity as may appear necessary or desirable to collect the Loan Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Borrower under this Loan Agreement.

(d) Exercise all rights granted pursuant to any of the Loan Documents, in such order and in such manners as the Trustee may, in its sole and exclusive judgment, determine.

(e) Waive any available remedy for such event of default.

Any amounts collected pursuant to action taken under this Section 9.2 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Bonds have been fully paid (or provision for payment thereof has been made in accordance with the provisions of the Indenture), shall be paid to Borrower.

In addition to the remedies specified above, the Trustee or the Issuer (with the prior written consent of the Trustee) may, and upon the written request of the holders of a majority of the outstanding Bonds, shall require the Borrower to continue to make Loan Payments, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred by the Trustee.

In case there shall be pending proceedings for the bankruptcy of Borrower under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Borrower, or in the case of any other similar judicial proceedings relative to the Borrower or to the creditors or property of the Borrower, the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Borrower, its creditors, or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of his charges and expenses; and any receiver, assignee or trustee in bankruptcy is hereby authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including counsel fees incurred by it up to the date of such distribution.

Section 9.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to Trustee or Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Trustee or Issuer to exercise any remedy reserved in this article, it shall not be necessary to give any notice, other than such notice as may be required in this article. Such rights and remedies as are given Trustee or Issuer hereunder shall also extend to Trustee, and Trustee and the holders of the Bonds, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained.

In addition to the other remedies provided herein, the Issuer shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation by the Borrower of any of the covenants, conditions or provisions hereof, or to a decree compelling specific performance of any of such covenants, conditions or provisions.

In case the Trustee, or the Issuer with the written consent of Trustee, shall have proceeded to enforce its rights hereunder and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or Issuer, then and in every such case the Borrower, the Trustee and the Issuer shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Borrower, the Trustee and the Issuer shall continue as though no such proceeding had been taken.

Section 9.4 Rescission of Declaration. If the Trustee makes a declaration pursuant to Section 9.2(a) above, the Trustee, with notice to the Issuer and the prior written consent of the Bank, if any, may rescind such declaration and the consequences thereof at any time by written instrument.

Section 9.5 Agreement To Pay Attorneys' Fees And Expenses. In the event Borrower should default under any of the provisions of this Agreement and Trustee or Issuer should employ attorneys or incur other expenses for the collection of Loan Payments or the enforcement of performance or observance of any covenant, condition, obligation or agreement on the part of Borrower herein contained, Borrower agrees that it will on demand therefor pay to Trustee or Issuer the reasonable fee of such attorneys and such other expenses so incurred by Trustee or Issuer.

Section 9.6 No Additional Waiver Implied By One Waiver. In the event any agreement contained in the Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No failure by either party to insist upon strict performance hereof or to exercise any remedy upon the occurrence of an event of default shall constitute a waiver of such default or a waiver or modification of any provision hereof.

(End of Article IX)

ARTICLE X

PREPAYMENT OF LOAN AND REDEMPTION OF BONDS

Section 10.1 Extraordinary Option to Prepay Loan. Subject to the terms of the Continuing Covenant Agreement, the Borrower shall have, and is hereby granted, the option to prepay the payments payable hereunder and to terminate the Loan term and this Agreement and to cause the Bonds to be redeemed, in whole or in part from the Net Proceeds of any insurance recovery or condemnation award, upon the occurrence of any of the following events:

(a) All or a portion of the Project shall be damaged or destroyed and the Borrower determines that it is not practicable or desirable to rebuild, repair or restore the Project.

(b) All or a portion of the Project shall be condemned or such use or control thereof shall be taken by eminent domain as to render the Project unsatisfactory to the Borrower for continued operation.

Extraordinary optional prepayment as a result of the occurrence of any of the above events shall be accomplished by paying to Trustee a sum sufficient, together with other funds deposited with Trustee and available for such purpose, to pay the principal amount of the outstanding Bonds to be redeemed, plus accrued interest on such Bonds to the redemption date. In addition Borrower shall pay all reasonable and necessary fees and expenses of Trustee accrued and to accrue in connection with such prepayment and redemption, and, upon a prepayment in whole, all other liabilities of the Borrower accrued and to accrue under this Agreement.

Section 10.2 Mandatory Redemption of Bonds and Prepayment of Loan Upon Certain Events. Subject to the terms of the applicable Continuing Covenant Agreement and the Indenture, the Borrower is required to prepay the Loan in whole and not in part and to cause all of the Bonds to be redeemed if any of the following shall have occurred:

(a) As a result of any changes in the Constitution of the State of Florida or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or of final decree, judgment or order of any court or administrative body (whether state of federal), this Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed in this Agreement; or

(b) Upon the occurrence of a Determination of Taxability.

Redemption of Bonds and prepayment of the Loan pursuant to this Section 10.2 shall be accomplished by paying to the Trustee the sum of the following for redemption of the Bonds pursuant to the Indenture:

(1) a sum sufficient, together with other funds deposited with the Trustee and available for such purposes, to redeem all Bonds then outstanding at a

redemption price equal to 100% of the principal amount of the outstanding Bonds plus an amount equal to interest on such Bonds to the date of redemption;

(2) an additional amount equal to the Trustee's and Paying Agent's fees and expenses under the Indenture accrued and to accrue through the redemption date;

(3) an amount of money sufficient to discharge all other liabilities of the Borrower accrued under this Agreement.

Section 10.3 Optional Prepayment. Subject to the terms of the applicable Continuing Covenant Agreement and the Indenture, the Borrower shall also have the option to prepay the Bonds in accordance with the Indenture at a redemption price of 100% of the principal amount of the outstanding Bonds to be prepaid, plus accrued interest on such Bonds to the redemption date.

Section 10.4 Redemption of Bonds With Prepayment Money. By virtue of the assignment of the rights of the Issuer under this Agreement to the Trustee as is provided in Section 5.1 hereof, the Borrower shall pay any amount required to be paid by it under this Article directly to the Trustee. If a Letter of Credit is in effect, the Trustee shall draw on the Letter of Credit (if permitted by the terms thereof) to accomplish any prepayment provided for herein to the extent that the amount necessary for the prepayment exceeds moneys available for such purpose and use the money so drawn to redeem the Bonds pursuant to Section 3.01(a), (b) or (c) of the Indenture on the redemption date. The Borrower shall receive credit under this Article for any amounts drawn by the Trustee hereunder. If on the redemption date any of the Bonds shall then be unpaid or provision for payment thereof shall not have been made in accordance with the provisions of the Indenture, the Borrower shall pay to the Trustee such additional money as shall be required to pay or redeem all of the Bonds in accordance with the provisions of the Indenture. No further interest shall accrue on any Bonds properly called for redemption after the redemption date if payment therefor has been properly provided.

Section 10.5 Notice. To exercise an option granted in, or to consummate a prepayment required by, this Article X, Borrower shall give written notice to Issuer and Trustee which shall specify therein the date of the prepayment and the redemption date and shall otherwise be in accordance with the Indenture.

Section 10.6 Relative Position Of Provisions of This Article X And Indenture. The rights and options granted to Borrower pursuant to provisions of this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not Borrower is in default hereunder, provided that such default shall be cured prior to or simultaneously with the exercise of such rights or options and will not result in nonfulfillment of any condition to the exercise of any such right or option.

(End of Article X)

ARTICLE XI

LETTER OF CREDIT

Section 11.1 The Letter of Credit. On or before the Conversion Date upon which the Bonds shall bear interest at a Daily Rate or a Weekly Rate, the Borrower shall cause the Letter of Credit to be delivered by the Credit Bank to the Trustee to induce the remarketing of the Bonds. Once the Letter of Credit is in effect, the Borrower shall cause the Letter of Credit to be continuously maintained in full force and effect (except when not required pursuant to Article VII of the Indenture) in an amount equal to the principal amount of the Outstanding Bonds and the amount of interest coverage required by each Rating Agency rating the Bonds thereon at the Maximum Rate and the purchase price therefor as required by Article VII of the Indenture, until all of the Bonds have been paid in full or their payment provided for in accordance with Article VIII of the Indenture.

The Borrower will exercise its best efforts to extend the term of the Letter of Credit currently in effect or to cause an Alternate Letter of Credit or commitment therefor to be delivered by a Credit Bank to the Trustee not less than 30 days prior to the termination date of the Letter of Credit then in effect pursuant to the provisions of Article VII of the Indenture (except when not required pursuant to that Article).

Section 11.2 Direction of Remedies by Credit Bank. Any provision herein to the contrary notwithstanding, unless an Event of Default described in subsections 9.01(a), (b), or (c) of the Indenture shall have occurred and be continuing, the Trustee, as assignee of the Issuer, shall exercise the remedies provided for hereunder only if and as directed in writing by the Credit Bank and shall not waive any event of default without the prior written consent of the Credit Bank; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Agreement and the Indenture.

Section 11.3 Rights of Credit Bank. The provisions set forth in this Agreement relating to the Credit Bank shall apply for so long as the Bonds are Outstanding and the Letter of Credit remains in effect and none of the circumstances set forth in Section 7.06 of the Indenture exist, unless any such provision is waived by the Credit Bank and the Trustee or modified by agreement between the Borrower and the Issuer, with the consent of the Credit Bank and the Trustee. Anything contained in this Agreement or in the Bonds to the contrary notwithstanding, the existence of all rights given to the Credit Bank under this Agreement and the Indenture with respect to the giving of consents or approvals or the direction of proceedings are expressly conditioned upon its timely and full performance of the Letter of Credit. Any such rights shall not apply at any time that any of the circumstances set forth in Section 7.06 of the Indenture exist; provided, that this Agreement shall not in any way limit or affect the rights of the Credit Bank as a bond owner, as subrogee of a bond owner or as assignee of a bond owner or to otherwise be reimbursed and indemnified for its costs and expenses and other payment on or in connection with the Bonds or the Letter of Credit either by operation of law or at equity or by contract.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Loan Term. This Agreement shall remain in full force and effect from the date hereof until such time as all of the Bonds shall have been fully paid or provision made for such payment and the fees and expenses of Issuer, Trustee, and any Paying Agent shall have been fully paid. The Borrower's obligations under this Agreement shall terminate after payment in full of the Loan and all other amounts due under this Agreement; provided, however, that the covenants and obligations provided in Sections 4.4, 4.5, and 8.2 shall survive the payment in full of the amounts due hereunder.

Section 12.2 Notices. Any notice, certificate, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, addressed as follows:

If to Issuer, to:
City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
Attention: City Manager

if to Trustee, to:
U.S. Bank Trust Company, National Association
505 N. 7th Street
St. Louis, Missouri 63101
Attention: Corporate Trust Services

if to Borrower, to:
PALMER COLLEGE FOUNDATION, INC.
1000 Brady Street
Davenport, Iowa 52803
Attention: President/Chancellor and Vice Chancellor for Finance

Issuer, Borrower, and Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.3 Knowledge of Indenture. The Borrower acknowledges that it has received a copy of the Indenture and that it is familiar with the provisions thereof, and agrees to be bound to the fullest extent permitted by law to all provisions thereof directly or indirectly relating to it and further agrees that it will take all such actions as are required or contemplated of it under the Indenture to preserve and protect the rights of the Trustee and of the Bondholders thereunder and that it will not take any action which would cause a default thereunder or jeopardize such rights. It is agreed by the Borrower and the Issuer that all redemptions of the Bonds prior to maturity shall be effected as provided in the Indenture.

Section 12.4 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Issuer, Borrower and their respective successors and assigns, subject, however, to the provisions of Sections 8.1 and 8.3 hereof.

Section 12.5 Severability. In the event any provision of this Agreement or the application thereof shall be held or deemed to be or shall, in fact, be illegal, inoperative, invalid or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same or the application of such provision to persons other than those as to which it is held illegal, inoperative, invalid or unenforceable to any extent whatever.

Section 12.6 Amounts Remaining In Funds. It is agreed by the parties hereto that any amounts remaining in any fund created pursuant to the Indenture upon expiration or sooner termination of the Loan term, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees and expenses of Trustee and any Paying Agent in accordance with the Indenture and the payment of any other liabilities of Borrower incurred hereunder, shall belong to, and be paid to Borrower by Trustee.

Section 12.7 Delegation Of Duties By Issuer. It is agreed that under the terms of this Agreement and also under the terms of the Indenture the Issuer has delegated certain of its duties hereunder to the Borrower. The fact of such delegation shall be deemed a sufficient compliance by the Issuer to satisfy the duties so delegated and the Issuer shall not be liable in any way by reason of acts done or omitted by the Borrower. The Issuer shall have the right at all times to act in reliance upon the authorization, representation or certification of the Borrower.

Section 12.8 Amendments, Changes And Modifications. Subsequent to the issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto and of Trustee and the Purchaser, if any, and in accordance with provisions of the Indenture.

Section 12.9 Issuer's Obligations Limited. No recourse under or upon any obligation, covenant or agreement contained in this Agreement, the Indenture or in any Bond secured by the Indenture, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Agreement or the Indenture, shall be had against the Issuer except from the Project or the Trust Estate.

Section 12.10 Reliance by Bondholders. This Loan Agreement is executed in part to induce the purchase by others of the Bonds and, accordingly, all covenants and agreements on the part of the Borrower and Issuer, as set forth in this Loan Agreement, are hereby declared to be for the benefit of the registered owners from time to time of the Bonds.

Section 12.11 Survival of Representations and Warranties. All agreements, representations and warranties made herein or in any other Loan Document will survive the execution and delivery of the Loan Documents and the making of the Loan.

Section 12.12 Execution In Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.13 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Iowa and Florida as applicable.

Section 12.14 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(End of Article XI)

IN WITNESS WHEREOF, CITY OF PORT ORANGE, FLORIDA has caused this Loan Agreement to be executed in its name and in its behalf by its duly authorized officers and its official seal to be affixed hereunto, and Borrower has caused this Loan Agreement to be executed in its name and in its behalf by its duly authorized officers and its corporate seal to be affixed hereto, all as of the day and year first above written.

CITY OF PORT ORANGE, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

_____
City Clerk

PALMER COLLEGE FOUNDATION, INC.

By: _____
Dennis M. Marchiori,
President/Chancellor

By: _____
Jennifer Randazzo,
Vice Chancellor for Finance

EXHIBIT A

REQUISITION FOR DISBURSEMENT
(Cost of Issuance Fund)

U.S. Bank Trust Company, National Association, as trustee
505 N. 7th Street
St. Louis, Missouri 63101

RE: Direction to Make Disbursements
From the City of Port Orange, Florida
Private College Facility Revenue Bonds
Cost of Issuance Fund (Palmer College of Chiropractic Project)

As Trustee under the Amended and Restated Indenture of Trust dated as of June 28, 2024 (the "Indenture") with the City of Port Orange, Florida (the "Issuer"), you are hereby directed to disburse from the Cost of Issuance Fund (Palmer College of Chiropractic Project) (the "Cost of Issuance Fund) in accordance with Section 5.07 of the Indenture and Section 4.3 of the Amended and Restated Loan Agreement dated as of June 28, 2024 (the "Agreement") between the Issuer and Palmer College Foundation, Inc. (the "Borrower"), the amounts to such entities as described on the attached Exhibit A. All terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Agreement. Such disbursement has been properly incurred, is a proper charge against the Cost of Issuance Fund, is or was necessary in connection with the issuance by the Authority of the Bonds, has not been the basis of any previous withdrawal and represents the amount to which the Borrower or such other payee named above is entitled in accordance with the documentation attached hereto.

DATED this _____ day of _____, 20__.

PALMER COLLEGE FOUNDATION, INC.

