



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

MAY 17, 2016

AGENDA

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

A. OPENING

1. Pledge of Allegiance
2. Silent Invocation
3. Roll Call
4. Rules of Procedure

B. AGENDA APPROVAL

C. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

5. Atlantic High School Student Athlete Recognition
6. Recognize the 2016 winners of the Get Fit Mayors Challenge
7. 2016 Youth Achievement Award

D. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

8. Youth Advisory Board Report
9. Citizen Advisory Committee for TPO
10. General Employees' Pension Plan Appointment
11. Planning Commission Appointment

E. CITIZEN PARTICIPATION

12. Spruce Creek Road Access Point - R. Todd Heffington & Bob Lloyd

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

G. COUNCIL COMMENTS

13. Comments/Concerns from Council Members

H. TABLED ITEMS

14. Approval of Task Authorization No 5, to the Master contract for Engineering Services with Kimley-Horn and Associates, Inc. **(Tabled on October 20, 2015)**

15. Task Authorization No 1 under the Master Contract for Engineering Services with Arcadis U.S., Inc. for the Water Master Plan **(Tabled on October 20, 2015)**

I. CONSENT AGENDA

16. Approval of Minutes

- a. April 26, 2016 - Special Meeting/Workshop
- b. May 3, 2016 - Regular City Council Meeting

17. Amendment and Extension to the Piggyback Agreement with Ferguson Enterprises, Inc., dated October 28, 2014.

18. Bid Awards and Contract Items

- a. Award RFP #16-13 Internet and Voice-Over-IP Telephony Access to Bright House Networks Enterprise Solutions, Inc.
- b. Sole Source purchase and waiver of normal bidding procedures for Solar-Bee mixers for high-quality reclaimed water circulation equipment for the Recharge Reservoir Lakes A & B
- c. Manheim Consignment Agreement
- d. Contract Amendment No 1 to the Standard Contract for Services with Kurt Benson, d/b/a K.B. Lawncare, dated January 16, 2016
- e. Change Order No 1 to Task Authorization No 3 to Wade Trim, Inc. under the Master Contract for Engineering Services, dated March 17, 2015.

19. Waiver of Payment and Performance Bond (F.S. 255.05) for Bid # 16-04 by ALLAND, INC. a Florida corporation

20. Approval for Final Payment and close out of the Agreement for Construction with Sawcross, Inc., dated March 9th, 2015 for Bid B15-09 Reclaimed Water Reservoir Outfall and Filtration Project.

21. Acceptance of Work Notification per the Joint Participation Agreement (JPA) between Pioneer Community Development District (PCDD) and the City of Port Orange for utility relocations on Williamson Blvd.

22. Approval of Settlement - Urquhart v. BDW Land Holdings and City of Port Orange

J. REGULAR AGENDA

23. Extend Piggyback Agreement - Pegasus Engineering, LLC, Sleepy Hollow Drainage Improvements

24. Purchase Sale Agreement for ±15 Acres in the Port Orange Business Park

K. COMMENTS

25. City Attorney Comments

26. City Manager Comments

L. COUNCIL COMMITTEE REPORTS

27. City Council Committee Reports

a. ArtHaus

b. Port Orange/South Daytona Chamber of Commerce

c. Roundtable of Elected Officials

M. ADJOURNMENT

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

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



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Recognize the 2016 winners of the Get Fit Mayors Challenge

DEPARTMENT: Parks & Recreation

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: The 2016 Top male, Top Female and Top Team winners will be recognized before council.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

Susan Lovallo	Created/Initiated - 05/03/2016
Susan Lovallo	Final Approval - 05/09/2016



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: 2016 Youth Achievement Award

DEPARTMENT: City Manager

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Each year, the Port Orange Youth Advisory Board seeks applications to recognize youth who have made a significant contribution to the community. This year, the board received a total of three nominations. The Selection Committee that reviewed the applications, agreed all three nominees are outstanding in terms of academics and volunteerism, and make a positive impact not only on their schools but the community as well.

This year's winner has been contacted by Youth Board Chairman Matthew Burnette. Chairman Burnette will announce the winner of the 2016 Youth Achievement Award at the City Council meeting. The finalists were: Michael Cocomazze, Baylee Bastian, and Thoren Perego. The nomination forms are attached.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Youth Award Nominations	2016 Youth Achievement Award Nominations.pdf
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Kent Donahue
M. Jake Johansson

Created/Initiated - 04/28/2016
Final Approval - 05/12/2016

RECEIVED

MAR 21 2016

**City of Port Orange
City Manager**

**2016
YOUTH ACHIEVEMENT AWARD
Nomination Packet**



**Sponsored by the
City of Port Orange Youth Advisory Board**

Applications due by 5:00 p.m. on Friday, March 25, 2016

By mail or in person

to

City Manager's Office

City Hall

1000 City Center Circle

Port Orange, FL 32129

Fax (386) 756-5208



2016
YOUTH ACHIEVEMENT AWARD
Nomination Form

(Please print or type)

Nominee

Name: BAYLEE BASTIAN
Age: 17 Birth Date: 4/6/1998
School: SCHS Grade: 12 Weighted G.P.A.: 4.50
Mailing Address: 5790 White Acres Lane Port Orange, FL 32127
Home Phone: (386)-760-8857 Cell Phone: (386)-682-9100
Email: 3baylee@gmail.com

Applicant Making the Nomination

Name: CANDACE ROOS
Organization (if applicable): SCHOOL COUNSELOR, SCHS
Mailing Address: 801 TAYLOR RD. PORT ORANGE, FL 32128
Home Phone: 322-6272 Cell Phone: 299-2141
Email: 37736
CEROOS@VOLUSIA.K12.FL.US
Relationship to Nominee: SCHOOL COUNSELOR

Required Information

Does the Nominee meet all of the eligibility requirements? ☒ Yes ☐ No

Has the Nominee received any other awards for his/her accomplishments, leadership or service? ☒ Yes ☐ No If yes, please provide details: _____

President's Volunteer Service Award (2015)
Youth Volunteer of the Year at Spruce Creek High School (2015-2016)

City of Port Orange Youth Achievement Award 2016

The City of Port Orange Youth Achievement Award is sponsored by the City's Youth Advisory Board and is awarded annually to a young individual who makes a significant contribution to the welfare of the community through their accomplishments, leadership and service.

Eligibility Criteria

Applicants must:

- ☒ Currently be enrolled in grades 8-12.
- ☒ Be residents of Port Orange or attend a Port Orange school.
- ☒ Be nominated by a person who is not a relative.
- ☒ Demonstrate a significant commitment and contribution to the welfare of the community through their accomplishments, leadership and service.

Conditions

- ☐ Completed nomination forms must be received before 5:00 p.m. on Friday, March 25, 2016 in order to be considered. Late nominations will not be accepted.
- ☐ Applicants cannot have previously received the Youth Achievement Award or be current members of the Port Orange Youth Advisory Board.
- ☐ All applicants must provide letters of support and recommendation from two references who are not relatives or minor friends.
- ☐ Youth Advisory Board Members will review applications for completeness. All complete applications will be forwarded to the selection committee.
- ☐ The Youth Achievement Award recipient will be recognized by the City Council at the Tuesday, May 17, 2016 City Council Meeting.

Assessment

Applications will be reviewed and ranked by a committee that includes a Port Orange City Council Member, the City Manager or his designee and a member of the Youth Advisory Board. The committee will consider the applicant's accomplishments, leadership and service to the enhancement and welfare of the community.

The committee reserves the right to withhold granting an award if no applicant meets the criteria and conditions set forth above. All decisions of the committee are final.

Letters of Support and Recommendation

Reference #1

Name: Bethany McClelland
Daytime Phone: (386) 322-6272 ext. 37823
Email: bamcclel@volusia.k12.fl.us

Reference #2

Name: Candace Roos
Daytime Phone: (386) 322-6272 ext. 37736
Email: ceroos@volusia.k12.fl.us

Each individual listed above must provide the following for judging:

On a separate sheet of paper, please provide details and examples of how the nominee has demonstrated significant accomplishments, leadership or service which has enhanced the welfare of the community. Please differentiate between individual and group achievements. Although back-up documentation may be provided (up to 10 pages), the judges will rely on the information contained in the letters of recommendation to make their final determination.

Checklist

Have you:

- Completed each section of the form
- Enclosed two letters of support and recommendation from your references

Deadline

Applications must be delivered by 5:00 p.m. on Friday, March 25, 2016 to: City Manager's Office, City Hall, 1000 City Center Circle, Port Orange, FL 32129. Please call (386) 506-5522 with any questions.

Signatures

Nominee's Signature: Baylee Bastian
Name: Baylee Bastian Date: 3/11/16
Applicant's Signature: Candace Roos
Name: CANDACE ROOS Date: 3/11/16

SPRUCE CREEK HIGH SCHOOL

801 Taylor Road
Port Orange, Florida 32127
(386) 322-6272 or (386) 756-7200
Fax (386) 506-5045
www.sprucecreekhigh.com

Todd J. Sparger, Ed.D., Principal



It is my immense pleasure to recommend Ms. Baylee Bastian for The Youth Achievement Award. She is a leader, diligent, intelligent, and has the most volunteer hours of all of the students I have ever had the opportunity to teach and work with during my tenure.

I believe her strong academic performances in her transcripts are self-explanatory; however, what impresses me as well are her extracurricular activities. Baylee is the President of our Unified Partners, where she has been a leader to promote an environment of social inclusion and acceptance. She volunteers daily with students that are disadvantaged and have intellectual disabilities. Baylee works magic with every kid she has come in contact with, and watching her interact has been so inspirational to me. There is never a child, no matter their disability, that she can't figure out a way to connect with him/her. I will never forget the look on the students' faces when they interact with Baylee, every single time: absolute joy. They always know how much she really cares. Baylee is truly an amazing young lady. Baylee is a valuable leader and is helping Spruce Creek alongside other Volusia County Schools spread awareness and acceptance. She has volunteered her time to help plan and run our End the R Word Campaign to help breakdown the stereotypes of persons with disabilities. Baylee is dedicated to this global initiative and volunteers countless hours with our Spruce Creek Unified teams. In fact, she was recognized as Volusia County Partner of the Year! The sports Baylee currently volunteers with include bocce ball, basketball, golf, and cheerleading.

She is also a GPA leader at Spruce Creek High School. Her GPA is 4.49 and class rank is 38/604 in an I.B. SCHOOL. Her meticulous manner and efficiencies in problem solving are outstanding and highly praised by many. Baylee is dual enrolled and will graduate simultaneously with her high school and associate diplomas. Baylee volunteers each and every day at Spruce Creek. She currently volunteers a minimum of one hour per day at Spruce Creek in a general education elective with a student that has special needs. She has logged over 800 hours in her tenure at Spruce Creek. She was recently recognized as Hawk of the Month as well as the Youth Volunteer of the Year for Spruce Creek High School! In addition, her ability to lead others through volunteering and her confidence has brought her praises not just from me, but other teachers, staff, schools, administration, and people in our community.

In summary, Ms. Baylee Bastian is a promising young lady that is contributing to our community through exorbitant volunteer hours. I believe her leadership abilities both academically as well as her commitment to volunteering in the community are among the best. Baylee is the epitome of an outstanding and achieving young lady! Her passion, drive, and dedication make Baylee shine! If there is anything I can do on Baylee's behalf, please do not hesitate to contact me.

Sincerely,

Bethany A. McClelland



AN INTERNATIONAL BACCALAUREATE SCHOOL

SPRUCE CREEK HIGH SCHOOL

801 Taylor Road
Port Orange, Florida 32127
(386) 322-6272 or (386) 756-7200
Fax (386) 506-5045
www.sprucecreekhigh.com

Todd J. Sparger, Ed.D., Principal



March 13, 2016

RE: Letter of Recommendation for Baylee Bastian

To Whom It May Concern:

I have had the pleasure to know Baylee as a student in my guidance alpha group for four years, and I have always been impressed with her dedication to her studies, her appreciation of and participation in intelligent conversation, and her deeper understanding of relevant issues. She is a young woman who is driven to succeed, always eager to learn and experience something new while often offering a unique perspective to consider in a given situation.

Baylee is truly one of the most selfless, giving, and highly impressive students I have ever known in my 18 year career in education. She is completing her AA degree at Daytona State College at the end of this semester as well as graduating from high school; all while volunteering with our exceptional students both as a class and because she wants to work with them in the future. Baylee currently is 43rd in her class of 619 (including the international baccalaureate students) and has over 960 volunteer hours. She is a warm, friendly, very engaging young woman truly deserving of your scholarship.

Sincerely,

A handwritten signature in black ink, appearing to read "Candace Roos".

Candace Roos

Certified School Counselor, *SCHS*



AN INTERNATIONAL BACCALAUREATE SCHOOL

**YOUTH ACHIEVEMENT AWARD
2016
Nomination Packet**

RECEIVED
MAR 25 2018
**City of Port Orange
City Manager**



**Sponsored by the
City of Port Orange Youth Advisory Board**

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By mail, fax or in person

to

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City Hall

1000 City Center Circle

Port Orange, FL 32129

Fax (386) 756-5208

City of Port Orange Youth Achievement Award 2016

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Eligibility Criteria

Applicants must:

- ☐ Currently be enrolled in grades 8-12.
- ☐ Be residents of Port Orange or attend a Port Orange school.
- ☐ Be nominated by a person who is not a relative.
- ☐ Demonstrate a significant commitment and contribution to the welfare of the community through their accomplishments, leadership and service.

Conditions

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YOUTH ACHIEVEMENT AWARD 2016 Nomination Form

(Please print or type)

Nominee

Name: Michael Cocomazze
Age: 17 Birth Date: April 15th 1998
School: Atlantic H.S. Grade: 12 Weighted G.P.A.: 3.8
Mailing Address: 5478 St. Regis Way
Home Phone: 386-756-1556 Cell Phone: 386-871-7136
Email: MikeCocomazze@live.com

Applicant Making the Nomination

Name: Jorge Lazu-Collet
Organization (if applicable): FL-942 JROTC, Atlantic HS
Mailing Address: 1250 Reed Canal Rd. Port Orange FL 32129
Home Phone: 386-322-6100 Cell Phone: 386-299-0335
Email: jlazu@volusia.k12.fl.us

Relationship to Nominee: Instructor

Required Information

Does the Nominee meet all of the eligibility requirements?

☒ Yes

☐ No

Has the Nominee received any other awards for his/her accomplishments, leadership or service? ☒ Yes ☐ No

If yes, please provide details: See attached

Resume.

Letters of Support and Recommendation

Reference #1

Name: Ronnie Garrett

Daytime Phone: 386-322-6100 ext 38174

Email: Vgarrett@volusia.k12.fl.us

Reference #2

Name: Shelli Keir

Daytime Phone: 386-235-1632

Email: Skeir46@gmail.com

Each individual listed above must provide the following for judging:

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Checklist

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Deadline

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Signatures

Nominee's Signature: Jorge Lazucollet

Name: Jorge Lazucollet Date: 3-16-16

Applicant's Signature: Michael Cocozze

Name: Michael Cocozze Date: 3-16-16

Michael R. Cocomazze



OBJECTIVE

My main goals are to become a Military Police Officer with the United States Army and to later transition into the civilian law enforcement world as a State Trooper while possessing a Masters degree in Criminal Justice or related subject.

EDUCATION

2012-2016: Atlantic High School, High School diploma.

AWARDS

Atlantic High School:

Shark of the Month

April 2013, September 2013, May 2015,

"In recognition of outstanding contributions to Atlantic High School and possessing the qualifications of leadership, enthusiasm and pride."

City of Port Orange:

May, 2015

"Participation in Student Government Day"

Atlantic High School: Fin'ESSE

2014

"Certificate of Membership"

Atlantic High School: National Honor Society

2015

"Certificate of Membership."

Atlantic High School: Air Force Junior ROTC.

May 8th, 2015

"Best at Drill"

National Society Daughters of the American Colonists:

April 24th, 2015

"Certificate of Award for academic excellence, good character, dependability and exceptional potential for leadership as a member of the Reserve Officer Training Corps"

Atlantic High School: Air Force Junior ROTC.

May 9th, 2014

"Best of Inspection, Foxtrot Squadron"

National Society, United States Daughters of 1812: National Defense Committee

May 9th, 2014

JROTC Medal: *"A JROTC student who has demonstrated qualities of academic excellence, leadership, military discipline, dependability, patriotism and upright character in speech and habits which exemplify the ideals upon which our nation was founded"*

Celebrate Freedom Foundation:

May 3rd, 2013

JROTC Award: *"For outstanding performance in academics and cadet corps activities as a first or second year JROTC cadet"*

Tuskegee Airmen Inc.

May 3rd, 2015

Certificate of Achievement: *"For sustained superior performance in the cadet corps exemplified through outstanding leadership, AFJROTC participation, academic performance and service to the community, school and unit"*

5478 St. Regis Way
Port Orange
Florida
32128

Cell Phone: 386-871-7136
Home Phone 386-756-1556
E-mail: mikecocomazze@live.com

Michael R. Cocomazze

Work Experience

August, 2015: Wellness Floor Intern
YMCA of Volusia and Flagler Counties

Cleaning equipment, assisting patrons, organizing equipment and shadowing personal trainers.

January, 2016 McDonald's Crew Member

FHF Foods Inc. McDonald's

Preparing food, cleaning equipment, providing customer service, cleaning lobby, assembling food.

Volunteer Work

Over the course of my high school career I have accumulated over 400 community service hours while being apart of organizations such as Key Club, JROTC, National Honor Society and SGA. Some of the activities I've participated in to earn these hours include trash pickup, helping with blood drives, creating arts and crafts for he elderly, assisting in community events and participating in drives to help the needy.

Qualifications

Hardworking, Attentive, On time, Socialable, Reliable, Team Player
Dedicated.

Leadership

Operations Officer of Air Force JROTC. Formerly the Recruiting Officer and Personnel Officer.

Former Commander of Rocket Club and Static Model Club in JROTC.

Historian of Academy of Law and Government at Atlantic High School.
Formerly the Communications Director

President of Key Club.

Secretary of Atlantic High School's National Honor Society chapter.

Secretary of Atlantic High School's Fin'ESSE Honor Society.

Secretary of Senior Class Board

Secretary of Student Government Association.

Participation

JROTC-Color Guard

JROTC POW Team

JROTC-Drill Team

JROTC-Physical Training Club

JROTC-Rocket Club

JROTC-Static Model Club

Academy of Law and Government

Mock Trial Team

National Honor Society

Fin'ESSE Honor Society

Key Club

Senior Class Board

Atlantic Sun Newspaper

Student Government Association.

5478 St. Regis Way
Port Orange
Florida
32128

Cell Phone: 386-871-7136

Home Phone 386-756-1556

E-mail: mikecocomazze@live.com

What the Youth Achievement Award Means to me.

In my high school career I have been fortunate enough to earn several awards for various things I've done around school, in organizations and around the community. However no award would be of more value to me than the Youth Achievement Award. All my life I have lived, grown, worked, volunteered, gone to church and have gone to school all in the City of Port Orange. To be honored by my hometown for my hard work would be an experience like no other.