By: _____
Jennifer Randazzo,
Vice Chancellor for Finance (the Authorized Borrower Representative, as defined in the Agreement)

CITY OF PORT ORANGE, FLORIDA

TO

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

as Trustee

AMENDED AND RESTATED
INDENTURE OF TRUST

Dated as of June ~~1~~28, ~~2019~~2024

AMENDED AND RESTATED
INDENTURE OF TRUST

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EXHIBIT A - Form of Purchaser Letter

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AMENDED AND RESTATED INDENTURE OF TRUST

THIS AMENDED AND RESTATED INDENTURE OF TRUST, dated as of June ~~1~~28, ~~2019~~2024, between the City of Port Orange, Florida, a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida (the "Issuer"), and U.S. Bank Trust Company, National Association, a national banking association organized under the laws of the United States with an office located in the City of St. Paul, Minnesota, as successor trustee to U.S. Bank National Association (the "Trustee").

WITNESSETH:

WHEREAS, the Florida Industrial Development Financing Act, Chapter 159, Part II, Florida Statutes (the "Act"), has been enacted by the Legislature of the State of Florida; and

WHEREAS, the Act provides that the Issuer is authorized and shall have the power to enter into loan agreements pursuant to which the Issuer loans the proceeds from the sale of its revenue bonds to private educational institutions for the purpose of financing the cost of a project (as defined in Section 159.27(5) of the Act); and

WHEREAS, the Act provides that the Issuer may issue revenue bonds and loan the proceeds thereof to one or more parties for the purpose of financing or refinancing any such project, payable solely out of the payments to be made by such parties; and

WHEREAS, the Issuer ~~has determined to issue~~previously issued its Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds"), in the aggregate principal amount of $18,460,000 and currently outstanding in the amount of $14,860,000 pursuant to ~~this~~an Indenture ~~and will loan~~of Trust dated June 1, 2019 between the Issuer and Trustee, as amended by a First Amendment to Indenture of Trust dated June 1, 2023 (together, the "Original Indenture") and loaned the proceeds thereof to Palmer College Foundation, an Iowa nonprofit corporation, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower" or the "University"), under a Loan Agreement dated as of June 1, 2019 (as amended, supplemented or otherwise modified from time to time, the "Agreement") between the Issuer and the Borrower, for the purpose of (i) re~~-financing the outstanding City of Port Orange, Florida Tax-Exempt Revenue Note, Series 2010 (Palmer College Project) previously issued by the Issuer to finance or re-~~finance the acquisition and construction of certain educational facilities (collectively, the "Project"), on the ~~campus~~campuses of the College at 4777 City Center Parkway, Port Orange, Florida, 32129, and 1000 Brady Street, Davenport, Iowa, (ii) paying the swap termination payment in connection with the cancellation of a hedging agreement associated with the prior financing, if any, and (iii) paying costs of issuance of the Bonds; and

WHEREAS, the Borrower ~~has arranged for~~originally sold the Bonds to~~ be initially purchased by~~ U.S. Bank National Association and now desires to transfer the Bonds to The Northern Trust Company, as purchaser (the "Purchaser"); and

WHEREAS, the initial Bank Purchase Date under the Original Indenture is approaching and the parties wish to convert the Bonds to another Index Rate Period (as defined below), to make other modifications to the Original Indenture and to amend and restate the Original Indenture

hereto (this Amended and Restated Indenture, which incorporates the Original Indenture and new amendments altogether, the "Indenture"); and

WHEREAS, the Bonds and Trustee's certificate of authentication to be endorsed on the Bonds are to be in substantially the following form, with appropriate variations, omissions and insertions as permitted or required by this Indenture, to wit:

(FORM OF BOND)

No. R-
$_____

UNITED STATES OF AMERICA

STATE OF FLORIDA

CITY OF PORT ORANGE, FLORIDA

PRIVATE COLLEGE FACILITY REVENUE BONDS

(PALMER COLLEGE OF CHIROPRACTIC PROJECT)

SERIES 2019B

THE TRANSFER OF THIS BOND IS RESTRICTED
AS SET FORTH IN THE INDENTURE.

Interest Rate	Maturity Date	Date of Exchange	CUSIP
Variable, Index Rate	July 1, 2037		

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS that the City of Port Orange, Florida, a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida (the "Issuer"), for value received, promises to pay from the source and as hereinafter provided, to the Registered Owner set forth above, or its registered assigns, the principal amount set forth above in accordance with the schedule set forth as Exhibit A attached hereto with the final payment due on the maturity date set forth above and in like manner to pay interest on the principal amount outstanding from time to time from the date hereof at an Index Rate, a Daily Rate, a Weekly Rate, or a Long-Term Rate, payable on each interest payment date as described in the Indenture referred to herein, until said principal amount is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto. The principal of and interest on this Bond shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of and redemption premium, if any, on this Bond shall be payable by check or draft to the Registered Owner at the maturity or redemption date upon presentation and surrender of this Bond at the designated corporate trust office of U.S. Bank Trust Company, National Association, in the City of St. Louis, Missouri (the "Trustee"), provided that during any Index Rate Period payments of the

principal of this Bond shall be made without the requirement of presentation or surrender except upon the final payment thereof. The interest payable on this Bond on any interest payment date shall be paid by the Trustee to the Registered Owner of this Bond appearing on the bond register maintained by the Trustee at the close of business on the Record Date for such interest, and shall be paid by (1) check or draft of the Trustee mailed to such Registered Owner at his address as it appears on such bond register or at such other address furnished in writing by such Registered Owner to the Trustee, or (2) with respect to Bonds held by a Securities Depository, or at the written request addressed to the Trustee by any Registered Owner of Bonds in the aggregate principal amount of at least $1,000,000, by electronic transfer in immediately available funds, such request to be signed by such Registered Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the account number to which credit shall be made and be filed with the Trustee no later than 10 Business Days before the applicable Record Date preceding such payment date. Notwithstanding the foregoing during any Index Rate Period, payments may be made directly to the Bank pursuant to the terms of the Indenture.

This Bond is one of an authorized issue of Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds"), originally issued in the aggregate principal amount of $18,460,000 ~~issued~~ in order to re~~-~~finance certain capital improvements for the benefit of Palmer College Foundation, an Iowa nonprofit corporation, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower"), in the City of Port Orange, Florida, and to pay costs of issuance of the Bonds. The proceeds of the Bonds ~~have been~~were loaned to the Borrower under the terms of a Loan Agreement dated as of June 1, 2019, between Issuer and Borrower (which Agreement, as from time to time amended and supplemented, in particular as amended and restated as of June 28, 2024, is hereinafter referred to as the "Agreement"). Reference is hereby made to the Agreement for a description of the terms and conditions of the loan of the proceeds of the Bonds to the Borrower and the provisions for repayment of the loan.

The Bonds are issued under and are equally and ratably secured by and entitled to the protection of an Amended and Restated Indenture of Trust dated as of June ~~1~~28, ~~2019~~2024, by and between Issuer and Trustee (which Indenture, as from time to time amended and supplemented, is hereinafter referred to as the "Indenture"), duly executed and delivered by Issuer to Trustee and pursuant to which all payments due from Borrower to Issuer under the Agreement are assigned to Trustee to secure the payment of principal of, premium, if any, and interest on the Bonds. The Indenture is on file in the offices of the Issuer and Trustee and reference is hereby made to the Indenture for a more complete description of the property pledged and assigned, the provisions with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Trustee and the holders of the Bonds, and the terms upon which the Bonds are issued and secured.

This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the designated office of the Trustee in the City of St. Paul, Minnesota, but only in the manner, subject to limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds may be issued in authorized denominations for the same aggregate principal amount issued to the transferee in exchange therefore. In the event that this

Bond is called for redemption in part only, and upon surrender and cancellation of this Bond, the Issuer shall execute and the Trustee shall authenticate and deliver to the Registered Owner hereof without charge a new Bond or Bonds of the same series and of the same maturity of authorized denominations in aggregate principal amount equal to the unredeemed portion hereof so surrendered, which new Bond or Bonds shall be fully registered (provided that during any Index Rate Period no surrender and cancellation is required). Issuer and Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and premium, if any, and interest due hereon and for all other purposes and neither Issuer nor Trustee shall be affected by any notice to the contrary.

The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Florida, particularly Chapter 159, Part II, *Florida Statutes*, and pursuant to an Ordinance duly enacted by the Issuer which also authorizes the execution and delivery of the Agreement and the Indenture. THE BONDS REPRESENT LIMITED OBLIGATIONS OF THE ISSUER. THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE PAYABLE SOLELY OUT OF THE REVENUES DERIVED FROM THE AGREEMENT AND ARE NOT OTHERWISE AN OBLIGATION OF ISSUER. THE BONDS AND THE INTEREST THEREON SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE ISSUER OR THE STATE OF FLORIDA WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION, AND SHALL NOT CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF ISSUER OR THE STATE OF FLORIDA OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER OR THE STATE OF FLORIDA OR THE TAXING POWERS OF THE STATE OF FLORIDA. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Bonds are to be paid to the Trustee for the account of the Issuer and deposited in a special account created by Issuer, maintained by Trustee and designated "City of Port Orange, Florida Private College Facility Revenue Bond Fund (Palmer College of Chiropractic Project)" and have been duly pledged and assigned by Issuer for that purpose. The rights of Issuer under the Agreement have been assigned to Trustee to secure payment of such principal of, premium, if any, and interest under the Indenture.

Interest Rate Provisions. ~~During~~On the Date of Exchange and through the remaining Initial Period, the Bonds shall bear interest at the ~~LIBOR~~SOFR Index Rate from time to time in effect, subject to any adjustments set forth in the Indenture. After the Initial Period, the Bonds may bear interest at an Index Rate, a Daily Rate, a Weekly Rate or a Long-Term Rate, determined as provided in the Indenture, from their date or from the most recent Interest Payment Date to which interest has been paid or duly provided for; provided that, subject to the provisions of the Indenture, in no event will the interest rate on any Bonds exceed the Maximum Rate. The Bonds may operate at any time in any one rate period, provided that all Bonds shall operate in the same Interest Rate Mode at any given time.

Interest shall be payable in arrears on each Interest Payment Date, commencing on August 1, ~~2019 (for the period from the date of original issuance to, and including July 31, 2019) and during the Initial Period shall be paid on the first Business Day of each month, thereafter~~2024. Interest shall be calculated on the basis of (a) with respect to Bonds bearing interest at the Term Rate ~~and LIBOR~~or SOFR Index Rate, a 360-day year for the actual days elapsed, (b) with respect

to SIFMA Index Rate Bonds, a 365-day year for the actual days elapsed, (c) with respect to Long-Term Rate Bonds, a 360-day year of twelve 30-day months, (d) with respect to Bonds bearing interest at a Daily Rate, on the basis of a 365- or 366- day year, whichever is applicable, and the number of days actually elapsed, (e) with respect to Bonds bearing interest at a Weekly Rate, on the basis of a 365- or 366- day year, whichever is applicable, and the number of days actually elapsed, and (f) with respect to Bonds bearing interest at a Term Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed.

Determination of Interest Rates.

(1) All Bonds shall operate in the same Interest Rate Mode.

(2) Subject to the provisions of the Indenture, interest on the Bonds shall not exceed the Maximum Rate.

(3) ~~Initially~~On the Date of Exchange, the Bonds shall bear interest at a ~~LIBOR~~SOFR Index Rate from time to time in effect, subject to any modifications set forth in the Indenture. Subject to the provisions of the Indenture, the interest rate borne by the Bonds may be converted to another Index Rate, a Daily Rate, a Weekly Rate or a Long-Term Rate.

(4) Index Rate Bonds. The Index Rate shall be determined in accordance with the Indenture. The Calculation Agent shall notify the Trustee and the Borrower of the Index Rate for each applicable period in accordance with the Indenture; provided that, if the Index Rate is converted to a Term Rate, such rate shall be established on or before the first day of the applicable Term Rate Period as provided in the Indenture. All Index Rate Bonds shall bear interest accruing at the same Index Rate.

(5) Long-Term Rate Bonds. Subject to the further provisions of the Indenture with respect to Long-Term Rates or conversions between Long-Term Rates, the interest rate on the Bonds during any Long-Term Interest Period shall be determined by the Remarketing Agent as provided in the Indenture, and notice thereof shall be given as follows:

(A) The interest rate for the Long-Term Interest Period in question shall be determined by the Remarketing Agent on the date or dates and at the time or times required pursuant to Section 2.03(c) of the Indenture. The interest rate to be determined for the Long-Term Interest Period shall be the lowest rate of interest that, in the reasonable judgment of the Remarketing Agent, would cause the Bonds in question to have a price equal to the principal amount thereof under prevailing market conditions for the relevant period as of the date of determination, except as otherwise provided in the Indenture.

(B) If the Remarketing Agent fails for any reason to determine the Long-Term Rate for any Long-Term Rate Period, as applicable, when required hereunder, or a court holds that the Long-Term Rate for Long-Term Rate Period, is invalid, illegal or unenforceable and, in each case, then the interest rate on the Bonds shall be equal to the SIFMA Index, until the interest rate on such Bonds is again validly determined by the Remarketing Agent.

the requirements of this Indenture, of a qualified Market Agent to act as Market Agent for the Bonds.

In addition, if an Index Rate is to be in effect immediately following such Conversion Date, such notice shall state whether such Index Rate shall be a SIFMA Index Rate, a ~~LIBOR~~Daily Simple SOFR Index Rate or a Term Rate, the new Bank Purchase Date and, in the case of the SIFMA Index Rate or ~~LIBOR~~a Daily Simple SOFR Index Rate, the new Applicable Spread. The new Applicable Spread (in the case of a SIFMA Index Rate or ~~LIBOR~~Daily Simple SOFR Index Rate) or, if applicable, the Term Rate, shall be determined by the Market Agent such that the applicable Index Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which a Person will agree to purchase the Bonds on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof. In addition, if a SIFMA Index Rate or ~~LIBOR~~Daily Simple SOFR Index Rate is to be in effect immediately following such Conversion Date, the Borrower shall provide a copy of such notice to the Calculation Agent contemporaneously with the Trustee.

(3) Notice of Conversion and Mandatory Tender. Not fewer than 30 days prior to the proposed Conversion Date (or 7 days in the case of conversions from a Daily Rate Period or a Weekly Rate Period), the Trustee shall give Electronic Notice, confirmed by first class mail, of the conversion and of mandatory tender of the Bonds (except in the case of conversions between Daily and Weekly Rate Periods) to the Holders of such Bonds at their addresses as they appear on the registration books of the Trustee as of the date notice of the election is received by the Trustee from the Borrower. The notice given pursuant to this paragraph shall set forth the information required by Section 3.09(e) of the Indenture.

(4) Opinion of Bond Counsel. Any conversion pursuant to this Section shall be subject to the conditions that, on or before the Conversion Date, the Borrower shall have delivered to the Bank (during an Index Rate Period), the Credit Bank (during a Daily Rate Period or a Weekly Rate Period), the Trustee, and the Market Agent with respect to the affected Bonds or Remarketing Agent, as applicable, an Opinion of Bond Counsel to the effect that the conversion is authorized by this Indenture and will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes.

Redemption of Bonds Prior to Maturity. The Bonds are subject to optional and mandatory redemption prior to the stated maturity, in accordance with the terms and provisions of the Indenture.

Mandatory and Optional Purchase of Bonds.

(a) Bonds shall be subject to mandatory tender for purchase by the Tender Agent at the Purchase Price on the following Purchase Dates with respect to the Bonds:

(1) Each Bank Purchase Date;

IN WITNESS WHEREOF, the City of Port Orange, Florida has caused this Bond to be executed in its name by the manual signature of its Mayor and its corporate seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Clerk, all as of the ~~day~~Date of ~~June, 2019~~Exchange.

CITY OF PORT ORANGE, FLORIDA

By:_____
Mayor

Attest:

_____
City Clerk

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Bond is one of the Bonds of the issue described in the within mentioned Indenture of Trust.

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as
Trustee

By:_____
Authorized Signatory

WHEREAS, all things necessary to make the Bonds, when authenticated by Trustee and issued as in this Indenture provided, the valid, binding and legal limited obligations of Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts pledged to the payment of the principal of, premium, if any, and interest on the Bonds, and a valid assignment of the rights of Issuer under the Agreement, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

GRANTING CLAUSES

That Issuer, in consideration of the premises and the acceptance by Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders or owners thereof, and of the sum of one dollar, lawful money of the United States of America, to it duly paid by Trustee and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and premium, if any, and interest on the Bonds according to their tenor and effect and to secure the performance and observance by Issuer of all the covenants expressed or implied herein and in the Bonds, and payment and performance of the obligations of the Borrower under any Credit Agreement in effect or any Continuing Covenant Agreement in effect does hereby assign, sell, pledge, mortgage, convey, transfer and grant a security interest in the following to U.S. Bank Trust Company, National Association, as Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of Issuer hereinafter set forth:

GRANTING CLAUSE FIRST

The Agreement, including all extensions and renewals of the term thereof, if any, together with all right, title and interest of Issuer under the Agreement, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Agreement, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Issuer under the Agreement or any successor under the Agreement is or may become entitled to.

GRANTING CLAUSE SECOND

All moneys and securities from time to time held by Trustee under the terms of this Indenture, except for moneys and securities held in the Purchase Fund or elsewhere to pay the purchase price of Bonds tendered for purchase pursuant to Article III hereof or deposited with or paid to Trustee for the redemption of Bonds, notice of the redemption of which has been duly given.

EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the lien and operation of this Indenture amounts held by the Trustee in the Rebate Fund established hereunder.

ARTICLE I

DEFINITIONS

All words and phrases defined in Article I of the Agreement shall have the same meaning in this Indenture. Any term defined herein by reference to the Continuing Covenant Agreement (as defined in this Article I) shall have no effect in the event the Continuing Covenant Agreement ceases to be in effect or the term does not exist in the Continuing Covenant Agreement. In addition, the following words and phrases shall have the following meanings:

"Act of Bankruptcy" means any of the following: Dissolution or liquidation of the Borrower or the filing by the Borrower of a voluntary petition in bankruptcy, or failure by the Borrower to promptly satisfy and remove any execution, garnishment or attachment of such consequence as would impair the ability of Borrower to carry on its operation of the Facilities, or adjudication of Borrower as bankrupt, or assignment by Borrower for the benefit of creditors, or admission in writing by Borrower of its inability to pay its debts generally as they become due, or the entry into an agreement of composition with creditors, or appointment of a receiver for Borrower of any portion of the property of Borrower, or the approval by a court of competent jurisdiction of a petition applicable to Borrower in any proceedings instituted under the provisions of the federal bankruptcy laws or under any similar acts which may hereafter be enacted.

"Agreement" means the Loan Agreement dated as of the date of this Indenture between Issuer and Borrower, as amended, restated, supplemented or otherwise modified from time to time.

"Alternate Letter of Credit" means any substitute or replacement letter of credit or other credit facility securing the payment of principal of and interest on the Bonds, and the purchase price of Bonds tendered for purchase, delivered in accordance with Section 7.02 of this Indenture in substitution and replacement for a Letter of Credit.

"Applicable Factor" means (i) during the Initial Period, ~~84.76~~79%; and (ii) during any other Index Rate Period, ~~84.76~~79% or such other percentage as may be designated by the Market Agent as the Applicable Factor for such Index Rate Period, subject to an Opinion of Bond Counsel to the effect that the selection of such other percentage as the Applicable Factor will not, in of itself, cause the interest on the Bonds to be includable in the gross income of the Holders for federal income tax purposes.

"Applicable Spread" means, with respect to each Index Rate Period, the following:

(a) During the Initial Period, ~~fifty-three~~eighty basis points (~~0.53~~0.80%).

(b) During any Index Rate Period other than the Initial Period, the number of basis points determined by the Market Agent on or before the first day of such Index Rate Period and designated by the Borrower in accordance with Section 2.03(d)(2) that, when added to the SIFMA Index or the product of ~~the LIBOR Index~~Daily Simple SOFR multiplied by the Applicable Factor, as applicable, would equal the minimum interest rate per annum that would

enable the Bonds to be sold on such date at a price equal to the principal amount thereof (without regard to accrued interest, if any, thereon).

"Authorized Denomination" means (a) during any Index Rate Period, $250,000 or any integral multiple of $5,000 in excess thereof, (b) with respect to Long-Term Rate Bonds, $5,000 or any integral multiple thereof; and (c) with respect to Daily Rate Bonds or Weekly Rate Bonds, $100,000 or any integral multiple of $5,000 in excess thereof.

"Bank" means, during any Index Rate Period, the Holder of the Bonds, provided that there is a single Holder of all of the Bonds and provided further that the Bonds are not then held under the Book-Entry System. If there is more than one Holder of the Bonds during any Index Rate Period, "Bank" means Holders owning a majority of the aggregate principal amount of the Bonds then Outstanding. If the Bonds are then held under the Book-Entry System, "Bank" means the Beneficial Owner of the Bonds, provided that there is a single Beneficial Owner of all of the Bonds. If there is more than one Beneficial Owner of the Bonds during any Index Rate Period, "Bank" means Beneficial Owners who are the beneficial owners of a majority of the aggregate principal amount of the Bonds then Outstanding. The initial Bank ~~is U.S. Bank National Association~~on the date hereof is The Northern Trust Company.

"Bank Bonds" means Bonds held by the Bank following a failure to purchase Bonds as described in Section 3.10 hereof.

"Banking Day" means a day on which Bank is generally open for banking business at its main office in Chicago, Illinois.

"Bank Purchase Date" means, (i) the Initial Bank Purchase Date, (ii) during any Index Rate Period (other than the Initial Period), the date designated by the Borrower pursuant to Section 2.03(d)(2), and (iii) the date which is five calendar days (or if such fifth calendar day is not a Business Day, the next Business Day) after the date on which the Trustee receives written notice from the Bank under the Continuing Covenant Agreement which (x) advises the Trustee of the occurrence and continuance of an "Event of Default" under and as defined in the Continuing Covenant Agreement and (y) directs the Trustee to cause a mandatory tender of the Bonds by reason of such "Event of Default."

"Beneficial Owner" means the person in whose name a Bond is recorded as the beneficial owner on the records of a participant in the Book-Entry System.

"Bondholder" or "Holder" or "owner of the Bonds" means the Registered Owner of any Bond registered as to principal and interest.

"Book-Entry System" means the system maintained by DTC for holding securities in the form of one global certificate for each maturity registered as to principal and interest in the name of DTC or its nominee.

"Borrower Bonds" means (a) Bonds purchased with moneys provided to the Tender Agent for the account of the Borrower, or (b) Bonds registered in the name of the Borrower designated as being held for the account of the Borrower, that are not Pledged Bonds.

"Business Day" means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the Trustee, any Paying Agent or the Tender Agent is located are required or authorized by law to remain closed, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal offices of the Calculation Agent or the Bank or Credit Bank are closed.

"Calculation Agent" means the Bank or any other party appointed by the Borrower, with the consent of the Bank.

"Computation Date" means with respect to Index Rate Bonds, bearing interest at the SIFMA Index Rate or the ~~LIBOR~~SOFR Index Rate, (i) during each SIFMA Index Rate Period, Wednesday of each week, or if any Wednesday is not a Business Day, the next preceding Business Day and (ii) ~~during each LIBOR Index Rate Period, the second New York Banking Day preceding~~while the Bonds bear interest at Daily Simple SOFR, the day that is five (5) U.S. Government Securities Business Days prior to each ~~LIBOR Index~~Daily Simple SOFR Reset Date.

"Continuing Covenant Agreement" means during the Initial Period, the Continuing Covenant Agreement dated as of June ~~1~~24, ~~2019~~2024 between the Borrower and the Bank and related to the Bonds, as the same may be amended, restated, supplemented or otherwise modified from time to time, and during any Index Rate Period other than the Initial Period, any agreement between the Borrower and the related Bank which shall be designated as the Continuing Covenant Agreement.

"Conversion Date" means an (i) Index Rate Conversion Date; (ii) a Long-Term Rate Conversion Date; or (iii) the day on which a Daily Rate or Weekly Rate becomes effective for Bonds which is not immediately preceded by a day on which such Bonds have accrued interest at the same type of interest rate. Each Conversion Date shall be an Interest Payment Date for the rate period from which the Bonds are converted.

"Credit Agreement" means any agreement entered into between the Borrower and the Credit Bank providing for the issuance of a Letter of Credit with respect to the Bonds.

"Credit Bank" means a bank in its capacity as issuer of a Letter of Credit in existence no later than any Conversion Date which causes the Bonds to be in a Daily Rate or a Weekly Rate, and its successors and assigns, and if an Alternate Letter of Credit is issued in accordance with Section 7.02 hereof, "Credit Bank" shall include the issuer or provider of such Alternate Letter of Credit, and its successors and assigns.

"Daily Rate" means the per annum interest rate on the Bonds during a Daily Rate Period determined on a daily basis as provided in Section 2.03(a)(6) hereof.

"Daily Rate Bonds" means Bonds bearing interest at a Daily Rate.

"Daily Rate Conversion Date" means the day on which the Bonds begin to accrue interest at a Daily Rate pursuant to Section 2.03(d) hereof which is immediately preceded by a day on which the Bonds did not accrue interest at a Daily Rate.

"Daily Rate Period" means each period described in Section 2.03(a)(6) hereof during which Bonds accrue interest at a Daily Rate.

"Daily Simple SOFR Reset Date" means each Banking Day.

"Daily Simple SOFR" means, for any day (a "SOFR Rate Day"), a rate per annum equal to the greater of (a) SOFR for the day (such day, a "SOFR Determination Day") that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day and (b) the Index Floor. If by 5:00 P.M., New York City time, on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Day, the SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator's Website then the SOFR for such SOFR Determination Day will be the SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculating Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to Borrower.

The terms "default," "Default," "event of default" and "Event of Default" mean any occurrence or event specified in and defined by Section 9.01 hereof.

"Default Rate" has the meaning set forth in the Continuing Covenant Agreement, and if such agreement is not in effect, then the meaning as set forth in any Credit Agreement.

"DTC" means The Depository Trust Company or any successor book-entry securities depository.

"Electronic Notice" means notice transmitted through a time-sharing terminal or facsimile machine, if operative as between any two parties, or if not operative, in writing or by telephone (promptly confirmed in writing).

"Excess Interest" has the meaning set forth in Section 2.03(b)(3)(iii) hereof.

"Fitch" means Fitch, Inc., and any successor rating agency.

"Government Obligations" means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the full and timely payment of the principal of

and interest on which are fully and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Trustee.

"Indenture" means this Amended and Restated Indenture of Trust, which incorporates the original Indenture of Trust dated as of June 1, 2019, as amended by an Amendment to Indenture of Trust dated June 1, 2023 and as further amended, supplemented or otherwise modified from time to time.

"Index Floor" means a per annum rate of interest equal top zero percent (0%)

"Index Rate" means the ~~LIBOR~~SOFR Index Rate, the Default Rate, the Taxable Rate, the SIFMA Index Rate or the Term Rate, as applicable.

"Index Rate Bonds" means Bonds that bear interest at an Index Rate.

"Index Rate Conversion Date" means each date on which interest begins to accrue on the Bonds at an Index Rate following conversion or, in either case, the then current Index Rate Period is changed to a new Index Rate Period pursuant to Section 2.03(d).

"Index Rate Period" means any period during which the Bonds bear interest at an Index Rate.

"Initial Bank Purchase Date" means July 1, ~~2024~~2029.

"Initial Period" means the initial Index Rate Period commencing on the date ~~of the initial delivery of the Bonds~~hereof and ending on the first to occur of (i) the Initial Bank Purchase Date, (ii) the Conversion Date (provided that the Bank shall have consented thereto in writing), (iii) the Maturity Date or other date on which the Bonds are otherwise paid in full, and (iv) a Bank Purchase Date.

"Interest Payment Date" means:

(a) with respect to ~~SIFMA~~Index Rate Bonds~~ and LIBOR Rate Bonds~~, the first Business Day of each month (commencing on August 1, ~~2019~~2024) and any day that is a Conversion Date or a Bank Purchase Date for such Index Rate Bonds;

(b) with respect to Long-Term Rate Bonds and Term Rate Bonds, each January 1 and July 1 and any day that is a Conversion Date for such Bonds and the Maturity Date;

(c) with respect to Daily Rate Bonds, the first Business Day of each calendar month following the Daily Rate Period for which interest is payable, and any such day which is a Conversion Date from a Daily Rate Period;

(d) with respect to Weekly Rate Bonds, the first Business Day of each calendar month following the Weekly Rate Period for which interest is payable, and any day which is a Conversion Date from a Weekly Rate Period.

(e) with respect to the Bonds, the Maturity Date for the Bonds; and

(f) with respect to each Unremarketed Bond, the dates set forth in the Continuing Covenant Agreement relating to the payment of interest on such Unremarketed Bond.

"Interest Payment Period" means:

(a) with respect to Index Rate Bonds, Daily Rate Bonds and Weekly Rate Bonds, the period from and including the date of issuance of the Bonds or the Index Rate Conversion Date, Daily Rate Conversion Date or Weekly Rate Conversion Date, as applicable, to and including the calendar day preceding the first Interest Payment Date (or the calendar day immediately preceding a day that is a Conversion Date for such Index Rate Bonds, Daily Rate Bonds or Weekly Rate Bonds) and thereafter, the period from and including the first calendar day of each month to and including the calendar day preceding the each Interest Payment Date;

(b) with respect to Long-Term Rate Bonds, the period from and including the Long-Term Rate Conversion Date, as applicable, to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds and thereafter, the period from and including each Interest Payment Date for such Bonds to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds.

"Interest Rate Mode" means the Index Rate, the Long-Term Rate, the Daily Rate or the Weekly Rate, as applicable.

"Letter of Credit" means any irrevocable direct-pay letter of credit issued by the Credit Bank to the Trustee pursuant to any letter of credit and reimbursement agreement entered into between Borrower and the related Credit Bank, and any extensions thereof, and upon the issuance and delivery of an Alternate Letter of Credit in accordance with Section 7.02 hereof, "Letter of Credit" shall include such Alternate Letter of Credit, and any subsequent extensions or replacements thereof.

"Letter of Credit Account" means the account of that name established in the Bond Fund as provided in Section 5.04 hereof.