But living my life in Port Orange is just the beginning. From going to Our Lady of Hope Church for what is now known as Faith-Formation and going door to door for the Cub Scouts to sell popcorn when I was younger, to volunteering at the YMCA and interning at the Police Department, Port Orange has played a key role in my development as someone who works hard and gives back to the community. That kind of hard work can be interpreted by all the activities I do with my JROTC unit which can include trash pickup along Reed Canal, event assistance and presenting the colors at sporting events or other special occasions. Everything I've done in Port Orange also shaped my leadership skills which helped me earn titles such as President of Key Club, Historian of the Academy of Law and Government and Secretary of National Honor Society and Student Government. With all these positions I have learned how to balance and how to prioritize, which is what has helped me maintain 3.7 to 3.9 GPA and hold an A or B in all Honors and AP courses. Responsibility is also another pillar of my life, to which I've had to intertwine all of these aspects of my life into one and keep track of them. From finding new ways to expand Atlantic's Key Club chapter to planning a mock car crash to raise awareness on drunk driving, I'm always finding a way to promote a better aspect of life in my community and have always done what it takes to do the right thing in the best interests of my home.

All my life I've always worked hard and tried to get the job done right. And now, that is paying off for me. With a successful senior year coming to an end and my acceptance into The Citadel in South Carolina, things are beginning to fall in place and my future could not look any brighter. It is with this success that I owe a big appreciation to my hometown of Port Orange for shaping me into the kind of person it took to be this successful.



Atlantic High School

1250 Reed Canal Road
Port Orange, Florida 32129
Main Office: (386) 322-6100
Fax: (386) 506-0001



March 18, 2016

To Whom It May Concern:

*James Tager
Principal*

*Jonathan Cunningham
Assist. Principal*

*Latonya Elmore
Asst. Principal*

*Danielle Leffler
SIG Project Manager*

*Dhand Presley
Asst. Principal*

*Brian Zinck
Asst. Principal*

I am pleased to write this letter of recommendation for Michael Cocomazze for the Port Orange Youth Achievement Award.. I have known Michael for the last four years and have worked with him as the sponsor of the National Honor Society, and "Fin"esse, Atlantic High School's Society of Excellence. Michael is secretary of both organizations. He has also been a member of the Academy of Law and Government and the Atlantic High School Air Force Junior ROTC where he has worked as Operations Officer, Recruiting Officer, and Personnel Officer. In addition to these organizations, he is also a member of Student Government, Mock Trial, Key Club, and the Senior Class Board.

Michael does an exemplary job motivating other team members, and his involvement in various extra-curricular activities on our campus has helped set the tone for the other students. Although Mike's grade point average speaks for itself (3.7), a listing of his courses will show his dedication as a student. He has excelled in his honors courses and has always set a positive example for other students in the classroom and in the community.

As you can see by Mike's resume, he is an outstanding young man. He has logged over 200 community service hours, working through ROTC, The Key Club, and NHS. What impresses me most about Mike is that he never shirks his responsibilities, and he always has a positive outlook. He contributes his time and his talents to the community untiringly. He is truly an incredible young man that I am proud to recommend. If I can offer any further information, please do not hesitate to contact me at 386/322-6100, ext. 38174 or vgarrett@volusia.k12.fl.us

Sincerely,
Ronnie Garrett
Sponsor, NHS & "Fin"esse
Atlantic High School

SHARKS

"Living the Vision"

To whom it may concern,

I am writing this letter of recommendation on behalf of Michael Cocomazze for the Port Orange Youth Achievement Award. Being an active parent with Atlantic High School's Academy of Law and Government, I have had the pleasure of working with Michael on several occasions and have had an opportunity to get an idea on what kind of student and person Michael truly is.

His grades and accomplishments couldn't speak more for themselves. Michael is a well renowned student who excels in academics and always sets the pace in his honors and AP classes all while maintain a 3.8 GPA. Michael has also been one to balance his priorities in the classroom with those outside the classroom such as his major involvement as a JROTC Cadet, Secretary of National Honor Society, President of Key Club, Secretary of Student Government and Historian of the Academy of Law and Government. It is such balance that has earned him over 400 community service hours and numerous awards from organizations that seek out the best and brightest of students. Michael's hard work and accomplishments have also earned him admission into colleges such as Embry Riddle and The Citadel, the Military College of South Carolina. I, along with other parents in the Academy get a chance to see how the students lead and take scenarios into their own hands, which is exactly what Michael has done. He is currently planning a mock DUI car crash for Atlantic to raise awareness on drunk driving for teens.

Michael has always shown that he can be a leader and that he can take on whatever task is put in front of him and not only accomplish it by meeting the standards of that task, but by also exceeding those standards. Over the past four years I have interacted with many students who stand out and go above and beyond what they are expected and I am glad to say that Michael is not only one of those students but is probably one of the most qualified candidates who meet and exceed the standards required for earning the Port Orange Youth Achievement Award and I highly recommend him for such an honor.

If you have any questions regarding my recommendation, please feel free to contact me at Skerr46@gmail.com or by phone at 386-235-1632.

Best regards,

Shelli Kerr

Healthcare provider and ALAG parent.

Thoren Perego

**YOUTH ACHIEVEMENT AWARD
2016
Nomination Packet**



RECEIVED

MAR 25 2016

**City of Port Orange
City Manager**

**Sponsored by the
City of Port Orange Youth Advisory Board**

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- The Youth Achievement Award recipient will be recognized by the City Council at the Tuesday, May 17, 2016 City Council Meeting.

Assessment

Applications will be reviewed and ranked by a committee that includes a Port Orange City Council Member, the City Manager or his designee and a member of the Youth Advisory Board. The committee will consider the applicant's accomplishments, leadership and service to the enhancement and welfare of the community.

The committee reserves the right to withhold granting an award if no applicant meets the criteria and conditions set forth above. All decisions of the committee are final.



YOUTH ACHIEVEMENT AWARD 2016 Nomination Form

(Please print or type)

Nominee

Name: Thoren Perego
Age: 18 Birth Date: 01/21/1998
School: Atlantic High School Grade: 12 Weighted G.P.A.: 3.84
Mailing Address: 910 Hamlin Drive, South Daytona FL 32119
Home Phone: N/A Cell Phone: (386) 383-8892
Email: thoren.perego@yahoo.com

Applicant Making the Nomination

Name: James R. Clements
Organization (if applicable): Atlantic High School
Mailing Address: 1250 Reed Canal Road, Port Orange
Home Phone: _____ Cell Phone: (386) 290-1781
Email: _____
jrclemen@volusia.k12.fl.us
Relationship to Nominee: teacher, Science Olympiad team coach

Required Information

Does the Nominee meet all of the eligibility requirements? ☒ Yes ☐ No

Has the Nominee received any other awards for his/her accomplishments, leadership or service? ☒ Yes ☐ No If yes, please provide details: Medallion of Excellence, Air Force Association Award, Military Order of World Wars, Principal's trophy, Commander's trophy, national Seafarers Award

Letters of Support and Recommendation

Reference #1

Name: Kathleen Garvin
Daytime Phone: (386) 322-6100 Ext:
Email: Kfgarvin@volusia.k12.fl.us

Reference #2

Name: James Clements
Daytime Phone: (386) 322-6100 Ext:
Email: jrclements@volusia.k12.fl.us

Each individual listed above must provide the following for judging:

On a separate sheet of paper, please provide details and examples of how the nominee has demonstrated significant accomplishments, leadership or service which has enhanced the welfare of the community. Please differentiate between individual and group achievements. Although back-up documentation may be provided (up to 10 pages), the judges will rely on the information contained in the letters of recommendation to make their final determination.

Checklist

Have you:

- ☐ Completed each section of the form
- ☐ Enclosed two letters of support and recommendation from your references

Deadline

Applications must be delivered by 5:00 p.m. on Friday, March 25, 2016 to: City Manager's Office, City Hall, 1000 City Center Circle, Port Orange, FL 32129. Please call (386) 506-5522 with any questions.

Signatures

Nominee's Signature: Thoren Perego
Name: Thoren Perego Date: 3/24/16
Applicant's Signature: James R. Clements
Name: James R. Clements Date: 3/3/16



Atlantic High School

1250 Reed Canal Road
Port Orange, Florida 32129
Main Office: (386) 322-6100
Fax: (386) 506-0001



James R. Tager
Principal

Jonathan Cunningham
Assistant Principal

LaTonya Elmore
Assistant Principal

Dhand Presley
Assistant Principal

Danielle Leffler
SIG Project Manager

Brian Zinck
Assistant Principal

To whom it may concern,

I am writing this letter of recommendation for Thoren Perego. I am the Student Government Association (SGA) sponsor. During my time working at Atlantic I have worked with the best and brightest this school and community has to offer. Many of the high-achieving students eventually become a part of SGA and therefore I have helped cultivate many young leaders. I met Thoren during his sophomore year and recognized he would be a great asset to SGA. The circumstances under which I met him exemplify his character well. It was the night of our homecoming and the students and I realized that we did not have enough people to help clean up from the dance. Thoren, who was unable to attend the dance, had asked if he could help. We were desperate and I did not expect him to be willing to come help at eleven at night. To my appreciation and surprise, Thoren showed up shortly after and was a very helpful asset to the clean-up. He was able to move the large aesthetic pieces and we finished in a short amount of time.

He has not only made an impact in the school, but has been a valuable asset in the administration of our community outreach projects. Every year, we conduct at least four blood drives with the company *Oneblood*. These blood drives help hundreds of people in the community in trauma cases, and they would not be as successful as they are without the effort of dedicated students, such as Thoren. One thing that I find unique in Thoren is his tenacity and drive. Whenever he was assigned a task, it was completed efficiently, timely, and always above my expectations. One thing for certain however, Thoren will be one of those students who go on past high school and really make a difference and I am glad I was able to get to know him as a student, leader, and person. I highly recommend Thoren for your scholarship. Sincerely,

Kathleen f. Garvin

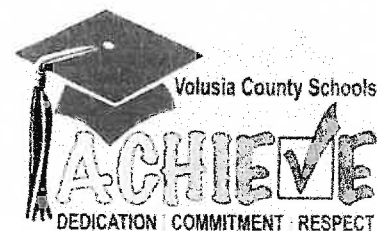
Kathleen Garvin

SGA sponsor



Atlantic High School

1250 Reed Canal Road
Port Orange, Florida 32129
Main Office: (386) 322-6100
Fax: (386) 306-0001



James R. Tager
Principal

March 22, 2016

LaTonya Elmore
Assistant Principal

City of Port Orange, Florida
Youth Advisory Board

Danielle Leffler
Assistant Principal

Dear Ladies and Gentlemen:

It is without reservation that I strongly recommend Thoren Perego for selection for financial assistance. He is without exception one of the most talented young people I have ever had the privilege to teach.