~~"LIBOR Accrual Period" means, the period from and including the date of issuance of the Bonds or the LIBOR Index Rate Conversion Date, as applicable, to and including the calendar day preceding the first Interest Payment Date (or the calendar day immediately preceding a day that is a Conversion Date for such Index Rate Bonds) and thereafter, the period from and including the first~~

~~Business Day of each month to and including the calendar day preceding each Interest Payment Date.~~

~~"LIBOR Index" means the rate of interest per annum for United States Dollar deposits in the London Interbank Market, which rate appears on the display designated as Reuters Screen LIBOR01 Page (or other commercially available source providing quotations of such rate as selected by the Calculation Agent), which shall be that one-month LIBOR rate in effect two New York Banking Days prior to the LIBOR Index Reset Date or the LIBOR Index Rate Conversion Date, as the case may be, such rate to be reset monthly on each LIBOR Index Reset Date. If for any reason such rate is not available at such time, then the rate for the applicable period will be determined by such comparable alternate method designed to measure interest rates in a similar manner, as selected by the Calculation Agent. Any successor rate or alternate methodology must be an interest-based index, variations in the value of which can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in United States dollars. In order to account for the relationship of the replacement index to the original one-month LIBOR rate, such alternate method will incorporate any spread to any replacement index as is necessary to ensure that the alternate method will measure interest rates in a manner similar to the original one-month LIBOR rate. The Calculation Agent's internal records of applicable interest rates shall be determinative in the absence of manifest error.~~

~~"LIBOR Index Rate" means a per annum rate of interest established on each Computation Date equal to the product of (x) the sum of (a) the Applicable Spread plus (b) the product of (i) the LIBOR Index multiplied by (ii) the Applicable Factor and (y) the Margin Rate Factor~~

~~"LIBOR Index Rate Conversion Date" means (a) the date on which the Bonds begin to bear interest at the LIBOR Index Rate or (b) if the Bonds have previously borne interest at the LIBOR Index Rate during a LIBOR Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending LIBOR Index Rate Period.~~

~~"LIBOR Index Rate Period" means (a) the Initial Period and (b) each period thereafter from and including a LIBOR Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.~~

~~"LIBOR Index Reset Date" means the first Business Day of each calendar month.~~

"Long-Term Interest Period" means each period during which a particular Long-Term Rate is in effect with respect to the Bonds pursuant to Section 2.03(c)(1).

"Long-Term Rate" means an interest rate for the Bonds that is determined for a term of at least 12 months for such Bonds pursuant to Section 2.03(c)(1) hereof.

"Long-Term Rate Bonds" means Bonds which bear interest at a Long-Term Rate.

"Long-Term Rate Conversion Date" means each day on which interest begins to accrue on the Bonds at a Long-Term Rate following conversion pursuant to Section 2.03(d).

(a) Bonds canceled after purchase in the open market or because of payment at, or redemption prior to, maturity;

(b) Bonds for the payment or redemption, but not purchase, of which cash funds shall have been theretofore deposited with Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to Trustee shall have been made therefor, or waiver of such notice satisfactory in form to Trustee shall have been filed with Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.09 (Bonds mutilated, lost, stolen or destroyed) hereof.

"Paying Agent" means any bank or trust company at any time designated pursuant to this Indenture to serve in addition to Trustee as the paying agencies or places of payment for the Bonds, and successors designated pursuant to this Indenture.

"Pledged Bonds" means Bonds purchased with moneys provided to the Tender Agent pursuant to a draw on the Letter of Credit.

"Principal Corporate Trust Office" means the office of U.S. Bank Trust Company, National Association located at 505 N. 7th Street, St. Louis, Missouri 63101.

"Purchase Date" means each date on which (i) Bonds are subject to mandatory purchase, pursuant to Section 3.08 and Section 3.09 of this Indenture and (ii) a Bank Purchase Date.

"Purchase Fund" means the fund by that name established pursuant to Section 3.08 of this Indenture (it being expressly stated, for the avoidance of any doubt, that the Purchase Fund shall be separate from the purchase funds for any other series of bonds of the Issuer).

"Purchase Price" means, with respect to an Index Rate Bond or a Bond subject to purchase on a Purchase Date, an amount equal to the principal amount thereof plus, if such Purchase Date is not an Interest Payment Date therefor, accrued and unpaid interest thereon to such Purchase Date.

"Purchaser Letter" means a letter substantively in the form set forth in Exhibit A hereto.

"Rating Agency" means any of S&P, Moody's and Fitch, as applicable.

"Rating Service" means any nationally recognized securities rating service that issues and maintains a rating on the Bonds.

"Rebate Fund" mean the fund by that name established as provided in Section 5.17 hereof.

"Record Date" means the close of business on either (a) in the case of Bonds accruing interest at an Index Rate, the day (whether or not a Business Day) immediately preceding an Interest Payment Date, or (b) in the case of Bonds accruing interest at a Long-Term Rate, the

fifteenth day (whether or not a Business Day) of the calendar month immediately preceding the Interest Payment Date.

"Redemption Price" means, with respect to any Bond (or portion thereof), the principal amount of such Bond (or portion thereof) plus the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such Bond and this Indenture.

~~"Refunding Fund" means the fund so designated in Sections 5.05 and 5.06.~~

"Registered Owner" or "Owner" means the person or persons in whose name or names a Bond shall be registered as to principal and interest on records of Trustee kept for that purpose in accordance with provisions of this Indenture.

"Remarketing Account" means the account by that name in the Purchase Fund established pursuant to Section 3.08.

"Remarketing Agent" means the remarketing agent appointed with respect to the Bonds pursuant to Section 3.11 or any successor thereto appointed pursuant to Section 3.11.

"Remarketing Agreement" means a remarketing agreement entered into by the Borrower and the Remarketing Agent with respect to such Bonds and any other similar agreement entered into with a successor Remarketing Agent with respect to such Bonds or in conjunction with a Long Term Rate Conversion Date with respect to such Bonds, in each case, as such agreement may from time to time be amended.

"Responsible Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"S&P" means ~~Standard & Poor's~~S&P Global Ratings~~ Services~~, a Standard & Poor's Financial Services LLC business, and any successor rating agency.

"S&P Weekly High Grade Index" means for a Computation Date, the level of the "S&P Weekly High Grade Index" (formerly known as the J.J. Kenny Index) maintained by Standard and Poor's Securities Evaluations Inc. for a one-week maturity as published each Wednesday, or if any Wednesday is not a Business Day, on the next succeeding Business Day.

"SIFMA" means the Securities Industry & Financial Markets Association (formerly the Bond Market Association).

"SIFMA Index" means, for any Computation Date, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by SIFMA and issued on Wednesday of each week, or if any

Wednesday is not a Business Day, the next preceding Business Day. If the SIFMA Index is no longer published, then "SIFMA Index" shall mean the S&P Weekly High Grade Index. If the S&P Weekly High Grade Index is no longer published, then "SIFMA Index" shall mean the prevailing rate determined by the Calculation Agent for tax-exempt state and local government bonds meeting criteria determined in good faith by the Calculation Agent to be comparable under the circumstances to the criteria used by SIFMA to determine the SIFMA Index immediately prior to the date on which SIFMA ceased publication of the SIFMA Index.

"SIFMA Index Rate" means a per annum rate of interest established on each Computation Date equal to the product of (x) the sum of the Applicable Spread plus the SIFMA Index and (y) the Margin Rate Factor.

"SIFMA Index Rate Conversion Date" means (a) the date on which the Bonds begin to bear interest at the SIFMA Index Rate or (b) if the Bonds have previously borne interest at the SIFMA Index Rate during a SIFMA Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending SIFMA Index Rate Period.

"SIFMA Index Rate Period" means each period from and including a SIFMA Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.

"SIFMA Rate Reset Date" means Thursday of each week.

"Securities Depository" means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

"SOFR" means, a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Index Rate Conversion Date" means (a) the date on which the Bonds begin to bear interest at the SOFR Index Rate or (b) if the Bonds have previously borne interest at the SOFR Index Rate during a SOFR Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending SOFR Index Rate Period.

"SOFR Index Rate" means a per annum rate of interest established on each Computation Date equal to the product of (x) the sum of (a) the Applicable Spread plus (b) the product of (i) Daily Simple SOFR multiplied by (ii) the Applicable Factor and (y) the Margin Rate Factor.

"SOFR Index Rate Period" means (a) the portion of the Initial Period commencing on the date hereof and ending on the Initial Bank Purchase Date and (b) each period thereafter from and including a SOFR Index Rate Conversion Date to but excluding the earliest of (i) the

immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.

"Special Record Date" means the date established by the Trustee pursuant to Section 2.02 as a record date for the payment of defaulted interest on Bonds.

"Tax Certificate" means the Tax Certificate and Agreement of the Borrower executed in connection with the Bonds on the date hereof.

"Taxable Date" has the meaning set forth in the Continuing Covenant Agreement.

"Taxable Rate" means an interest rate per annum at all times equal to the product of the Index Rate then in effect multiplied by the Taxable Rate Factor.

"Taxable Rate Factor" means, for each day that the Taxable Rate is determined, the quotient of (i) one *divided by* (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day.

~~"Tax Certificate" means the Tax Certificate and Agreement of the Borrower executed in connection with the issuance of the Bonds.~~

"Tender Agent" means, initially, the Trustee, and any successor Tender Agent as determined or designated under or pursuant to this Indenture.

"Term Rate" means any fixed rate of interest per annum determined in accordance with Section 2.03(b)(2)(iii) hereof.

"Term Rate Bonds" means Bonds which bear interest at a Term Rate.

"Term Rate Period" means any period in which a Term Rate is in effect.

"Trust Estate" means the property conveyed to Trustee pursuant to the Granting Clauses hereof.

"Trustee" means U.S. Bank Trust Company, National Association, and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

"Undelivered Bond" means any Bond which is subject to purchase pursuant to Section 3.08 and Section 3.09 on a Purchase Date and which is not tendered and delivered for purchase on such Purchase Date but as to which the Tender Agent holds in the Purchase Fund sufficient funds to pay the Purchase Price of such Bond, as applicable.

"Undelivered Bond Payment Account" means the account by that name in the Purchase Fund established pursuant to Section 3.08.

"Unremarketed Bonds" means Index Rate Bonds which, on the applicable Purchase Date, have not been remarketed to a party other than the Bank.

"U.S. Government Securities Business Day" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"Weekly Rate" means the per annum interest rate on the Bonds during a Weekly Rate Period determined on a weekly basis as provided in Section 2.03(a)(7) hereof.

"Weekly Rate Bonds" means the Bonds bearing interest at a Weekly Rate.

"Weekly Rate Conversion Date" means each day on which Bonds begin to accrue interest at a Weekly Rate pursuant to Section 2.03(d) hereof which is immediately preceded by a day on which such Bonds did not accrue interest at a Weekly Rate.

"Weekly Rate Period" means each period described in Section 2.03(a)(7) during which Bonds accrue interest at a Weekly Rate.

(End of Article I)

ARTICLE II

THE BONDS

Section 2.01 Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The Bonds shall be issued under and secured by this Indenture. The total principal amount of Bonds ~~that may be~~ issued ~~is~~under the Original Indenture was 18,460,000 and on the dated hereof the Bonds shall be exchanged in an amount not to exceed $~~18,460,000~~14,860,000 except as provided in Section 2.16 hereof.

Section 2.02 Issuance of Bonds. The Bonds ~~shall~~were and will continue to be designated as the "City of Port Orange, Florida Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B" and shall be ~~issued~~exchanged on the date hereof in the aggregate principal amount of $~~18,460,000~~14,860,000. The Bonds shall be fully registered Bonds without coupons in Authorized Denominations in substantially the form as set forth above, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture. The fully registered Bonds shall be lettered and numbered from R-~~1~~3 consecutively upward.

The Bonds shall ~~initially~~ bear interest at the ~~LIBOR~~SOFR Index Rate from ~~their~~the date ~~of issuance~~hereof until the Initial Bank Purchase Date payable on each Interest Payment Date. After the Initial Bank Purchase Date (or earlier conversion thereof), the Bonds may also bear interest at another Index Rate, or a Daily Rate, Weekly Rate or Long-Term Rate, payable on each applicable Interest Payment Date. On the date of issuance, the Bonds shall be registered in the name of the Bank. Except as otherwise directed by the Holder thereof, Bonds bearing interest at an Index Rate shall be issued in the form of one single definitive certificated bond for the aggregate principal amount of the Bonds registered in the name of the Holder thereof or as otherwise directed by such Holder. The Bonds shall be dated the date of their original issuance and delivery, and shall bear interest from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for (or with respect to Index Rate Bonds for such Interest Payment Period), at the interest rates determined in accordance with Section 2.03 hereof, payable on each Interest Payment Date as herein provided until payment of the principal or redemption price thereof is made or provided for, whether at maturity, upon redemption, acceleration or otherwise to bondholders of record on each Record Date. Each Bond bearing interest at an Index Rate shall contain a legend indicating that the transferability of such Bond is subject to the restrictions set forth in the Indenture. Registered ownership of the Bonds, or any portion thereof, may not thereafter be transferred except as set forth in Section 2.04.

The Bonds shall mature on the Maturity Date.

Interest shall be calculated on the basis of (a) with respect to ~~LIBOR~~SOFR Index Rate Bonds and Unremarketed Bonds, a 360-day year for the actual days elapsed, (b) with respect to SIFMA Index Rate Bonds, a 365-day year for the actual days elapsed, (c) with respect to Bonds bearing interest at a Long-Term Rate, a 360-day year of twelve 30-day months, (d) with respect to Bonds bearing interest at a Daily Rate, on the basis of a 365- or 366- day year for the number of days actually elapsed, (e) with respect to Bonds bearing interest at a Weekly Rate, on the basis

to interest accrued and unpaid, and to accrue, which were carried by such other Bond and each such Bond shall bear interest from such date, that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

Section 2.03 Determination of Interest Rates on the Bonds; Conversions Between Index Rates or Long-Term Rate Bonds.

(a) Determination of Interest Rates.

(1) All Bonds shall operate in the same Interest Rate Mode.

(2) Subject to the provisions of Section 2.03(b)(3)(ii) hereof, interest on the Bonds shall not exceed the Maximum Rate.

(3) The Bonds shall be issued as Index Rate Bonds and shall bear interest initially at the ~~LIBOR~~SOFR Index Rate. The Bonds may be converted to another Interest Rate Mode pursuant to the provisions hereof.

(4) Index Rate Bonds. The Index Rate shall be determined in accordance with Section 2.03(b). The Calculation Agent shall notify the Trustee and the Borrower of the Index Rate for each applicable period in accordance with Section 2.03(b); provided that any failure to so notify the Trustee or the Borrower shall not affect the rate of interest applicable to the Bonds and the Calculation Agent shall not have any liability for any such failure; provided further that, if the Index Rate is the Term Rate, such rate shall be established on or before the first day of the applicable Index Rate Period as provided in Section 2.03(b)(2)(iii). All Index Rate Bonds shall bear interest accruing at the same Index Rate.

(5) Long-Term Rate Bonds. Subject to the further provisions of this Section 2.03 with respect to Long-Term Rates or conversions between Long-Term Rates, the interest rate on the Bonds during any Long-Term Interest Period shall be determined by the Remarketing Agent as provided in this Section 2.03, and notice thereof shall be given as follows:

(A) The interest rate for the Long-Term Interest Period in question shall be determined by the Remarketing Agent on the date or dates and at the time or times required pursuant to Section 2.03(c) below. The interest rate to be determined for the Long-Term Interest Period shall be the lowest rate of interest that, in the reasonable judgment of the Remarketing Agent, would cause the Bonds in question to have a price equal to the principal amount thereof under prevailing market conditions for the relevant period as of the date of determination, except as otherwise provided in Section 2.03(c).

(B) If the Remarketing Agent fails for any reason to determine the Long-Term Rate for any Long-Term Rate Period, as

Bonds on the effective date at a price (without regard to accrued interest) equal to the principal amount thereof. In the event that the Remarketing Agent fails to establish a Weekly Rate for any week, then the Daily Rate for such week shall be equal to the rate in effect on the immediately preceding week.

(8) Unremarketed Bonds. Unremarketed Bonds shall bear interest at the Default Rate determined in accordance with the terms and provisions of the Continuing Covenant Agreement relating to such Unremarketed Bonds, as more fully set forth in Section 2.05 hereof.

(b) Index Rate.

(1) Initial Interest Rate. The Bonds shall bear interest at a ~~LIBOR~~SOFR Index Rate from ~~their~~and after the date ~~of issuance~~hereof until the end of the Initial Period. ~~The initial LIBOR Index Rate shall be 2.56% per annum, which shall be effective from~~At all times prior to the date hereof, the interest rate on the Bonds ~~are originally issued to and including July 31, 2019~~was determined in accordance with the terms of the Original Indenture.

(2) Determination of Index Rate. (i) SIFMA Index Rate. During each SIFMA Index Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the SIFMA Index Rate. The Calculation Agent shall determine the SIFMA Index Rate on each Computation Date during the SIFMA Index Rate Period, and such rate shall become effective on the SIFMA Rate Reset Date next succeeding such Computation Date and interest at such rate shall accrue each day during such SIFMA Index Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. The SIFMA Index Rate shall be rounded upward to the second decimal place. Promptly following the determination of the SIFMA Index Rate, the Calculation Agent shall give notice thereof to the Trustee. If the SIFMA Index Rate is not determined by the Calculation Agent on the Computation Date, the rate of interest born on such Index Rate Bonds shall be the rate in effect for the immediately preceding Interest Payment Period until the Calculation Agent next determines the SIFMA Index Rate as required hereunder.

(ii) ~~LIBOR~~SOFR Index Rate. During each ~~LIBOR~~SOFR Index Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the ~~LIBOR~~SOFR Index Rate. The Calculation Agent shall determine the ~~LIBOR~~SOFR Index Rate on each Computation Date during the ~~LIBOR~~SOFR Index Rate Period, and such ~~rate~~SOFR Index Rate shall become effective ~~on the LIBOR Index~~from and including each Daily Simple SOFR Reset Date next succeeding ~~the Computation Date and interest at such rate shall accrue each day during such LIBOR Accrual Period, commencing on and including~~

~~the first day of such period~~ to, but excluding, the earlier of (X) the immediately succeeding Daily Simple SOFR Reset Date, and ~~including~~(Y) the ~~last day of such period~~immediately succeeding Bank Purchase Date. The ~~LIBOR~~SOFR Index Rate shall be rounded upward to the third decimal place. Promptly following the determination of the ~~LIBOR~~SOFR Index Rate, the Calculation Agent shall give notice thereof to the Trustee~~. If the LIBOR Index Rate is not determined by the Calculation Agent on the Computation~~ and the Holder of the Bonds. From and including the original issuance of Bonds to and excluding the Amendment Date, the ~~rate of~~ interest ~~born on such Index Rate Bonds shall be the rate in effect for the immediately preceding Interest Payment Period until the Calculation Agent next determines the LIBOR Index Rate as required hereunder~~rate on the Bonds was determined in accordance with the terms of this Indenture prior to the Amendment Date. The Amendment Date is not a Conversion Date with respect to the Bonds.

If Daily Simple SOFR shall or has become permanently unavailable or ceases to exist, the Bank may, in its discretion, designate a successor to the interest rate described above (which may include a successor index, a multiplier and a spread adjustment), taking into consideration any selection or recommendation of a replacement rate by any relevant agency or authority and evolving or prevailing market conventions. In connection with the selection and implementation of any such replacement rate, the Bank may make any technical, administrative or operational changes that Bank decides may be appropriate to reflect the adoption and implementation of such replacement rate. The Bank does not warrant or accept any responsibility for the administration or submission of, or any other matter related to SOFR or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation whether any such alternative, successor or replacement rate will have the same value as, or be economically equivalent to, SOFR. The Purchaser's internal records of applicable interest rates shall be determinative in the absence of manifest error.

Upon a transition from an index rate utilizing Daily Simple SOFR as the Index Rate to a replacement rate, either: (a) the Borrower, at its own expense, will deliver to the bank an Opinion of Bond Counsel acceptable to the Purchaser that the replacement of the then-current index rate with a replacement rate will not adversely affect the exclusion from gross income of interest on the Bonds of the Bank, or (b) if no such opinion is delivered, the

Bonds shall bear interest at the Taxable Rate, calculated using the replacement rate, until such an Opinion is delivered.

(iii) Term Rate. During each Term Rate Period, the Bonds shall, subject to subsection (3) of this Section 2.03(b), bear interest at the Term Rate. The Market Agent shall determine the Term Rate prior to the first day of such Term Rate Period and interest at such rate shall accrue each day during such Term Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. The new Term Rate shall be determined by the Market Agent such that the Term Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which the Bonds may be sold on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof.

(3) Adjustments to Index Rates. (i) Taxable Rate. From and after any Taxable Date, the interest rate on Bonds in an Index Rate Period shall be established at a rate at all times equal to the Taxable Rate. The Trustee shall be notified of any Taxable Date and the effective date of Taxable Rate.

(ii) Default Rate. Notwithstanding the foregoing provisions of this Section 2.03 but subject to the interest rate limitations of Section 2.03(a), in the event of a failure to pay the principal of or interest on the Bonds when due (whether by scheduled maturity, required prepayment, redemption or otherwise) or upon the occurrence and continuation of an Event of Default, from and after the effective date of such Event of Default, the interest rate for Bonds in an Index Rate Period and Unremarketed Bonds shall be established at a rate at all times equal to the greater of (A) the Default Rate and (B) the interest rate that otherwise would be applicable to the Bonds but for the provisions of this paragraph, payable on demand to the Bank. Interest shall accrue and be paid on both defaulted interest and defaulted principal.

(iii) Excess Interest. Notwithstanding anything in this Indenture to the contrary, if during an Index Rate Period (or at any time the Bonds constitute Unremarketed Bonds) the rate of interest on the Bonds exceeds the Maximum Rate for such Bonds, then (i) such Bonds shall bear interest at the Maximum Rate and (ii) interest on such Bonds calculated at the rate equal to the difference between (A) the rate of interest for such Bonds as calculated pursuant to this Indenture and (B) the Maximum Rate

Period or Term Rate Period, such notice shall confirm he appointment, subject to and in accordance with the requirements of this Indenture, of a qualified Market Agent to act as Market Agent for the Bonds.

In addition, if an Index Rate is to be in effect immediately following such Conversion Date, such notice shall state whether such Index Rate shall be a SIFMA Index Rate, a ~~LIBOR~~SOFR Index Rate or a Term Rate, the new Bank Purchase Date and, in the case of the SIFMA Index Rate or ~~LIBOR~~the SOFR Index Rate, the new Applicable Spread. The new Applicable Spread (in the case of a SIFMA Index Rate or ~~LIBOR~~SOFR Index Rate) or, in the case of a conversion to a Term Rate, the Term Rate, as applicable, shall be determined by the Market Agent such that the applicable Index Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which the Bonds may be sold on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof. In addition, if a SIFMA Index Rate or ~~LIBOR~~a SOFR Index Rate is to be in effect immediately following such Conversion Date, the Borrower shall provide a copy of such notice to the Calculation Agent contemporaneously with the Trustee.

(3) Notice of Conversion and Mandatory Tender. Not fewer than 30 days prior to the proposed Conversion Date (or 7 days in the case of conversions from Daily Rate Periods or Weekly Rate Periods), the Trustee shall give Electronic Notice, confirmed by first class mail, of the conversion and of mandatory tender of the Bonds (except in the case of conversions between Daily and Weekly Rate Periods) to the Holders of such Bonds at their addresses as they appear on the registration books of the Trustee as of the date notice of the election is received by the Trustee from the Borrower. The notice given pursuant to this paragraph shall set forth the information required by Section 3.09(e) hereof.

(4) Opinion of Bond Counsel. Any conversion pursuant to this Section shall be subject to the conditions that, on or before the Conversion Date, the Borrower shall have delivered to the Bank (during an Index Rate Period), the Credit Bank (during a Daily Rate Period or a Weekly Rate Period), the Trustee, and the Market Agent with respect to the affected Bonds or Remarketing Agent, as applicable, an Opinion of Bond Counsel to the effect that the conversion is authorized by this Indenture and will not, in and of itself, cause the interest on the Bonds to be includable in the gross income of Holders for federal income tax purposes.

(5) Conditions to Conversion. Notwithstanding the Borrower's delivery of notice of the exercise of its option to effect a conversion pursuant to Section 2.03(d)(2), as long as such Conversion Date is not also a Bank Purchase Date, such conversion to the new Interest Rate Mode shall not take effect if:

(A) the Borrower withdraws such notice of the exercise of its option to effect conversion not later than the Business Day

Tender Agent, the Bank, and the Remarketing Agent, provided that such removal shall not be effective unless and until a successor Calculation Agent is appointed by the Borrower and assumes such position in accordance with the provisions hereof.

(c) The Trustee shall, within 30 days of the resignation or removal of the Calculation Agent or the appointment of a successor Calculation Agent, give notice thereof to the registered owners of the Bonds.

(d) Promptly after determining any interest rate required to be determined by the Calculation Agent under this Indenture, the Calculation Agent shall provide Electronic Notice to the Trustee, the Bank, if applicable, the Tender Agent, the Remarketing Agent and any requesting Holder.

Section 2.09 Authentication. No Bond shall be valid or become obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form hereinabove set forth shall have been duly executed by the Trustee, and such executed certificate of Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered and is entitled to the security and benefit under this Indenture. Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds.

Section 2.10 Form of Bonds. The Bonds issued under this Indenture shall be substantially in the form hereinabove set forth with such variations, omissions and insertions as are permitted or required by this Indenture.

Section 2.11 Delivery of Bonds. Upon the execution and delivery of this Indenture, Issuer shall execute and deliver to Trustee and Trustee shall authenticate the Bonds and deliver them to or for the account of the Purchaser thereof as directed by Issuer as hereinafter in this section provided.

Prior to the delivery by Trustee of the Bonds there shall be filed with Trustee:

1. A copy, duly certified by the City Clerk of the Issuer of the Ordinance adopted by Issuer authorizing the issuance and sale of the Bonds and the execution and delivery of this Indenture and the Agreement.

2. Original executed counterparts of the Agreement, the Continuing Covenant Agreement and this Indenture.

3. A request and authorization to Trustee on behalf of Issuer and signed by its Mayor and City Clerk to authenticate and deliver the Bonds to the purchasers therein identified upon payment to Trustee, but for the account of Issuer, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery.

Upon the delivery of the Bonds ~~in~~ to the Purchaser thereof as herein provided, the proceeds of the payment received by the Trustee from such Purchaser shall be deposited in the

~~Refunding~~Purchase Fund and paid to the ~~Cost of Issuance Fund, pursuant to Article V hereof~~tendering Holders.

Section 2.12 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, Issuer may execute and Trustee may authenticate a new Bond of like date, maturity and denomination to that mutilated, lost, stolen or destroyed; provided that in the case of any mutilated Bond, such mutilated Bond, shall first be surrendered to Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to Issuer and Trustee evidence of such loss, theft or destruction satisfactory to Issuer and Trustee, together with an indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, Issuer may pay the same without surrender thereof. Issuer and Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 2.13 Registration of Bonds; Persons Treated as Owners. Trustee is hereby constituted and appointed the Bond Registrar of Issuer with respect to the Bonds. Trustee shall cause records for the registration and for the transfer of the Bonds as provided in this Indenture to be kept. The Bonds shall be registered as to principal and interest on such records upon presentation thereof to Trustee which shall make notation of such registration thereon. The Bonds may thereafter be transferred only upon an assignment duly executed by the Registered Owner or his attorney duly authorized in writing in such form as shall be satisfactory to Trustee, such transfer to be made on such records and endorsed on such Bond by Trustee. The principal and interest of all Bonds shall be payable only to or upon the order of the Registered Owner or his legal representative.

The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any Bond shall be made only to or upon the written order of the Registered Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Section 2.14 Destruction of Bonds. Whenever any outstanding Bond shall be delivered to Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount represented thereby, or for replacement pursuant to Section 2.12, such Bond shall be promptly canceled and cremated or otherwise destroyed by Trustee pursuant to Securities and Exchange Commission regulations.

Section 2.15 Additional Bonds. No additional bonds shall be issued under the terms of this Indenture.

Section 2.16 Issuance of Refunding Bonds. The Issuer may, but shall not be obligated to, upon application by the Borrower, issue refunding bonds, to be authenticated and delivered, to the extent permitted by law, at any time for the purpose of providing funds for refunding, so long as the exemption from federal income taxation of interest on any Bonds then outstanding is not adversely affected, all the Bonds then outstanding (including the payment of any redemption premium thereon). Refunding bonds shall be designated substantially as the Bonds to be

of the same series and maturity, equal in aggregate principal amount to the unredeemed portion of the Bond surrendered: provided, however, that during any Index Rate Period partial redemptions shall be made without the requirement for presentation and surrender by the Bank.

Section 3.05 Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued thereon, if any, to the redemption date on, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice together with interest accrued thereon, if any, to the redemption date, interest on the Bonds (or portions thereof) so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Holders of said Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest, if any.

All Bonds redeemed pursuant to the provisions of this Article, if any, shall be canceled upon surrender thereof in accordance with the Trustee's customary procedures.

Section 3.06 The Tender Agent. ~~U.S. Bank National Association,~~The Northern Trust Company is hereby appointed by the Issuer as Tender Agent for the Bonds. The Tender Agent shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder with respect to the Bonds by a written instrument of acceptance delivered to the Issuer and the Trustee. The Tender Agent shall be responsible:

(a) To hold all Index Rate Bonds, Daily Rate Bonds, Weekly Rate Bonds and Long-Term Rate Bonds delivered to it for purchase hereunder as agent and bailee of, and in escrow for the benefit of, the respective Holders which shall have so delivered such Bonds until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Holders;

(b) To hold all moneys delivered to it hereunder for the purchase of Bonds as agent and bailee of, and in escrow for the exclusive benefit of, the person or entity which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity;

(c) To keep such books and records as shall be consistent with prudent industry practice and, upon reasonable advance notice, to make such books and records available for inspection by the Borrower, the Trustee, the Bank, if applicable, and the Remarketing Agent; and

(d) To perform the foregoing duties and obligations subject to and in accordance with the provisions of this Indenture relating thereto and to perform such other duties and responsibilities (including, without limitation, with respect to the Purchase Fund pertaining to the Bonds) as are provided in this Indenture to be performed by the Tender Agent.

The Tender Agent in performing its duties as set forth herein shall have the rights and immunities including, but not limited to, exculpations and indemnifications, of the Trustee as set

excess moneys in the Bond Fund or such part thereof or other moneys provided by the Borrower, as the Borrower may direct, to be applied by the Trustee on a best efforts basis and to the extent practical for the purchase of Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof plus accrued interest thereon to the date of such purchase.

After payment in full of the principal of, redemption premium, if any, and interest on the Bonds (or after provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, Tender Agent, any Paying Agents and the Issuer, and any other amounts required to be paid under this Indenture and the Agreement, all amounts remaining in the Bond Fund shall be paid to the Borrower upon the expiration or sooner termination of the Agreement. Any moneys deposited in the Bond Fund, from whatever source, shall be used for the purposes described herein within a thirteen (13) month period beginning on the date of deposit. Any amounts received from investment of moneys held in the Bond Fund shall be used for the purposes described herein within a twelve (12) month period beginning on the date of receipt. The Bond Fund shall be depleted at least once a year, except for a reasonable carryover amount not exceeding the greater of (a) one year's earnings on the Bond Fund, or (b) one-twelfth of the annual debt service on the Bonds.