Diland Presley
Assistant Principal

After working with, teaching, and getting to know Thor, I can firmly say he exemplifies the characteristics I try to instill in all of my students. Not only is he a hard-working student, he is a leader on campus and a servant of the community.

Brian Zinck
Assistant Principal

I have worked with Thor on Key Club events and charitable activities, watched him lead his outstanding Air Force Junior ROTC unit as cadet commander, and observed him give input at our monthly School Advisory Council consisting of adult community stakeholders. As a voting member of SAC, not only is his student perspective represented well but he is a respected and equal partner in the decision-making progress, helping to mold school policy and direction. He is a poised and intelligent member of any group, perceived as a leader in whatever he does. Humble and polite, he is a joy to work with, always ready to listen to others and help form a course of action all can support.

His latest endeavor was to be a key advocate for the formation of a school-wide coalition of academies and activities to avoid duplication of effort, to focus on bigger issues, and to unite the various interest groups in pursuit of larger goals. Their first project was to create a campus recycling program where none had existed before. It is now in-place in every classroom and gathering area.

He's a great student with a very bright future. Please help him achieve his goals.

Sincerely,

James R. Clements, Major, USAF (Retired)
A National Board-certified teacher



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: General Employees' Pension Plan Appointment

DEPARTMENT: City Clerk

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to nominate one member to the General Employees' Pension Board.

SUMMARY: There is one vacant position on the General Employees' Pension Board due to the resignation of Sonya Laney. Staff has received two (2) applications; one from George Chatley and one from Lynn Hadley. Their applications are attached, along with a copy of the City's Code. Neither applicant is a member of any other City Board at this time. There is no expiration for this position. It serves at the will of Council.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Code	General Employees Pension code.pdf
2.	George Chatley application	George Chatley application.pdf
3.	Lynn Hadley application	Lynn Hadley application.pdf

Robin Fenwick
M. Jake Johansson

Created/Initiated - 05/09/2016
Final Approval - 05/10/2016

Sec. 54-52. - Administration.

- (a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in a pension board consisting of five persons as follows:
 - (1) One public member to be appointed by the city council;
 - (2) The city manager or his appointee;
 - (3) The city finance director; and
 - (4) Two employee members to be elected by a majority of the actively employed members of this retirement system.
- (b) The regular term of office of each employee and of the public member shall be two years. All terms expiring in the months of November or December shall be extended to February 15 of the following year. Employee members shall be elected in the following manner: by vote of all actively employed members who come within the purview of this article at places designated by the city of which all qualified members entitled to vote shall be notified in person or by written notice ten days in advance of the election. The candidate receiving the highest number of votes for office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected. In the first election held under this article, the candidate with the second highest number of votes shall be elected for a term of one year only. An election shall be held not more than 30 and not less than ten days prior to the commencement of the term for which a board member is to be elected. The city shall establish and administer the nominating and election procedure for each election. The board shall elect from among its members a chairman, vice-chairman, and secretary, annually.
- (c) If a vacancy occurs on the pension board, the vacancy shall be filled for the unexpired term in the same manner as the position was previously filled.
- (d) The board shall serve without compensation, but members may be reimbursed from the fund for all necessary expenses which they may actually expend through service on the board.
- (e) Each board member shall, within ten days after his appointment or election, take an oath of office before the city clerk, that so far as it devolves upon him he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the members making it and certified by the clerk and filed in the office of the city clerk.
- (f) Each board member shall be entitled to one vote. Three concurring votes shall be necessary for a decision by the board at any meeting of the board. The chairman shall have the right to one vote only and may not cast proxy votes. No board member may vote on any matter in which he has a personal interest.
- (g) Subject to the limitations of this article the board shall from time to time establish uniform rules and regulations for the administration of the fund created by this article and for transactions of its business, including provisions for expulsion due to nonattendance of its appointed and elected members.
- (h)

The board may engage a corporate trustee, and such actuarial, accounting, consulting and other similar services as shall be required to transact the business of the retirement system. The compensation of all persons or firms engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid from the forfeiture account in the fund at such rates and in such amounts as the board shall determine. If required, funds for administration may be disbursed by the city finance department or other disbursing agent as determined by the board, but only upon written authorization by the board.

- (i) Any appointed or elected board member who neglects the duties of his office, as determined by the board, may be removed by four concurring votes among the other board members.
- (j) The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:
 - (1) To construe the provisions of the system and determine all questions arising thereunder.
 - (2) To determine all questions relating to eligibility and participation.
 - (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
 - (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications, and all matters required to administer the system.
 - (5) To distribute to members at regular intervals information concerning the system.
 - (6) To receive and process all applications for benefits.
 - (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
 - (8) To have performed annual allocations and make recommendations regarding any and all changes in the provisions of the system.
 - (9) To perform such other duties as are specified in this article.

(Code 1981, § 15-26; Ord. No. 1989-33, § 3, 10-17-89)

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

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

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

☐ Environmental Advisory Board	☐ Library Advisory Board
☐ Construction Regulation Board*	☐ Parks and Recreation Board
<u>2</u> ☐ Code Enforcement Board*	<u>1X</u> ☐ Planning Commission*
☐ Charter Review Board	☐ City Manager Selection Committee
☐ Civil Service Board	☐ Audit & Budget Advisory Board
☐ Districting Commission	☐ Youth Advisory Board

CRA Boards

☐ Eastport Community Redevelopment Agency*
☐ Town Center Community Redevelopment Agency*

Pension Boards

3 ☐ General Employees*
☐ Police*
☐ Fire*

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

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

1. PERSONAL

Name George B Chatley Date of Birth 11-11-33
Address 1641 Arca Palm Dr Port Orange FL 32128
Home Telephone 386-871-0490
E-Mail Address CHATGB@AOL.COM
Business Telephone Ret
Are you a registered voter in Port Orange? X Yes ☐ No
City Council District 3
How long have you been a resident of Port Orange? 1999
Are you currently serving on a City Board? NO
Have you ever served on a City Board? yes
If yes, when and which Board? 1999-2004

Planning Comm.
* General Employees Pension
Parks + Recreation

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

Bob Willoughby
Name, address, and telephone number

2057 Crane Lakes Blvd Port Orange FL 32128
Name, address, and telephone number

allen Green Mayor Port Orange
Name, address, and telephone number

3. EDUCATION

High School Hamburg High Date Graduated 1951

College Buffalo State Date Graduated Degree

4. WORK EXPERIENCE

Met Life - 42 yr.

5. INTERESTS/ACTIVITIES

Church feeding homeless
H of C

6. COMMUNITY INVOLVEMENT

H.O.A. City meetings

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

I think I can be helpful

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

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


Signature

11-30-2015
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

Return this form to:

Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

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

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

☐ Environmental Advisory Board	☐ Library Advisory Board
☐ Construction Regulation Board*	☐ Parks and Recreation Board
☐ Code Enforcement Board*	☐ Planning Commission*
☐ Charter Review Board	☐ City Manager Selection Committee
☐ Civil Service Board	☐ Audit & Budget Advisory Board
☐ Districting Commission	☐ Youth Advisory Board

CRA Boards

☐ Eastport Community Redevelopment Agency*
☐ Town Center Community Redevelopment Agency*

Pension Boards

3 General Employees*
2 Police*
1 Fire*

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

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

1. PERSONAL

Name Lynn Hadley Date of Birth 9/21/1965

Address 6118 Del Rio Drive, Port Orange, FL 32127

Home Telephone 386-761-6252

E-Mail Address lhadley@gfinancialgroup.net

Business Telephone 954-445-8578

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

City Council District

How long have you been a resident of Port Orange? 8 years

Are you currently serving on a City Board? No

Have you ever served on a City Board? No

If yes, when and which Board?

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

Gregg Gurdak, G Financial Group, 954-646-8039

Name, address, and telephone number

Pedro Herrera, Sugarman & Susskind, 954-327-2878

Name, address, and telephone number

Tom McGrory, Port Orange, FL 386-767-0620

Name, address, and telephone number

3. **EDUCATION**

High School McArthur High Hollywood, FL Date Graduated 1983

College Broward State College Date Graduated 1993 Degree AA Communication
Florida Atlantic University, Boca Raton, FL Attended - not graduated

4. **WORK EXPERIENCE**

Currently a Licensed Insurance Agent with the State of Florida and working as an Enroller with Cigna

Please see resume for previous work experience.

5. **INTERESTS/ACTIVITIES**

The Arts, Health & Fitness - Running in particular, and

writing. I have two children currently in College. One at UF the other at FAU in Boca Raton. I

am a member of the Parent Ambassador/Advisory Board Program at FAU.

6. **COMMUNITY INVOLVEMENT**

Previously active with volunteering at the School Board

of Volusia County. I have participated in local fundraising events for Hospice and other various

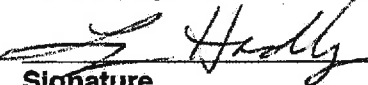
organizations within the community.

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

My husband went through the fire academy and was certified as a Firefighter and a lot of our friends and a family member are firefighters in Broward County. I strongly support the fire and police departments and would like to be a part of that community that protects and serves their needs and contribute in a way that supports all they do for us.