Section 5.05 Custody of Moneys in Bond Fund. The Bond Fund shall be in the custody of Trustee but in the name of Issuer, and Issuer hereby authorizes and directs Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and premium, if any, and interest on the Bonds as the same become due and payable, which authorization and direction Trustee hereby accepts.

~~Section 5.06 Refunding Fund. There is hereby created and established and ordered maintained as a separate account with the Trustee a trust fund in the name of Issuer to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Refunding Fund (Palmer College Foundation, Inc. Project)" (herein called the "Refunding Fund").~~

~~Section 5.07 Payments into the Refunding Fund: Disbursements. Amounts shall be deposited into the Refunding Fund in accordance with the Closing Memorandum. Amounts in the Refunding Fund shall be applied to pay the Refunded Note and the cost of a termination payment in connection with the cancellation of a hedging agreement associated with the Refunded Note in accordance with the Closing Memorandum.~~

Section 5.06 ~~Section 5.08~~ Establishment of Cost of Issuance Fund. There is hereby created by Issuer and ordered established and maintained as a separate account with Trustee a fund to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Cost of Issuance Fund (Palmer College of Chiropractic Project)" (herein called the "Cost of Issuance Fund"), which shall be expended in accordance with the provisions of the Agreement and this Indenture.

Section 5.07 ~~Section 5.09~~ Payments into the Cost of Issuance Fund; Disbursements. ~~$110,000 of the proceeds of the issuance and delivery of the Bonds shall be deposited in the Cost of Issuance Fund.~~ Amounts in the Cost of Issuance Fund shall be disbursed by the Trustee in accordance with instructions to the Trustee from the Borrower for the payment of costs of

issuance of the Bonds. Trustee is hereby authorized and directed to make each disbursement required by Borrower and to issue its checks therefor. Trustee shall keep and maintain adequate records pertaining to the Cost of Issuance Fund and the disbursements therefrom, and file an account thereof with the Issuer and Borrower upon request. Any balance remaining in the Cost of Issuance Fund on December 1, 2019 shall be deposited in the Bond Fund.

Section 5.08 ~~Section 5.10~~ Non-presentment of Bonds. In the event any Bond shall not be presented for payment (if so required pursuant to the terms hereof) when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to Trustee for the benefit of the holder or holders thereof, all liability of Issuer to the holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of Trustee to hold such funds, without liability for interest thereon, for the benefit of the holder of such Bond who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond. Any monies deposited with the Trustee that remains unclaimed shall be transferred to the appropriate governmental authorities upon the expiration of the escheat period in accordance with the escheat laws applicable to each of the holders of such Bonds.

Section 5.09 ~~Section 5.11~~ Moneys to be Held in Trust. All moneys required to be deposited with or paid to Trustee for account to any fund referred to in any provision of this Indenture or the Agreement shall be held by Trustee in trust, and except for moneys deposited with or paid to Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, shall, while held by Trustee, constitute part of the Trust Estate and be subject to the lien or security interest created hereby.

Section 5.10 ~~Section 5.12~~ Repayment to Borrower from Bond Fund. Any amounts remaining in the Bond Fund after payment in full of the principal of and premium, if any, and interest on the Bonds, the fees, charges and expenses of Trustee, and all other amounts required to be paid hereunder shall be paid to Borrower upon the expiration or sooner termination of the term of the Agreement as provided in Section 11.1 of the Agreement.

Section 5.11 ~~Section 5.13~~ Custody of Separate Trust Funds. Trustee is authorized and directed to hold all Net Proceeds from any insurance proceeds or condemnation awards and disburse such proceeds in accordance with Article VI of the Agreement. If Borrower directs that any portion of such Net Proceeds be applied to redeem Bonds, Issuer covenants and agrees to take and cause to be taken the necessary steps to redeem on the next succeeding redemption date the amount of Bonds so specified by Borrower.

Section 5.12 ~~Section 5.14~~ Additional Payments Under the Agreement. Pursuant to Section 5.3 of the Agreement, Borrower has agreed to pay the fees and expenses of Trustee and any paying agent and fees and expenses of the Issuer relating to the Bonds and has agreed to make payments for the purchase of Bonds tendered under Article III hereof. All such payments received by Trustee pursuant to Section 5.3 of the Agreement shall not be paid into the Bond Fund but shall be disbursed by Trustee solely for the purposes for which such payments are received.

Section 5.13 ~~Section 5.15~~ Establishment of Rebate Fund. There is hereby created by Issuer and ordered established and maintained as a separate account with Trustee a fund to be designated "City of Port Orange, Florida Private College Facility Revenue Bond Rebate Fund (Palmer College of Chiropractic Project)" (herein called the "Rebate Fund"), which shall be held separate and apart from all other funds and accounts established under this Indenture and from all other moneys of the Trustee. There shall be deposited into the Rebate Fund such amounts as are required to be deposited therein pursuant to, in accordance with, and at the times stated in the Agreement. The Trustee shall remit to the United States of America at the times and in the amounts set forth in written instructions from the Borrower, sums accumulated in the Rebate Fund, plus any interest earnings attributable to such amounts.

All amounts in the Rebate Fund including income earned from investment of the Rebate Fund, shall be held by the Trustee free and clear of the lien of this Indenture, and shall be disbursed in accordance with written instructions from the Borrower.

The Trustee shall not be responsible for any determination or calculation concerning arbitrage rebate with respect to the Bonds, or for determining whether the yield on any investments made in accordance with the Indenture would cause, or whether any other facts exist which would cause, any of the Bonds to become arbitrage bonds under Section 148 of the Code.

(End of Article V)

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Consents, etc., of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent documents and may be executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the owner of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds registered to the owners thereof and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration records of Issuer maintained by Trustee pursuant to Section 2.08 hereof.

For all purposes of this Indenture and of the proceedings for the enforcement hereof, any person deemed to be the holder of any Bond in accordance with this Section 13.01 shall be deemed to continue to be such holder of such Bond until Trustee shall have received notice in writing to the contrary.

Section 13.02 Limitation of Rights. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the Bonds, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and their successors and assigns and the holders of the Bonds as herein provided.

Section 13.03 Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 13.04 Notices. Any notice, certificate, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered, or mailed by first-class mail, postage prepaid, or sent by overnight courier, addressed as follows: if to Issuer, to City of Port Orange, Florida, 1000 City Center Circle, Port Orange, FL 32129, Attention: City Manager; if to Trustee, to U.S. Bank Trust Company, National

Association, 505 N. 7th Street, St. Louis, Missouri 63101, Attention: Corporate Trust Department; if to Borrower, to Palmer College Foundation d/b/a Palmer College of Chiropractic, 1000 Brady Street, Davenport, Iowa 52803, Attention: President/Chancellor and Vice Chancellor for Finance; if to Bank, to ~~U.S. Bank National Association, 201 West 2nd~~The Northern Trust Company, 50 South La Salle Street, ~~Davenport, Iowa 52801~~B-4, Chicago, IL 60603, Attention: ~~Bruce Christensen~~Sr. Vice President. Issuer, Borrower, Bank and Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13.05 Payments Due on Sundays and Holidays. In any case where the date of maturity of principal of or interest on the Bonds or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then payment of principal and premium, if any, or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 13.06 Issuer's Obligations Limited. No recourse under or upon any obligation, covenant or agreement contained in this Indenture or in any Bond hereby secured, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Indenture, shall be had against the Issuer.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any record keeping or to provide any legal services, it being understood that such services shall be performed either by the Trustee or the Borrower; (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liability which may be incurred thereby; and (d) the Issuer shall have no obligation to provide money to pay any taxes, assessments or insurance premiums on the Project.

Section 13.07 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.08 Applicable Provisions of Law. This Indenture shall be governed by and construed in accordance with the laws of the State of Florida, provided that the duties and obligations of the Borrower and Issuer will be governed by the laws of the State of Florida.

Section 13.09 Rules of Interpretation. Unless expressly indicated otherwise, references to sections or Articles are to be construed as references to sections or Articles of this instrument

IN WITNESS WHEREOF, Issuer has caused this Indenture to be signed in its name and behalf by its Mayor and to be attested by its City Clerk and the seal of the Issuer to be affixed hereto, and to evidence its acceptance of the trusts hereby created Trustee has caused this Indenture to be signed in its name and behalf by its duly authorized officers, as of the day first above written.

CITY OF PORT ORANGE, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

_____
City Clerk

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By:_____
_____
_____,
_____

EXHIBIT A

FORM OF PURCHASER LETTER

_____, 20__

City of Port Orange, Florida
Port Orange, Florida

Palmer College Foundation, d/b/a
Palmer College Foundation, Inc.
Davenport, Iowa

City of Port Orange, Florida
Private College Facility Revenue Bonds
(Palmer College of Chiropractic Project), Series 2019B

Ladies and Gentlemen:

_____ ("Purchaser") has agreed to purchase the above-referenced debt obligations (the "Debt Obligations") in the original aggregate principal amount of $18,460,000, which were issued by the City of Port Orange, Florida (the "Issuer") pursuant to the Amended and Restated Indenture of Trust dated as of June ~~1~~28, ~~2019~~2024 (the "Indenture"), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Indenture. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits represented by the purchase of the Debt Obligations.

2. The Purchaser has authority to purchase the Debt Obligations and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Debt Obligations.

3. The Purchaser is a _____ organized under the laws of the United States of America and is able to bear the economic risks of purchasing the Debt Obligations.

4. The Purchaser understands that a prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Debt Obligations. The Purchaser has made its own inquiry and analysis with respect to the Issuer, Palmer College Foundation a/k/a Palmer College Foundation, Inc. (the "Borrower"), the Debt Obligations and

the security therefor, and other material factors affecting the security for and payment of the Debt Obligations.

5. The Purchaser acknowledges that it has reviewed information, including financial statements and other financial information, regarding the Issuer and the Borrower, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Borrower, the Debt Obligations and the security therefor, so that it has been able to make an informed decision to purchase the Debt Obligations; provided, however, that this letter shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received or any material information which was withheld from its review.

6. The Purchaser understands that the Bonds: (i) are not registered or qualified for sale under any Federal or state law or regulation, (ii) are not listed on any stock or other securities exchange, and (iii) have not been rated by any credit rating agency.

7. The Purchaser has been furnished with and has examined (i) the Indenture; (ii) the Loan Agreement, and (iii) other documents, certificates and the legal opinions delivered in connection with the issuance of the Bonds.

8. The Purchaser has not relied on ~~Longhouse Capital~~SJ Advisors, LLC in any way with respect to the credit information it has reviewed, its inquiry and analysis and its decision to make the Loans, and ~~Longhouse Capital~~SJ Advisors, LLC has not made any representations to the Lender with respect thereto.

9. The Debt Obligations are being acquired by the Purchaser for its own account and not with a present view toward resale, transfer or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or distribute the Debt Obligations, but agrees that any such sale, transfer or distribution by the Purchaser shall be in accordance with the terms of the Indenture.

[PURCHASER]

_____

AMENDED AND RESTATED
LOAN AGREEMENT

Dated as of June ~~1~~28, ~~2019~~2024

BETWEEN

CITY OF PORT ORANGE, FLORIDA

as Issuer

and

PALMER COLLEGE FOUNDATION, INC.

as Borrower

LOAN AGREEMENT

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(This Table of Contents is not a part of the Loan Agreement and is only for convenience of reference.)

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This AMENDED AND RESTATED LOAN AGREEMENT (which amends and restates the previously executed Loan Agreement (between the same parties dated June 1, 2019, as amended, restated, supplemented, or otherwise modified from time to time, the "Loan Agreement" or the "Agreement"), dated as of June 128, 20192024 by and between the CITY OF PORT ORANGE, FLORIDA (together with any successors and assigns, the "Issuer"), a body corporate and politic and a municipal corporation organized and existing under the laws of the State of Florida, and the PALMER COLLEGE FOUNDATION, a nonprofit corporation organized and existing under the laws of the State of Iowa, also known as Palmer College Foundation, Inc. for the purposes of conducting its affairs in the State of Florida (the "Borrower");

W I T N E S S E T H:

WHEREAS, the Florida Industrial Development Financing Act, Chapter 159, Part II, Florida Statutes (the "Act"), has been enacted by the Legislature of Florida; and

WHEREAS, the Act provides that the Issuer is authorized and shall have the power to enter into loan agreements pursuant to which the Issuer loans the proceeds from the sale of its revenue bonds to private educational institutions for the purpose of financing the cost of a project (as defined in Section 159.27(5) of the Act); and

WHEREAS, the Act provides that the Issuer may issue revenue bonds and loan the proceeds thereof to one or more parties for the purpose of financing or refinancing any such project, payable solely out of the payments to be made by the Borrower; and

WHEREAS, the Issuer has determined to issuepreviously issued its Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B (the "Bonds") in the aggregate principal amount of $18,460,000, and currently outstanding in the amount of $14,860,000, pursuant to an Indenture of Trust (as amended, restated, supplemented, or otherwise modified from time to time, the "Indenture") dated as of June 1, 2019 between the Issuer and U.S. Bank Trust Company, National Association, as successor trustee to U.S. Bank National Association, as trustee (the "Trustee"), and will loan the proceeds thereof to the Borrower under this Loan Agreement, for the purpose of purpose of (i) re-financing the outstanding City of Port Orange, Florida Tax-Exempt Revenue Note, Series 2010 (Palmer College Project) previously issued by the Issuer to finance or re-finance the acquisition and construction of certain educational facilities (collectively, the "Project"), on the campuscampuses of the College at 4777 City Center Parkway, Port Orange, Florida, 32129, and 1000 Brady Street, Davenport, Iowa, (ii) paying the swap termination payment in connection with the cancellation of a hedging agreement associated with the prior financing, if any, and (iii) paying costs of issuance of the Bonds; and

WHEREAS, the Issuer and Trustee, at the request of Borrower, were asked to make certain amendments to the Original Indenture and has chosen to convert the Bonds, and entered into an Amended and Restated Indenture of Trust dated June 28, 2024, which amended and restated the Original Indenture (the "Indenture"); and

WHEREAS, the Bonds are secured by an assignment to the Trustee of this Loan Agreement and the payments due hereunder (except Unassigned Rights), and by all the moneys and securities in the related Funds and Accounts established under the Indenture for the benefit of the Bonds; and

WHEREAS, the ~~Issuer~~Borrower has arranged for the sale of the Bonds to ~~U.S. Bank National Association~~The Northern Trust Company on the date hereof (together with its successor and assigns, the "Purchaser"); and

NOW, THEREFORE, the parties hereto in consideration of the premises and the mutual covenants and agreements hereinafter contained, do hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. Defined terms not otherwise defined herein shall have the meanings set forth in the Indenture. In this Loan Agreement and any agreement supplemental hereto (except as otherwise expressly provided or unless the context otherwise requires) terms used as defined terms in the recitals hereto shall have the same meanings throughout this Loan Agreement, and in addition, the following terms shall have the meanings specified below:

"Affiliate" shall mean any Person which controls, is controlled by or is under common control with the Borrower. For the purposes of the foregoing, one Person shall be deemed to control another if it owns more than 50% of the voting stock or other equity interest in the other Person or possesses the power (through membership or otherwise) to elect more than 50% of the other Person's governing body.

"Authorized Borrower Representative" shall mean the President/Chancellor or the Treasurer or Vice Chancellor for Finance of the Borrower or any person authorized from time to time in writing by the Borrower, or its successors and assigns, to perform a designated act or execute a designated document.