8. **A resume or separate sheet with additional information should be included.** *Previously sent*

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


Signature

B2/9/14
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

Return this form to:

**Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129**

Lynn Hadley

6118 Del Rio Drive

Port Orange, FL 32127

Cell Phone: **954-445-8578**

Home Phone: 386-761-6252

Email: lhadley@gfinancialgroup.net

I chose to become a licensed Insurance Agent because I enjoy the flexibility and the diverse environments afforded by the position coupled with the ability to connect with people on a level that may make their lives a little less stressful. I am a co-owner of a small business and understand the challenges faced by an ever changing economy and the rules of engagement. Planning a strategy to sustain growth and prepare for the future by enabling choices for the best course of action to fit individual needs is essential. I support the Port Orange community and efforts to maintain it's integrity as a desired Volusia County City to live and work in. I would like to give back to the city by sitting on the Pension Board and fulfilling the duties that are required. I have lived in Port Orange for 8 years having relocated from Broward County. I am happy to call Volusia County my home and would like to give back to my community.

Florida 2-15 License Life, Health, & Variable Annuities

Florida 2-56 License Legal Expense

2000-2006 Florida Atlantic University Boca Raton, FL

1993 Broward Community College Hollywood, FL

AA Degree in Communications, graduated Phi Theta Kappa

1983 McArthur High School Hollywood, Florida

Contracted by General Agent - G Financial Group, Inc. in Hollywood, FL

Ongoing - Martin & Donald's Talent Agency, Hollywood, FL - registered talent.

1997-1999 **Office Manager** Stanley D. Kanowitz, DDS Pembroke Pines, FL

Responsibilities: appointments and customer service, reconciliation of billed accounts daily via the computer utilizing SoftDent software, accounts receivable and accounts payable, process insurance claims and maintenance of a patient recall system.

1993-1996 **Office Manager**, Daniel Wilhelm, MD Ft. Lauderdale, FL

Ophthalmology office -Responsibilities: patient service, reception, typing, patient scheduling, accounts receivable and payable, insurance filing, surgical assisting, visual field testing, and patient instruction.

1989-1993 **Bookkeeper** Sheridan Technical Center Hollywood, FL

Responsibilities: Testing and evaluation of vocational skill levels, collection and disbursement of funds and the preparation of monthly and yearly financial reports for the school. Worked extensively with Microsoft and Apple software.

1988-1990 **Office Manager** David s. Jackson, DDS Ft. Lauderdale, FL

Responsibilities: appointments and customer service, reconciliation of billed accounts, accounts payable, insurance claim processing.

1986-1988 **Office Manager** Government Securities Corporation Plantation, FL

Responsibilities: executing contracts for investments, purchase of supplies and equipment, bookkeeping, and overseeing the general office procedures.

1985-1986 **Medical Staff Coordinator** Humana Hospital-Biscayne Miami, FL

Responsibilities: confidential credentialing of physician applications for staff appointments, coordinate monthly departmental staff meetings for all of the physicians on staff and maintained the minutes at those meetings. My tenure was short due to a job opportunity closer to home and increased financial opportunity.

1983-1985 **Bank Teller** Barnett Bank (currently Bank of America) Davie, FL

Responsibilities: customer service, product referral, cash receipt and disbursement, computer operation, and reconciliation.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Planning Commission Appointment

DEPARTMENT: City Clerk

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to nominate a new member to the Planning Commission.

SUMMARY: There is one vacant position on the Planning Commission due to the resignation of Sonya Laney. Staff has received six (6) applications and have attached them for your review, along with the City's Code relating to member criteria.

The applicants and their current positions on other Boards are as follows:

Maria Mills-Benat (Parks & Recreation Board and Civil Service Board)
Brian Syford (Environmental Advisory Board)
Jeremy Terhune (Environmental Advisory Board)
Darrel Bofamy (Construction Regulation Board)
George Chatley (none, applied for General Employees Pension Board)
Kimberly Dillon (none)

The term will expire on September 1, 2017.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Maria Mills-Benat application	Maria Mills-Benat application.pdf
2.	George Chatley application	George Chatley application.pdf
3.	Brian Syford application	Syford application.pdf
4.	Jeremy Terhune application	Jeremy Terhune application.pdf
5.	Darrel Bofamy application	Darrel Bofamy - Volunteer Application.pdf
6.	Kimberly Dillon application	Kimberly Dillon application.pdf
7.	Planning Commission Code	Planning Commission code.pdf

Robin Fenwick

Created/Initiated - 05/10/2016

Wayne Clark
M. Jake Johansson

Approved - 05/10/2016
Final Approval - 05/10/2016

Fenwick, Robin

From: donotreply@port-orange.org
Sent: Friday, January 06, 2012 7:44 PM
To: Fenwick, Robin
Subject: Volunteer Application - Maria Mills-Benat



ADVISORY BOARDS AND COMMISSIONS VOLUNTEER APPLICATION

Submitted by Maria Mills-Benat on 01/06/2012

Personal Information

Name:	Maria Mills-Benat
Date of Birth:	03/02/1971
Telephone:	386-366-1882
E-mail:	agourmetaffaircatering@gmail.com
Business Telephone:	386-366-1882
Address:	1710 Bordeaux Ct. Port Orange, FL 32128
Are you a registered voter in Port Orange?	Yes
City Council District:	4
How long have you been a resident of Port Orange?	30+ years
Are you currently serving on a City Board?	No
If yes, when and which board?	

References

Reference 1:	Debbie Connors 3431 Ridgewood Avenue Port Orange, FL 32129 (386) 761-1601
Reference 2:	Robin Monzingo 1737 N. Clyde Morris Blvd., Suite 140 Daytona Beach, FL 32117 386-274-3274 Ext. 5851
Reference 3:	Amy Workoski 212-8769

Education

High School:	Spruce Creek High School
---------------------	--------------------------

Date Graduated High School:	06/18/1989
College:	Flagler & DBCC
Date Graduated College:	06/01/1993
Degree:	Early Childhood Learning

Work Experience

Teacher, Business Owner of a retail storefront in PO (now closed) Catering.

Interests/Activities

I like long walks on the beach at sun rise.. Spending time with friends and family, Going to Disney, Community events such as Family Days, parks & Rec sports etc. going to the beach, computer time. Social time.

Community Involvement

9 years on the Port Orange Family Days Community Trust Committee, and 3 years on the Board of Directors. 2011 Graduate of the PO/SD Leadership program Chairperson for Port Orange Relay For Life. PTA Board at Cypress Creek Elem. Ambassador for Port Orange Hospice Volunteer at CCE Committee for Autism Speaks of Port Orange Various volunteer work throughout Port Orange and Daytona Beach

Why do you desire to serve on these boards?

I wish to get a better grasp on community activities and planning. I want to help shape the future of Port Orange for my children, and the community as a whole. I have a servant heart and love volunteering. I am a hard worker and want to be more involved. This community is my home. I've never left, and never will.

Resume/Additional Information

I am a business owner, wife and Mother of 3. I serve boards and organizations with 100% support of my family, and enjoy every minute of it, usually dragging them along :) Thank you for your consideration.

Selected Boards/Commissions

Environmental Advisory Board
Civil Service Board
Town Center Community Redevelopment Agency
Parks and Recreation Board
Planning Commission
General Employees Pension Board
Police Pension Board
Fire Pension Board

Order of Preference

Planning Commission Environmental Parks and Rec Town Center Civil Service Pension

Signature:

Maria Mills-Benat

Date:

01/06/2012

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

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

☐ Environmental Advisory Board	☐ Library Advisory Board
☐ Construction Regulation Board*	☐ Parks and Recreation Board
<u>2</u> ☐ Code Enforcement Board*	<u>1X</u> ☐ Planning Commission*
☐ Charter Review Board	☐ City Manager Selection Committee
☐ Civil Service Board	☐ Audit & Budget Advisory Board
☐ Districting Commission	☐ Youth Advisory Board

CRA Boards

☐ Eastport Community Redevelopment Agency*
☐ Town Center Community Redevelopment Agency*

Pension Boards

3 ☐ General Employees*
☐ Police*
☐ Fire*

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

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

1. PERSONAL

Name George B Chatley Date of Birth 11-11-33
Address 1641 Arca Palm Dr Port Orange FL 32128
Home Telephone 386-871-0490
E-Mail Address CHATGB@AOL.COM
Business Telephone Ret
Are you a registered voter in Port Orange? X Yes ☐ No
City Council District 3
How long have you been a resident of Port Orange? 1999
Are you currently serving on a City Board? NO
Have you ever served on a City Board? yes
If yes, when and which Board? 1999-2004

Planning Comm.
* General Employees Pension
Parks + Recreation

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

Bob Willoughby
Name, address, and telephone number

2057 Crane Lakes Blvd Port Orange FL 32128
Name, address, and telephone number

allen Green Mayo Port Orange
Name, address, and telephone number

3. **EDUCATION**

High School Hamburg High Date Graduated 1951

College Buffalo State Date Graduated Degree

4. **WORK EXPERIENCE**

Met Life - 42 yr.

5. **INTERESTS/ACTIVITIES**

Church feeding homeless
H of C

6. **COMMUNITY INVOLVEMENT**

H.O.A. City meetings

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

I think I can be helpful

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

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


Signature

11-30-2015
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

Return this form to:

Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129

Personal Information

Name: Brian Syford
Date of Birth: 12/10/1971
Telephone: 386-547-0949
E-mail: briansyford@yahoo.com
Business Telephone:
Address: 1118 Meditation Loop Port Orange, FL 32129
Are you a registered voter in Port Orange? Yes
City Council District: 2
How long have you been a resident of Port Orange? 35 years
Are you currently serving on a City Board? No
If yes, when and which board?

References

Reference 1: Jamie Barkley 386-523-3680
Reference 2: Steve Lebo 386-451-5500
Reference 3: Tony Tucci 386-566-8748

Education

High School: Spruce Creek High School
Date Graduated High School: 06/03/1989
College: Embry Riddle Aeronautical University
Date Graduated College: 05/04/1993
Degree: Aviation Business Administration

Work Experience

See Resume

Interests/Activities

Love all sports

Community Involvement

I've been a coach, played sports and also umpired in Port Orange for over 20 years.