"Authorized Issuer Representative" shall mean the Mayor or Vice Mayor or City Manager of the Issuer, or any other officer of the Issuer authorized by a duly adopted resolution of the Board of the Issuer.

"Bond Counsel" means Akerman LLP, Jacksonville, Florida or other attorney at law or a firm of attorneys, acceptable to the Issuer and the Borrower, of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions duly admitted to the practice before the highest court of any state of the United States of America.

"Bond Fund" means the Bond Fund created under the Indenture.

"Bonds" means the Issuer's Private College Facility Revenue Bonds (Palmer College of Chiropractic Project), Series 2019B originally issued in the aggregate principal amount of $18,460,000 authorized pursuant to the Indenture and outstanding in the amount of $14,860,000.

"Bond Year" shall mean the one-year period ending on the Interest Payment Date immediately preceding the first anniversary of the date of issuance of the Bonds and each succeeding one-year period.

"Borrower" shall mean the Borrower identified in this Loan Agreement, and its successors and assigns and any surviving, resulting or transfer corporation.

"Borrower Board" shall mean the then-current legally governing body vested with the power of management of the Borrower.

"Business Day" shall have the meaning as defined in the Indenture.

"Certified Public Accountant" shall mean a Person, who shall be Independent, appointed by the Borrower Board, actively engaged in the business of public accounting and duly certified as a certified public accountant under the laws of the State, and not unsatisfactory at any time to the Issuer.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto.

"Continuing Covenant Agreement" shall have the meaning as defined in the Indenture.

"Cost of Issuance Fund" means the Cost of Issuance Fund created under the Indenture.

"Counsel" shall mean an attorney or firm of attorneys (which may include counsel to the Issuer, the Borrower or any Affiliate) not unsatisfactory to the Issuer.

"Default Rate" has the meaning set forth in the Continuing Covenant Agreement, and if such agreement is not in effect, then the meaning as set forth in any credit agreement, if applicable.

"Determination of Taxability" means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the Borrower files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when the Bondholder or any former Bondholder notifies the Issuer and the Borrower that it has received or applied for a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Borrower of such

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, a governmental body or any other political subdivision, a municipality, a municipal authority or any other group or entity.

"Principal Payment Date" means any date on which principal payments are due on the Bonds as set forth in the Indenture.

"Project" means the facilities described in the preambles of this Agreement to be financed with a portion of the proceeds of the Bonds.

"Project Site" means each of the parcels of real estate on which the individual components of the Project are or will be situated.

"Purchaser" or "Bank" means ~~U.S. Bank National Association~~The Northern Trust Company, as ~~initial~~ purchaser of the Bonds on the dated hereof and any other person that is the "Bank" as set forth in the Indenture.

"Qualified Investments" shall mean any of the following which are at the time of investment legal investments under the laws of the State for the moneys proposed to be invested therein:

(i) Government Obligations;

(ii) bonds, participation certificates or other obligations of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and Federal Home Loan Banks;

(iii) certificates of deposit, bankers' acceptances or other obligations issued by commercial banks or savings and loan associations which are fully insured by the Federal Deposit Insurance Corporation or certificates of deposit, bankers' acceptances or other obligations issued by commercial banks whose unsecured obligations are rated at the time of investment in one of the three highest rating categories by either Moody's ~~Investors Service or Standard & Poor's Ratings Services~~or S&P;

(iv) commercial paper rated at the time of investment in one of the three highest categories by either Moody's ~~Investors Service or Standard & Poor's Ratings Services~~or S&P;

(v) obligations issued or guaranteed by a state or political subdivision of a state rated at the time of investment in one of the three highest rating categories by either Moody's ~~Investors Service or Standard & Poor's Ratings Services~~or S&P;

(vi) housing authority bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States;

(vii) investments in a taxable or tax-exempt money market fund having a rating at the time of investment by Moody's ~~Investors Service~~ of "Aaa" or by ~~Standard & Poor's Ratings Services~~S&P of "AAA";

(viii) investment agreements with financial institutions whose unsecured debt obligations are rated at the time of time of investment by ~~Standard & Poor's Ratings Services~~S&P and Moody's ~~Investors Service~~ in one of the three highest rating categories or that are collateralized by investments of the type described in clause (i) of this definition having an aggregate fair market value at all times of not less than 100% of the original principal amount of such investment;

(ix) repurchase agreements with a term of one year or less with any institution with debt rated at the time of investment "A" or commercial paper rated "A-2" (in each case by ~~Standard & Poor's Ratings Services~~S&P);

(x) repurchase agreements collateralized by Government Obligations described in clause (i) of the definition thereof with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligations rated at the time of investment "Prime-2" or "A" or better by Moody's ~~Investors Service~~, and "A-2" or "A-" or better by ~~Standard & Poor's Ratings Services~~S&P, provided:

(a) a master repurchase agreement or specific written, repurchase agreement governs the transaction;

(b) the securities are held free and clear of any lien by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (1) a Federal Reserve Bank, or (2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than $25 million, and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee;

(c) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. in such securities is created for the benefit of the Trustee;

(d) the repurchase agreement has a term of thirty days or less, or the Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two Business Days of such valuation;

(xi) forward delivery agreements with financial institutions whose unsecured debt obligations are rated at the time of investment by ~~Standard & Poor's Ratings Services~~S&P and Moody's ~~Investors Service~~ in one of the three highest rating categories that deliver investments of the type described in clause (i) through (iv).

"Rating Agency" means a nationally recognized securities rating agency which at the time in question is rating any of the Bonds.

"Refunded Note" means the City of Port Orange, Florida Tax-Exempt Revenue Note, Series 2010 (Palmer College Project)

"State" means the State of Florida.

"Trustee" shall mean U.S. Bank Trust Company, National Association, as successor trustee to U.S. Bank National Association under the Indenture, and any successors and assigns.

"Trust Estate" shall mean all of the Issuer's right, title and interest in and to (i) this Loan Agreement assigned for the benefit of the holders of the Bonds (except Unassigned Rights) and all revenues and security granted therefor under this Loan Agreement, (ii) all moneys and securities held from time to time in the Funds and Accounts pledged under the Indenture for the benefit of the holders of the Bonds, except the Rebate Fund, (iii) all amounts derived by the Issuer or the Trustee from the exercise of its rights under this Loan Agreement assigned for the benefit of the holders of the Bonds, and (iv) all other property held by the Trustee and pledged under the Indenture for the benefit of the holders of the Bonds.

"Unassigned Rights" shall mean the right of the Issuer to be paid fees and expenses related to the Bonds under this Loan Agreement and the right of the Issuer to receive indemnification from the Borrower pursuant to this Loan Agreement, which rights are not assigned to the Trustee pursuant to the Indenture.

Section 1.2 Rules of Interpretation. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) "This Agreement" or "this Loan Agreement" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein", "hereof", "hereunder" and "herewith" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with Generally Accepted Accounting Principles.

(e) The terms defined elsewhere in this Agreement shall have the meanings therein prescribed for them.

material adverse change in the business, financial position, results of operation or prospects of the Borrower.

(e) Permits and Licenses. The Borrower has, to the best of its knowledge, all necessary permits, licenses, accreditations and certifications or other necessary approvals which are currently obtainable to conduct its business as it is presently being conducted, subject to minor exceptions and deficiencies that are not material and do not affect the conduct of its business.

(f) Litigation. There is no suit, tax claim or other proceeding pending against, or to the knowledge of the officers of the Borrower, threatened against or affecting, the Borrower or any of its property before any court or by or before any governmental authority, which, if adversely determined, would have a material and adverse effect on the financial condition or operations of the Borrower or would materially affect the Borrower's ability to make and perform its obligations under this Loan Agreement and each of the Loan Documents.

(g) No Event of Default. No Event of Default or other event which, with the giving of notice or the lapse of time or both, would become an Event of Default, has occurred and is continuing or will occur by reason of the execution, filing or recordation of any of the Loan Documents or the borrowing of the Loan.

(h) Usury. The obligations of the Borrower under this Loan Agreement are not subject to any law, rule or regulation prescribing a maximum rate of interest.

(i) Taxes. The Borrower has filed all federal, state, and local income, sales and other tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns and the Borrower does not know of any basis for additional assessment in respect of such taxes.

(j) Amount Financed. The amount of Bond proceeds to be used to re-finance the Eligible Costs of the Project ~~through the refunding of the Refunded Note is $_____. The balance of the Bond proceeds will be used to pay costs of issuance and a termination payment in connection with the cancellation of a hedging agreement associated with the Refunded Note.~~is $14,860,000.

(k) Use of Project. The Borrower agrees not to use or occupy, nor permit any use of, the Project or any part thereof contrary in any material respect to any applicable law, ordinance or governmental regulation now or hereafter in force, including any lawful contract provisions, rule or regulation imposed by the United States of America on the Issuer or the Borrower in connection with any grant or other federal aid for the construction of the Project, if any. The Borrower covenants and agrees that throughout the term of this Agreement, at its sole cost and expense, it shall comply promptly, in all material respects, with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state, county and municipal governments, and appropriate departments, commissions, boards and officers thereof, whether or not requiring

(t) Indemnity. The Borrower will indemnify and save harmless the Issuer and the Trustee and their respective officers, agents, employees, directors and representatives from and against any and all losses, costs, charges, expenses, judgments and liabilities, including reasonable attorneys' fees, incurred by it or them while it or they are acting to carry out the transactions contemplated by this Agreement and the Indenture or to safeguard its or their interests or ascertain, determine or carry out its or their interests or ascertain, determine or carry out its or their obligations under this Agreement, the Indenture or any law or contract applicable to the transactions contemplated by this Agreement and the Indenture, all as more specifically provided and subject to the limits set forth in Section 8.2 of this Agreement.

All representations of the Borrower contained herein or in any certificate or other instrument delivered by the Borrower pursuant hereto, pursuant to the Indenture, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds as representations of facts existing as of the date of execution and delivery of the instrument containing such representation.

Section 2.2 Representations, Covenants and Warranties of the Issuer. The Issuer represents, covenants and warrants as follows:

(a) The Issuer is a body politic and corporate and a public instrumentality organized and existing under the laws of the State. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Agreement and the Indenture, to issue the Bonds and to carry out its obligations hereunder and under the Indenture. The Issuer has been duly authorized by appropriate proceedings of its governing body to execute and deliver this Agreement and the Indenture and to issue the Bonds.

(b) The Issuer agrees that it will assist in the financing of the Project by loaning to the Borrower the proceeds of the sale of the Bonds. Borrower has estimated that the total of the amount to be used to re-finance the ~~Refunded Note, make a termination payment in connection with the cancellation of a hedging agreement associated with the Refunded Note,~~Project and pay costs of issuance equals or exceeds $~~_____~~14,860,000, and on that basis, Issuer agrees to ~~issue~~reissue the Bonds in the aggregate principal amount of $~~_____~~14,860,000. The Issuer shall issue the Bonds concurrently with the execution and delivery of this Agreement.

(c) The Bonds will be issued under the Indenture and will mature at such dates and bear interest at such rates and will be subject to redemption at the time and at the redemption prices as set forth in the Indenture.

(d) The Issuer covenants that it will not assign or pledge the Loan Payments hereunder or any other amounts pledged pursuant to this Agreement or the Indenture other than to secure the Bonds.

(End of Article II)

ARTICLE XII

MISCELLANEOUS

Section 12.1 Loan Term. This Agreement shall remain in full force and effect from the date hereof until such time as all of the Bonds shall have been fully paid or provision made for such payment and the fees and expenses of Issuer, Trustee, and any Paying Agent shall have been fully paid. The Borrower's obligations under this Agreement shall terminate after payment in full of the Loan and all other amounts due under this Agreement; provided, however, that the covenants and obligations provided in Sections 4.4, 4.5, and 8.2 shall survive the payment in full of the amounts due hereunder.

Section 12.2 Notices. Any notice, certificate, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, addressed as follows:

If to Issuer, to:
City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
Attention: City Manager

if to Trustee, to:
U.S. Bank Trust Company, National Association
505 N. 7th Street
St. Louis, Missouri 63101
Attention: Corporate Trust Services

if to Borrower, to:
PALMER COLLEGE FOUNDATION, INC.
1000 Brady Street
Davenport, Iowa 52803
Attention: President/Chancellor and Vice Chancellor for Finance

Issuer, Borrower, and Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.3 Knowledge of Indenture. The Borrower acknowledges that it has received a copy of the Indenture and that it is familiar with the provisions thereof, and agrees to be bound to the fullest extent permitted by law to all provisions thereof directly or indirectly relating to it and further agrees that it will take all such actions as are required or contemplated of it under the Indenture to preserve and protect the rights of the Trustee and of the Bondholders thereunder and that it will not take any action which would cause a default thereunder or jeopardize such rights. It is agreed by the Borrower and the Issuer that all redemptions of the Bonds prior to maturity shall be effected as provided in the Indenture.

IN WITNESS WHEREOF, CITY OF PORT ORANGE, FLORIDA has caused this Loan Agreement to be executed in its name and in its behalf by its duly authorized officers and its official seal to be affixed hereunto, and Borrower has caused this Loan Agreement to be executed in its name and in its behalf by its duly authorized officers and its corporate seal to be affixed hereto, all as of the day and year first above written.

(SEAL)
CITY OF PORT ORANGE, FLORIDA
~~(SEAL)~~

By: _____
Mayor

ATTEST:

_____
City Clerk

~~(SEAL)~~

PALMER COLLEGE FOUNDATION, INC.

By: _____
Dennis M. Marchiori,
President/Chancellor

By: _____
Jennifer Randazzo,
Vice Chancellor for Finance

~~48770163;8~~
76575619;2

EXHIBIT A

REQUISITION FOR DISBURSEMENT
(Cost of Issuance Fund)

U.S. Bank Trust Company, National Association, as trustee
505 N. 7th Street
St. Louis, Missouri 63101

RE: Direction to Make Disbursements
From the City of Port Orange, Florida
Private College Facility Revenue Bonds
Cost of Issuance Fund (Palmer College of Chiropractic Project)

As Trustee under the Amended and Restated Indenture of Trust dated as of June ~~1~~28, ~~2019~~2024 (the "Indenture") with the City of Port Orange, Florida (the "Issuer"), you are hereby directed to disburse from the Cost of Issuance Fund (Palmer College of Chiropractic Project) (the "Cost of Issuance Fund) in accordance with Section 5.07 of the Indenture and Section 4.3 of the Amended and Restated Loan Agreement dated as of June ~~1~~28, ~~2019~~2024 (the "Agreement") between the Issuer and Palmer College Foundation, Inc. (the "Borrower"), the amounts to such entities as described on the attached Exhibit A. All terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Agreement. Such disbursement has been properly incurred, is a proper charge against the Cost of Issuance Fund, is or was necessary in connection with the issuance by the Authority of the Bonds, has not been the basis of any previous withdrawal and represents the amount to which the Borrower or such other payee named above is entitled in accordance with the documentation attached hereto.

DATED this _____ day of _____, ~~2019~~20__.

PALMER COLLEGE FOUNDATION, INC.

By:

_____

Jennifer Randazzo,
Vice Chancellor for Finance
(the Authorized Borrower Representative, as defined
in the Agreement)

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 6/4/2024

SUBJECT: (I18) FY 2024 - 2025 Budget Discussions (Preliminary Capital Improvements Plan, Capital Outlay and Fleet Replacement)

DEPARTMENT: Finance

GOAL: 1 - Public Safety
2 - Infrastructure
3 - Quality of Life
4 - Economic Development
5 - Fiscal Sustainability
6 - Organizational Excellence

RECOMMENDED MOTION: Discussion item only. No motion needed.