Why do you desire to serve on these boards?

I have great passion for this community. I grew up in Port Orange and I feel like I have a lot to give back. Port Orange has been good to me and I would like to serve Port Orange and the citizens,

Resume/Additional Information

Brian Syford 1118 Meditation Loop • Port Orange, FL 32129 (386) 547-0949 briansyford@yahoo.com

EXPERIENCE High Octane Printing • South Daytona, FL
2014- Current General Manager • Responsible for the overall direction and daily operations of the business and its employees. • Increasing outside sales by more than 600% from the previous year, setting the highest historical sales record to date. • Reducing overall expenses and waste within the company by greater than 30% by accurately managing printing needs and in-house supplies. • Establishing and nurturing professional relationships within the community, resulting in significantly increased brand recognition. • Implementing and managing all marketing efforts for the business. • Creating partnerships with other local businesses in the effort to streamline efficiency and cost by working together. • Acting as the Chair to various Chamber Lead Groups, as the sole representative for the company. DME • Daytona Beach, FL Production Manager 2000-2014 • Managed and executed the daily workload for various departments, including, but not limited to: Shipping & Receiving, Warehouse, Letter shop, 4-Color Digital Laser, and Contract Labor. • Worked directly with sales department and clients to establish timelines for production needs, which resulted in successfully fulfilling the clients'™ expectations. • Significantly improved efficiency within the company by effectively managing labor based on the production needs. • Strategized with the Executive Leadership Team, as well as various departments, to ensure ongoing development within the organization. • Created and developed a Personal Development Program for employees in order to set individual goals and recognize their achievements within the organization, as well as reward their outstanding efforts. First Union Bank • Daytona Beach, FL Financial Advisor 1994-2000 • Established and developed relationships with clients for the purpose of increasing deposits, loan portfolios, and investments within the bank. • Provided clients with advice on financial matters, and made recommendations on ways to best utilize their money. • Achieved highest sales within region for two years in a row, 1997-1998. • Developed a business plan to achieve and exceed the required performance goals. EDUCATION Embry Riddle Aeronautical University, Daytona Beach, Florida 1992-1993 B.A. - Aviation Business Administration

Selected Boards/Commissions

Environmental Advisory Board
City Manager Selection Committee
Parks and Recreation Board
Planning Commission

Order of Preference

Signature:

Brian Syford

Date:

11/18/2015

Fenwick, Robin

From: donotreply@port-orange.org
Sent: Sunday, October 05, 2014 10:38 AM
To: Fenwick, Robin
Subject: Volunteer Application - Jeremy Terhune



ADVISORY BOARDS AND COMMISSIONS VOLUNTEER APPLICATION

Submitted by Jeremy Terhune on 10/05/2014

Personal Information

Name: Jeremy Terhune
Date of Birth: 08/28/1986
Telephone: 386-385-8374
E-mail: jeremy.terhune@gmail.com
Business Telephone: 386-267-7500
Address: 664 Reillys Rd Port Orange, FL 32127
Are you a registered voter in Port Orange? Yes
City Council District: District 4
How long have you been a resident of Port Orange? 6 Years
Are you currently serving on a City Board? No
If yes, when and which board?

References

Reference 1: Greg Cardino, 9 Arkia At Lionspaw, Daytona Beach 32124, 386-405-2220
Reference 2: Christopher Norris, 640 N Amelia Ave, DeLand, FL 32724, (903) 216-3658
Reference 3: John Lamers, 1575 Palm Bay Rd., N.E.. Suite 110. Palm Bay, FL 32905, (321) 446-2598

Education

High School: Mainland High School
Date Graduated High School: 05/26/2004

College: Daytona State College/University of Central Florida
Date Graduated College: 08/26/2014
Degree: BA: Political Science

Work Experience

I have worked at Bright House Networks over the past 9 years both in customer facing and non-customer facing positions.

Interests/Activities

I am an avid cyclist, sailor, hiker, and outdoors man.

Community Involvement

I have volunteered in the past as a sailing instructor at HSA (Halifax Sailing Association) a non-profit organization which provides an outlet for adults and youths to learn to sail.

Why do you desire to serve on these boards?

I am interested in giving back to my community and I am looking for a chance to be able to make a difference in Port Orange.

Resume/Additional Information

Profile Highly skilled account representative with six years of client acquisition and supervision experience. Knowledgeable in a sales environment with an intangible service. Experienced communicator, team player, and self-starter. Education Daytona State College Associate of the Arts, A.A., 2011 University of Central Florida Political Science B.S, Minor in Mass Communication., Expected completion Summer 2014 Skills Communication Skilled in public speaking, building and maintaining rapport with clients, cold calling, seeking and closing new accounts, business-to-business presentations, and strong negotiation skills. Leadership Excel in time and project management, training new employees, self motivated and able to work autonomously or in a team environment Applications Addressable Networks, Access, Excel, Google Docs Suite, HTML, Outlook, Powerpoint, Publisher, SPSS, Word Work Experience 2013-Present Bright House Networks, Central Florida Account Executive II - Business Solutions Develop strategies to attract new business customers in Central Florida market. Speak on behalf of Bright House Business Solutions at community events, chamber meetings, and networking functions. Responsible for preparing contracts to be signed, presenting products, and closing sales. 2008-2013 Bright House Networks, Central Florida Direct Sales Representative Develop new strategies for customer outreach and acquisition Managed a successful direct mailing campaign responsible for 40% of my book of business Created and developed database capable of tracking sales trends, tallying commission sheets, preparing monthly department reports, and assembling bi-weekly payroll automatically 2007-2008 Bright House Networks, Central Florida Escalations and Claims Coordinator Responsible for researching and processing all damage claims, preparing paperwork for all claims paid, negotiating final resolution with customer, and documenting release of liability from clients Direct a team of two claims representatives, delegating tasks and projects, and meeting required deadlines Developed Access database used for generating all department reports, trends, and showing variance in contractor and in-house performance. Helped standardize escalation process and transition the Access database to a multi-user enterprise solution based around the original Access Database Awards 2011 Spring 2011

Team Player Award, Bright House Deanâ€™s List, Daytona State April 2010 Fall 2011 Employee of the Month,
Bright House Presidentâ€™s List, Daytona State

Selected Boards/Commissions

Environmental Advisory Board
Parks and Recreation Board
Planning Commission

Order of Preference

Planning Commission Parks and Recreation Board Environmental Advisory Board

Signature: Jeremy L Terhune

Date: 10/05/2014

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

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

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

<u>3</u>	Environmental Advisory Board	<u>2</u>	Library Advisory Board
<u>1</u>	Construction Regulation Board*		Parks and Recreation Board
	Code Enforcement Board*		Planning Commission*
	Charter Review Board		City Manager Selection Committee
	Civil Service Board		Audit & Budget Advisory Board
	Districting Commission		Youth Advisory Board

CRA Boards

 Eastport Community Redevelopment Agency*
 Town Center Community Redevelopment Agency*

Pension Boards

 General Employees*
 Police*
 Fire*

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

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

1. PERSONAL

Name Darrel C Botamy Date of Birth 2-16-44
Address 5761 White Acres Lane P.O. 32127
Home Telephone 386 682 4424
E-Mail Address DCBotamy@gmail.com
Business Telephone 386 745 7060

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

City Council District

How long have you been a resident of Port Orange? 4 months

Are you currently serving on a City Board? Yes S. Daytona

Have you ever served on a City Board? Yes S. Daytona & DB Shores

If yes, when and which Board? S. Daytona Currently
DB Shores - 1987-'91

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

Dave Doolittle 386 547-0137 432 Countryside W
Name, address, and telephone number P.O. H

Daniel McHone 380 S. Atlantic Ave DB 256-4760
Name, address, and telephone number

Pastor Rob Hall
Name, address, and telephone number

3. EDUCATION

High School Suitland Md Date Graduated '62

College U of Md Date Graduated _____ Degree _____

4. WORK EXPERIENCE

37 years H.R. Block Mgmt
(20 years District Mgr, 15 years Regional Director
2 years Managing Director). Currently Assoc. Broker
With Coldwell Banker

5. INTERESTS/ACTIVITIES

Exercise, Reading,
Karate, gardening and eating

6. COMMUNITY INVOLVEMENT

Past: Little League Coach,
H Lopez School Board member - chaired
Finance Committee and F.L. V.P. Booster's Club

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

Like to stay in touch and serve my
community

8. A resume or separate sheet with additional information should be included. N/A

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

[Signature]
Signature

7-23-14
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

Return this form to:

Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129

**CITY OF PORT ORANGE
ADVISORY BOARD AND COMMISSION
VOLUNTEER APPLICATION**

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

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

☐ Audit & Budget Advisory Board	☐ Districting Commission
☐ Charter Review Board	☐ Environmental Advisory Board
☐ City Manager Selection Committee	☐ Library Advisory Board
☐ Civil Service Board	☐ Parks and Recreation Board
☐ Code Enforcement Board*	☒ Planning Commission*
☐ Construction Regulation Board*	☐ Youth Advisory Board

CRA Boards

☐ Eastport Community Redevelopment Agency*
☐ Town Center Community Redevelopment Agency*

Pension Boards

☐ General Employees*
☐ Police*
☐ Fire*

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

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

1. PERSONAL

Name Kimberly Dillon Date of Birth 11/10/1970

Address 702 Pine Forest Trail E Port Orange, FL 32127

Home Telephone 386-451-1506

E-Mail Address ednkimdill@aol.com

Business Telephone 386-481-4266

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

City Council District 3

How long have you been a resident of Port Orange? 8 years

Are you currently serving on a City Board? no

Have you ever served on a City Board? no

If yes, when and which Board? _____

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

Ann Luke
1737 N Clyde Morris Blvd, Suite 120
Daytona Beach, FL 32117
772.559.7905

Name, address, and telephone number

Jonathan Charles
99 Tomoka Ridge Way
Ormond Beach, FL 32174
(386) 366-3316

Name, address, and telephone number

Karen Rearden
992 Mori Ct
Port Orange, FL 32127
386-451-1695

Name, address, and telephone number

3 **EDUCATION**

High School _____ Spruce Creek _____ Date Graduated __1988__

College _____ Stetson University _____ Date Graduated __1992__ Degree _____ BBA

4 **WORK EXPERIENCE** SunTrust Banks, Inc. Business Banking Relationship
Manager 2002-present. SunTrust Banks, Inc. Branch Manager 1999-2002, SunTrust
Banks Inc. Branch Personnel 1997-1999 SunTrust Banks Inc 8/1/1996-1997 Credit Card
Underwriter AT&T Universal Card 1992-1996 Jacksonville FL Customer Service, Fraud

5 **INTERESTS/ACTIVITIES** _____ Kayaking, Beach, reading, spending time with my
family

6 **COMMUNITY INVOLVEMENT** _____ Community Service Chair Port Orange South
Daytona Rotary Club, Domestic Abuse Council of Volusia County Inc. Board Chair,
Visits and Tours Committee for Port Orange South Daytona Chamber of Commerce _

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

____ Having grown up in Ponce Inlet/ Port Orange and now raising a family in the
community I have a vested interest in wanting to know what is happening in my
community and being involved. I have always had an interest in planning and interned
for the County of Volusia for a year during college in the Planning and Zoning
department. I did a lot of work with infrastructure planning for new construction and
Historic Surveys.

A resume or separate sheet with additional information should be included.

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



Signature

5/11/16

Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

**Return this form to: Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129**

Section 10: Planning commission.

There is hereby created the Port Orange Planning Commission to review comprehensive planning policies and specific development applications as required by this code, and provide recommendations to the city council on planning and land development related matters.

- (a) *Membership.* The planning commission shall consist of seven members appointed by, and serving at the pleasure of the city council. Members shall be qualified electors residing in the city. Membership shall be further specified as follows:
 - (1) Members shall be appointed for two-year staggered terms. A member whose term expires may continue to serve until a replacement is appointed.
 - (2) Members may be removed without notice or without cause by a majority vote of the city council.
 - (3) If any member fails to attend two of three consecutive meetings without cause and without prior approval of the chairman, the board shall declare the position vacant and request a replacement be appointed by city council.
 - (4) When a vacancy occurs prior to the expiration of a term, the city council shall appoint a member to fill the vacancy for the duration of that term.
- (b) *Organization and procedures.*
 - (1) The commission shall annually elect chair and vice chair from among its members.
 - (2) The commission shall adopt rules of procedure, in accordance with this code and applicable law, to carry out its functions and duties.
 - (3) The commission shall meet at least once per calendar month, unless canceled by the commission or its chair, and at such additional times as requested by the chair or city council.
 - (4) A quorum shall consist of four members.
 - (5) The department shall serve as staff to the commission, and the city shall provide a recording secretary to keep minutes of the commission's meetings.
 - (6) Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city council.
- (c) *General functions and duties.*
 - (1) The commission is designated as, and shall carry out the duties of the local planning agency and land development regulation commission, as defined in F.S. ch. 163, part II.
 - (2) The commission shall obtain and review information as necessary to prepare and amend the comprehensive plan and development code of the city.
 - (3) The commission shall generally keep the city council and general public informed and advised on the comprehensive planning policies of the city.

- (4) The commission shall monitor the operation and effectiveness of the comprehensive plan and this code, and recommend amendments to the city council.
- (5) The commission shall conduct public hearings, review development applications, and perform other duties as required by this code.
- (6) The planning commission shall hear and consider variances to this code, as specified in chapter 19 of this code.
- (7) The commission shall review proposed development agreements and amendments thereto, and make recommendations on such agreements and amendments to the city council.

(Ord. No. 1992-26, 8-25-92; Ord. No. 1995-43, § 14, 12-19-95; Ord. No. 1999-6, § 4, 2-23-99)

Section 11: Reserved.

Editor's note—Former § 11, which pertained to the board of adjustment and had been amended by Ord. No. 1992-26, enacted August 25, 1992 and Ord. No. 1992-29, enacted November 3, 1992, was repealed by § 15 of Ord. No. 1995-43, enacted December 19, 1995.

Section 12: Construction regulation board.

There is hereby created the Port Orange Construction Regulation Board to review the building, fire, and other related codes and policies, hear appeals of those codes, and provide recommendations to the city council on building and construction related matters, and regulate contractor licensing as provided by state law, the Code of Ordinances and this code.

- (a) *Membership.* The construction regulation board shall consist of five members appointed by, and serving at the pleasure of the city council. Members shall be contractors registered with the city or qualified electors residing in the city. Membership shall be further specified as follows:
 - (1) The board shall be composed of one architect or engineer, one licensed contractor and three members-at-large from the building industry.
 - (2) Members shall be appointed for two-year staggered terms. A member whose term expires may continue to serve until a replacement is appointed.
 - (3) Members may be removed without notice or without cause by a majority vote of the city council.
 - (4) If any member fails to attend two of three consecutive meetings without cause and without prior approval of the chair, the board shall declare the position vacant and request a replacement be appointed by city council.
 - (5) When a vacancy occurs prior to the expiration of a term, the city council shall appoint a member to fill the vacancy for the duration of that term.
- (b) *Organization and procedures.*
 - (1) The board shall annually elect chair and vice chair from among its members.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Approval of Task Authorization No 5, to the Master contract for Engineering Services with Kimley-Horn and Associates, Inc. (**Tabled on October 20, 2015**)

DEPARTMENT: Public Utilities

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to remove from the table so Staff can withdraw the item.

SUMMARY:

On September 22, 2015, City Council approved the FY16-21 Capital Improvement budget which included a Wastewater Master Plan.

Kimley-Horn and Associates, Inc. has provided a proposal for master planning the City's wastewater collection, treatment, and reclaim water systems. This report will provide a review of the condition and capacity of the City's existing system and a long term system evaluation spanning a 20-year planning period. The report will provide a specific plan for modifications to the City's wastewater collection, treatment, and reclaimed waster systems including the following:

Wastewater collection force main/transmission system analysis, hydraulic modeling and renewal and replacement needs identification Wastewater treatment facility evaluation and biological and hydraulic modeling to determine capacity and process improvement needs Reclaimed water system evaluation, hydraulic modeling and development of future renewal and replacement needs Capital project planning and long term financial planning

This master planning effort is consistent with The City Council adopted Strategic Plan dated March 18 and 19, 2015 to attain Goal 1, Infrastructure Preservation, Objective 2, Master Planning.

Kimley-Horn has proposed an amount of \$496,446.00 to develop the City's Wastewater Master Plan.

Project No.: MPL001
MPL001

Funding Account No.: 40504005356397
40303005366397

ATTACHMENTS:

1.	Task Authorization No 5 - includes scope and fee	Task Authorization No 5 - Port Orange Wastewater Master Plan.pdf
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Robin Fenwick

Created/Initiated - 04/22/2016

TASK AUTHORIZATION NO. 5

**Master contract for Engineering Services dated March 17, 2015
Between the City of Port Orange, Florida and Kimley-Horn and Associates, Inc.**

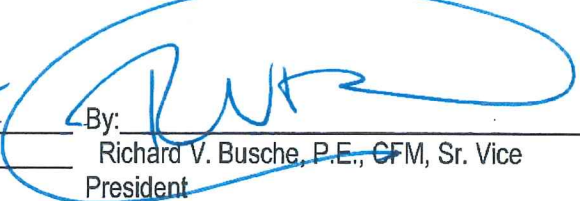
THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation registered to transact business in Florida whose principal address is 3001 Weston Parkway, Cary, North Carolina 27513 ("Engineer"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated March 17, 2015, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Engineer shall provide services relating to Port Orange Wastewater Master Plan, as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization No. 5 Exhibit "A."
3. Engineer shall complete the services to be provided herein within 540 calendar days of the date of written notice by the City to the Engineer.
4. In return for the services identified above, the City agrees to compensate engineer at the prices set forth in Exhibit "A" attached hereto and made a part hereof for all purposes, subject to a limit up to but not to exceed Four Hundred Ninety-Six Thousand Four Hundred and Forty-six Dollars no cents (\$496,446.00). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.
5. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Engineer and the City until the City signs this Task Authorization.

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

Witnesses:

KIMLEY-HORN AND ASSOCIATES, INC.

 10/14/15
Printed Name: Malcolm L. Bryant By: 
Richard V. Busche, P.E., CFM, Sr. Vice
President

 10/14/15
Printed Name: MATT TOBOW Date: 10/14/2015

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____ By: _____
Allen Green, Mayor

Printed Name: _____ Date: _____

Witnesses:

ATTEST:

Printed Name: _____ By: _____
Robin L. Fenwick, CMC, City Clerk

Printed Name: _____ Date: _____

[CA ____]



PORT ORANGE WASTEWATER MASTER PLAN

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The City of Port Orange (the Client or the City) in accordance with the terms of the Water, Wastewater, and Reclaimed Water Continuing Engineering Consultant Master Agreement (RFSQ #14-23), which is incorporated herein by reference.

General Category of Services:

The scope of work presented below was prepared following a discussion with the City of Port Orange staff regarding master planning the City's wastewater collection, treatment, and reclaim water systems. The Report will provide a review of the condition and capacity of the City's existing system and an evaluation over a 20-year planning period. The Report will demonstrate a specific plan for modifications to the City's wastewater collection, treatment, and reclaim water systems. Demand projections for the 5, 10, and 20 year time periods will be provided by the City.

The master plan will consist of the following elements:

1. Wastewater collection/transmission system analysis and hydraulic modeling.
2. Wastewater treatment facility evaluation and biological/hydraulic modeling
3. Reclaim water system evaluation and hydraulic modeling
4. Capital project planning and revenue sufficiency analysis
5. Master plan report/Council presentation

The specific scope of services to be provided is described below.