SUMMARY: Staff will present an overview of the following;

1. Preliminary Capital Improvements Plan
2. Capital Outlay Requests
3. Fleet Replacement

PRESENTER: John McKinney

ATTACHMENTS:

1.	Budget Workshop June 4 Final	Budget Workshop June 4 Final .pdf

John McKinney	Created/Initiated - 3/23/2024
John McKinney	Approved - 4/2/2024
Wayne Clark	Final Approval - 5/30/2024

CITY OF
Port Orange , FL
BUDGET WORKSHOP

CIP, Capital & Fleet Replacement

June 4, 2024

Presented by: Finance Budget Team

Introduction

- Preliminary Request
  - Capital Improvement Plan (CIP)
  - Capital Outlay
  - Fleet

Capital Priorities

- Resilience
- Infrastructure Maintenance
- Facility Maintenance

Year 1 projects will be completed

Capital Improvement Plan (CIP)

Water & Sewer CIP

Project	Cost	Stage
1. Charles Street Lift Station	$ 150,000	Design
2. WWTP – Effluent Discharge Improvement	400,000	Design & Construction
3. WTP - Lime Silos Dust Collector R&R	1,000,000	Design & Construction
4. Leisure Circle Sewer Improvements	1,000,000	Construction
5. Leslie Dr Sewer Improvements	650,000	Design & Construction
6. Palm Shores Septic to Sewer Cost Share	1,000,000	Design & Construction
7. Emergency Contingency Repairs (Citywide)	250,000	Construction
8. Sewer System Rehab (Citywide)	1,000,000	Construction
	$ 5,450,000	

WWTP – Wastewater Treatment Plant
WTP – Water Treatment Plant

Capital Improvement Projects (CIP)
Water & Sewer R&R - Fund 401
Prepared by Community Development May 2024
1 Charles Street Lift Station Rehab
2 Water Reclamation Facility Effluent Discharge Improvement
3 Garnsey Water Treatment Plant Lime Silos Dust Collector Replacement & Upgrade
4 Leisure Circle Sewer Improvements
5 Leslie Dr Sewer Improvements
6 Palm Shores Mobile Home Estates Septic to Sewer Cost Participation
7 Emergency Contingency Repairs (various locations city-wide)
8 Sewer System Rehabilitation (various locations city-wide)
N
Clyde Morris Blvd.
Nova Rd.
Reed Canal
McDonald Rd.
Madeline Ave.
Dunlawton Ave.
Ridgewood Ave.
Halifax River
Williamson Blvd.
Herbert St.
Spruce Creek Rd.
Commonwealth Ave.
Willow Run Blvd.
Town West Blvd.
Taylor Rd.
Tomoka Farms Rd.
US-1
95

Stormwater CIP

Project	Cost	Stage	Source
1. Virginia / Monroe Pump Station Generator	$1,250,000	Design & Construction	Stormwater Fees
2. Southwinds Stormwater Pump Station Outfall	100,000	Design	Stormwater Fees
3. Cambridge Canal Pump Station Upgrades	4,000,000	Construction	FEMA / Fees
4. Jackson St. Stormwater Improvements	296,208	Construction	CDBG Grant
5. FEMA Flood Mitigation Assistance (Citywide)	1,960,266	Acquisition	FEMA/Stormwater Fees
6. HMGP Hurricane Nicole (Citywide)	1,442,222	Acquisition	FEMA/Stormwater Fees
7. Drainage Pipe R&R (Citywide)	700,000	Construction	Stormwater Fees
	$9,748,696		

Capital Improvement Projects (CIP)
Stormwater Utility - Fund 412
Prepared by Community Development May 2024
1 Virginia/Monroe Stormwater Pump Station Generator
2 Southwinds Stormwater Pump Station Outfall
3 Cambridge Canal Pump Station Upgrades
4 Jackson St. Stormwater Improvements (Oak St. to Canal View Blvd.)
5 FEMA Flood Mitigation Assistance (various locations city-wide)
6 HMGP Hurricane Nicole (various locations city-wide)
7 Drainage Pipe Repair & Replacement (various locations city-wide)
N
Clyde Morris Blvd.
Nova Rd.
Reed Canal
Madeline Ave.
McDonald Rd.
Williamson Blvd.
Dunlawton Ave.
Halifax River
Herbert St.
Jackson St.
Ridgewood Ave.
Spruce Creek Rd.
Commonwealth Ave.
Willow Run Blvd.
Town West Blvd.
Taylor Rd.
Tomoka Farms Rd.
95

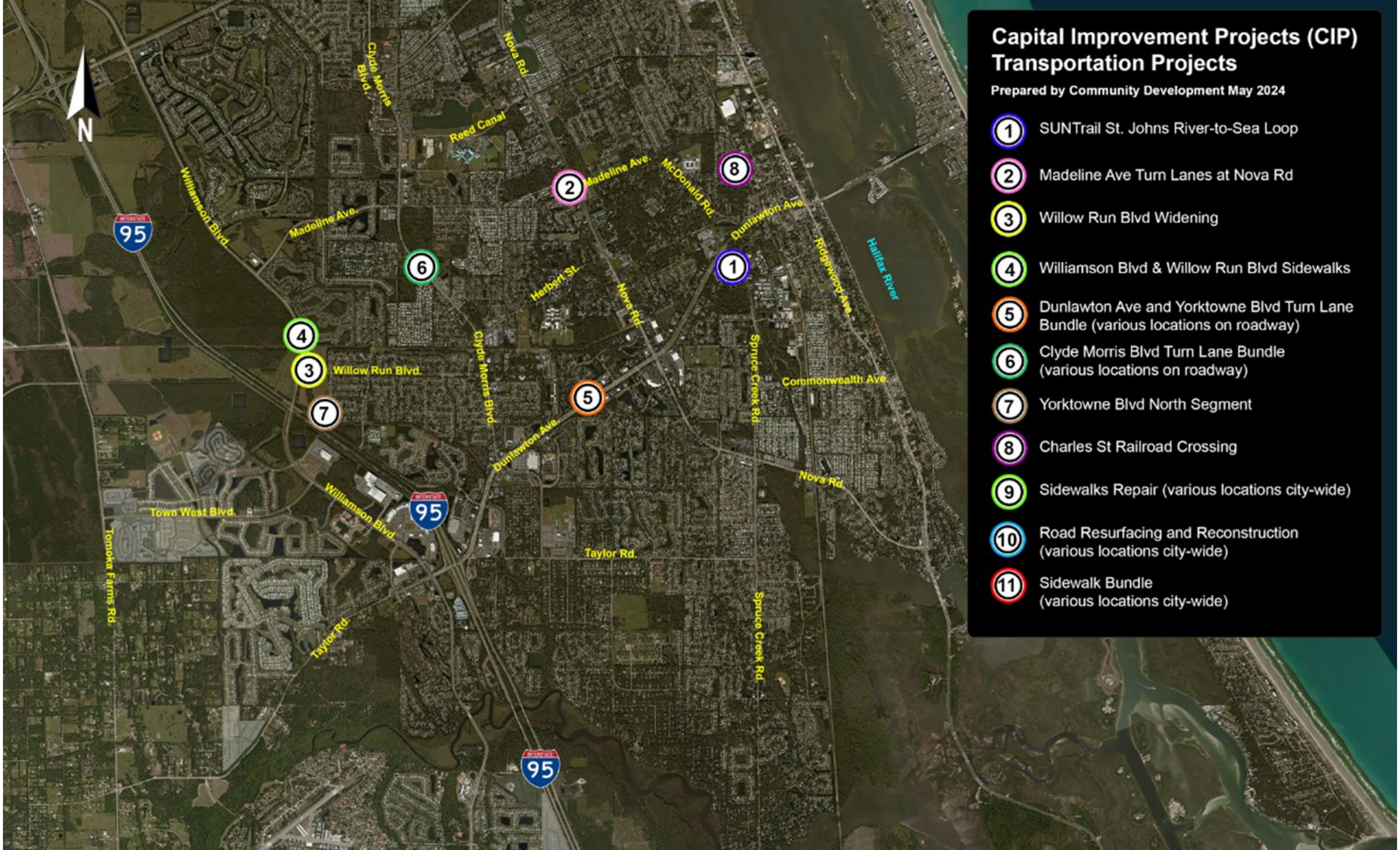
General Construction CIP

Project	Cost	Stage	Source
1. Down Under Revitalization	$ 405,000	Design	Grant / General Fund
2. Fire Station Alerting System	200,000	Construction	General Fund
3. City Center Field Rehab	1,000,000	Construction	General Fund
4. Restroom Replacement • All Children's Park	512,400	Construction	ECHO Grant / General Fund
5. Spruce Creek Rd – Ballfield Lamp Replacement	220,000	Construction	General Fund
6. Generator Replacement – Police Department	1,000,000	Construction	General Fund
7. Ceiling & HVAC Replacement – Fire Station 74	300,000	Construction	General Fund
8. Main Street Bridge Repairs	500,000	Construction	General Fund
9. HMGP Idalia	1,348,361	Acquisition	FEMA / General Fund
	$5,485,761		

Capital Improvement Projects (CIP)
General Capital Replacement
Prepared by Community Development May 2024
1 Down Under Revitalization
2 Fire Station Based Alerting System
3 City Center Field Rehab
4 Restroom Replacement - All Children's Park
5 Ballfield Lamp Replacement - Spruce Creek Road Park
6 Police Department Standby Power Generator Replacement
7 Fire Station 74 Ceiling & HVAC Replacement
8 Main Street Bridge Repairs
9 HMGP Idalia (various locations city-wide)
N
Clyde Morris Blvd.
Nova Rd.
Reed Canal
Madeline Ave.
McDonald Rd.
Dunlawton Ave.
Halifax River
Ridgewood Ave.
Herbert St.
Willow Run Blvd.
Commonwealth Ave.
Spruce Creek Rd.
Williamson Blvd.
Town West Blvd.
Taylor Rd.
Tomoka Farms Rd.
95

Transportation CIP

Project	Cost	Stage	Source
1. SunTrail St. Johns River-To-Sea Loop	$3,332,065	Construction	State Grant
2. Madeline Ave Turn Lanes @ Nova Rd	225,000	Design	Impact Fees
3. Willow Run Blvd Widening	200,000	Design	Impact Fees
4. Williamson Blvd & Willow Run Blvd Sidewalks	661,183	Construction	State Grant
5. Dunlawton Ave and Yorktowne Blvd Turn Lane Bundle	322,299	R.O.W.	State Grant / Gas Tax
6. Clyde Morris Blvd Turn Lane Bundle	215,864	Design	State Grant / Impact Fees
7. Yorktowne Blvd North Segment	200,000	Design	Developer
8. Charles St. Railroad Crossing	150,000	Construction	General Fund
9. Sidewalk Repairs (Citywide)	498,274	Construction	Gas Tax / General Fund
10. Road Resurfacing (Citywide)	618,774	Construction	Gas Tax / General Fund
11. Sidewalk Bundle	877,614	Construction	State Grant
	$7,301,073		


Capital Improvement Projects (CIP)
Transportation Projects
Prepared by Community Development May 2024
1 SUNTrail St. Johns River-to-Sea Loop
2 Madeline Ave Turn Lanes at Nova Rd
3 Willow Run Blvd Widening
4 Williamson Blvd & Willow Run Blvd Sidewalks
5 Dunlawton Ave and Yorktowne Blvd Turn Lane Bundle (various locations on roadway)
6 Clyde Morris Blvd Turn Lane Bundle (various locations on roadway)
7 Yorktowne Blvd North Segment
8 Charles St Railroad Crossing
9 Sidewalks Repair (various locations city-wide)
10 Road Resurfacing and Reconstruction (various locations city-wide)
11 Sidewalk Bundle (various locations city-wide)
N
Clyde Morris Blvd.
Nova Rd.
Reed Canal
Madeline Ave.
McDonald Rd.
Dunlawton Ave.
Ridgewood Ave.
Halifax River
Williamson Blvd.
Herbert St.
Spruce Creek Rd.
Commonwealth Ave.
Willow Run Blvd.
Town West Blvd.
Taylor Rd.
Tomoka Farms Rd.
95

Capital Outlay

Capital Requests

Building Maintenance	
• City Hall Elevators	$ 400,000
• City Center Bollard Lights	30,000
Parks & Recreation	
• Sod Cutters	6,000
• 2 - Scoreboard Replacements at Spruce Creek Rd Park	39,600
• Cameras for Airport Rd Park	65,000
• Parking Lot Lighting for the REC	25,000
Golf Course	
• Ice Machine Cart Barn	12,000
• Bunker Repairs	150,000
Fire Services	
• Fit Test Machine	9,757
• Breathing Air System	58,189
Total Funded by General Fund	**$ 795,546**

Capital Requests

Recreation Fund

• YMCA - Fire Suppression System	$	35,000
• YMCA - Gym Lighting		6,100
	$	**41,100**

Information Technology Fund

• Phone System Replacement	$	350,000
	$	**350,000**

Fleet Replacement

Fleet Replacement

General Fund

Building Maintenance	Utility Truck	**$**	**70,000**
Community Development	SUV	**$**	**40,000**
Fire Services	ATV		19,000
	Fire Engine - Pumper Rescue *		1,500,000
		$	**1,519,000**
Parks & Recreation	3 - Trucks		135,000
	Van		40,000
	2 - Mowers*		82,000
	Aerator		9,500
	Tractor *		38,000
	Trailer		6,000
	Scissor Lift		20,000
		$	**330,500**

New Request- (BOLD)

- - Heavy Equipment/Vehicle – 4
  Standard Equipment/Vehicle - 11

Fleet Replacement cont.

General Fund (Continued)			
Police	4 - Sedans		180,000
	SUV		45,000
	13- Interceptor SUVs		910,000
	Traffic Unit Trailer w/Mapping System		34,531
		$	**1,169,531**
Public Works	ATV		16,000
	SUV		75,000
	3 - Trucks		190,000
	Batwing Mower *		275,000
	Grappler Truck *		250,000
		$	**806,000**
Golf Course	Blower		13,000
	Spreader		23,000
	Utility Carts		23,000
	Ranger Pickers		16,000
		$	**75,000**
General Fund Total		**$**	**4,010,031**

New Request- (BOLD)

- - Heavy Equipment/Vehicle – 4
  Standard Equipment/Vehicle - 11

Fleet Replacement cont.

Water & Sewer Fund			
	3 - Pickup Trucks		145,000
	6 - Utility Trucks		476,000
		$	**621,000**
Stormwater			
	2 - Pickup Trucks		92,000
	2 - Street Sweepers *		650,000
	Mower		45,000
		$	**787,000**
Information Technology Fund			
	Van	**$**	**45,000**
Fleet Replacement Total		**$**	**5,463,031**

New Request – (BOLD)

- - Heavy Equipment/Vehicle - 2
  Standard Equipment/Vehicle – 12

Funding Source

- Debt - $3,824,531
- Lease Replacement - $880,500
- Water & Sewer Fund- $621,000
- Stormwater Fund - $137,000

Next Steps

- Budget Workshops & Actions Tentative Dates
  - Revenue Projections, Operating, & Capital Projects – July 23 – 5:30 p.m.
  - Set Maximum Millage – July 23 – Special Council Meeting 5:30 p.m.
  - Optional Meeting – Set Maximum Millage – July 30

- Public Hearings
  - Wednesday September 4 – 5:30 p.m.
  - Wednesday September 18 – 5:30 p.m.