Specific Scope of Basic Services:

Task 1 – Wastewater Collection System Evaluation

A. Data Collection, GIS Database Development, and Kickoff Meeting

1. Kimley-Horn will prepare for and attend a project kick-off meeting with the City staff. Project objectives, schedule, milestones, communication methods, and base information will be discussed.
2. The City will provide Kimley-Horn with the following information:
 - a. AutoCAD electronic and/or GIS files of the City's existing wastewater collection system mapping.
 - b. A complete inventory of the City's lift station equipment and physical data including existing pump curves, pump make and model, impeller diameter, wet well dimensions, invert depths, operating pressures, and forcemain sizes in MS Excel format. Kimley-Horn will provide the City with a formatted MS Excel spreadsheet to be used by the City to document the required data.
 - c. One year of lift station run-time history in MS Excel format (used for demand estimates).
 - d. One year of discharge monitoring reports (DMR) in MS Excel format.
 - e. GIS or electronic billing information relating active utility connections to Property Appraiser parcel number or physical address.
 - f. Water system demand projections for each parcel within the City's utility service area (to serve as the basis for wastewater demand projections).

- g. Current (within 3 months of model development) lift station drawdown test results. Kimley-Horn will provide the City with the draw-down test procedure and results log. The City will provide Kimley-Horn with drawdown test data in MS Word and Excel format. The drawdown test information will be used to calibrate the system model. Inaccurate test results may cause delays and additional work during model calibration. Such delays and additional work will be considered additional services subject to reimbursement per the "Additional Services" terms below.

- h. Copies of relevant system analyses and reports including the recent I&I evaluation.

B. Limited I&I Evaluation

1. Kimley-Horn will review the 2015 I&I evaluation report prepared by others. Kimley-Horn will consider the report findings in the collection system model demand allocations and calibration runs.
2. Kimley-Horn will consider the report findings in future system upgrade recommendations and capital improvement project identification.

C. Lift Station Drawdown Analysis

1. The City will provide Kimley-Horn with current (within 3 months of model development) lift station drawdown test results. Kimley-Horn will provide the City with the draw-down test procedure and results log. The City will provide Kimley-Horn with drawdown test data in MS Word and Excel format. The drawdown test information will be used to calibrate the system model. Inaccurate test results may cause delays and additional work during model calibration. Such delays and additional work will be considered additional services subject to reimbursement per the "Additional Services" terms below.

D. Wastewater Collection System Model

1. Kimley-Horn will create map of the existing wastewater system based on the electronic mapping files provided by the City. The mapping will include lift station service area boundaries. Kimley-Horn will print a hard copy wastewater system map for the City to review and correct with actual line locations, service area boundaries, and pipe sizes.
2. Kimley-Horn will revise the system map one time based on City comments. The system map will then be used as a base file for a SewerCAD lift station and forcemain system model.
3. Kimley-Horn will prepare a SewerCAD hydraulic model of the City's existing lift station and forcemain network.
4. The City's gravity system will not be included in the hydraulic model with the exception of the following specific sections.
 - a. Kimley-Horn will conduct a hydraulic capacity evaluation of the City's three 30-inch interceptor lines that feed the City's WWTF from Dunlawton Avenue, Spruce Creek Road, and Ruth Street. The hydraulic analysis will be based on assumed existing condition flow rates as provided by the City and future flow rates as determined by the wastewater demand estimates derived from the water system demand calculations (provided by others).
5. Kimley-Horn will create sewer shed service areas for master lift stations within the City's collection system. Associated wastewater demands will be assigned based on the water system demand allocations as prepared by others. The demand allocations will be compared to lift station run-time and pumping rate history along with measured wastewater treatment plant influent flows. The estimated demands will be verified by comparing the average per connection wastewater generation rate to the number of active connections within the lift station service area and wastewater treatment facility DMR reports.

6. Kimley-Horn will attempt to calibrate the model as close to measured field conditions as reasonably achievable. Generally, model predictions within 15% of observed pumping rates will be considered as acceptable. The City will be notified if this level of accuracy is not achieved with a reasonable amount of effort. If additional field data is required, Kimley-Horn will advise the City of those needs and re-calibrate the model until the system model is reasonably accurate. Additional services may be required to identify system problems that are contributing to prediction error and/or additional model calibration effort due to unforeseen conditions.
 7. Kimley-Horn will prepare recommended wastewater system hydraulic standards for acceptance by the City. The hydraulic standards will be established for the following parameters:
 - Minimum Forcemain Velocities
 - Maximum Forcemain Velocities
 - Maximum Gravity Pipe Capacity (expressed as % full flow)
 8. Kimley-Horn will prepare a hydraulic model of the City's existing lift station and forcemain network. The City will provide Kimley-Horn with a complete inventory of the City's lift station including existing pump curves, pump make and model, impeller diameter, wet well dimensions, invert depths and forcemain sizes. The City's gravity system will not be included in the hydraulic model. However, the City's three main interceptor lines and portions of the City's gravity system that convey wastewater from forcemains will be analyzed by estimating the gravity line capacity assuming minimum pipe slope.
 9. For each demand projection (present year, 5-year, 10-year, and 20-year) Kimley-Horn will make collection system improvement recommendations that are required for the system meet to the hydraulic standards. Kimley-Horn will review the initial improvement recommendations with City staff and include staff input for the final recommendations.
 10. Kimley-Horn will provide the City with up to three forcemain routing alternatives for contingency planning of the I-95 forcemain crossings. The alternative routing analyses will identify alternative forcemain routes available by valve manipulations and the hydraulic capacities/impacts of each selected route.
 11. Kimley-Horn will provide one day of SewerCAD on-site training for City staff. The on-site training will consist of modeling basics, scenario creation/management, and an overview of the model created for the utility master plan.
 12. Kimley-Horn will acquire from Bentley Systems, Inc. one license of "SewerCAD Standalone Unlimited Pipes" software including the first year of Bentley SELECT costs. The software will be licensed to The City of Port Orange. The City of Port Orange will agree to the Bentley Systems, Inc. License Agreement and/or SELECT Agreement. Upon expiration of the first year of Bentley SELECT, it can be renewed annually, if desired, at the cost of The City of Port Orange.
- E. Wastewater Collection System CIP Development
1. Kimley-Horn will work with City staff to identify capital projects for the 5-year, 10-year, and 20-year planning horizons.
 2. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 2 – Wastewater Treatment Facility Evaluation

The scope of work presented below is to prepare a BioWin wastewater biological process model and hydraulic model of the Port Orange wastewater treatment facility (WWTF). The models will be used to evaluate nutrient reduction enhancements and capacity constraints of the existing WWTF. The model will include enhanced nitrogen removal modifications, process control modifications, and process monitoring recommendations.

A. Existing Conditions Evaluation

1. Kimley-Horn will conduct one site visit to the Port Orange WWTF under this task to complete a preliminary assessment of the areas related to this scope of work and meet with engineering, operations and maintenance personnel to discuss operational and maintenance issues associated with the activated sludge, process control and nutrient removal process, and to gather and review additional information.
2. The City will provide Kimley-Horn the following:
 - a. *Plant Physical Data*: This includes existing as-built/design drawings and specifications, surveys, pump performance data, blower performance data, diffuser data, tank configurations and operation and maintenance (O&M) manuals.
 - b. *Plant Operating Data*: This includes the operating objectives (MLSS and DO concentration set-points, SRT, HRT, etc.). The City will provide Kimley-Horn the last 4 years of daily operations and process control data in electronic format (Excel), and plant operating and maintenance costs, including energy consumption and chemical costs.
 - c. *Plant Wastewater Characteristics*: Daily sampling of the following data for a period of 7 days:
 1. Existing capacity reservations
 2. Influent daily average and typical diurnal flow
 3. Influent total BOD, COD, and filtered COD (if available)
 4. Influent TSS and VSS (if available)
 5. Process MLSS and MLVSS (if available)
 6. DO in aerated zones
 7. Ammonia, Nitrite/Nitrate, and Phosphorus profiles in the aeration and anoxic zones
 8. Sludge blanket levels
 9. Return activated sludge, internal recycle, and waste activated sludge flow rates.

B. Configure and Calibrate Plant Biological Model

1. Kimley-Horn will develop and calibrate a plant process model based on the existing condition evaluation performed under Task 1 using a BioWin model. The model will be developed and calibrated to Level 1 standards, per *Methods for Wastewater Characterization in Activated Sludge* (WERF) 2003; to simulate the existing facilities and then project performance under future design conditions. The model will be calibrated to current steady state average annual and monthly conditions.
2. The calibrated model will be used to assist with evaluating the biological treatment capacity and hydraulic loadings of existing process equipment and tankage. .
3. Specific treatment component capacity concerns will be identified and discussed with operations staff.

C. Hydraulic Capacity Evaluation

1. Kimley-Horn will review as-built record drawings to determine pipe and component elevations, diameter, and tank volumes.
2. Kimley-Horn will verify record drawing information by conducting site observations and reviewing with plant operations staff.
3. Site survey by licensed surveyors is not included in this scope of work. If necessary, professional survey will be performed as an additional service.
4. Kimley-Horn will prepare a hydraulic model of the treatment plant based on the current operating configuration using hydraulic modeling software. The model will be calibrated using field measured data.
5. The hydraulic model will be used to conduct a hydraulic capacity evaluation for each step in the treatment process. The model scenarios will be limited to current and design capacity flow rates with historical surge loadings. The hydraulic modeling results will be summarized in an evaluation findings letter.

D. Analysis and Recommendations

1. The calibrated model will be used as the basis for process control and scenario analysis using the BioWin Controller module. The following scenarios will be evaluated for optimization at the present day flow rates (annual average, max day, and peak hour flows).
 - a. DO concentrations throughout the anoxic/aeration basins to improve nitrogen removal and reduce energy requirements. Includes evaluation of converting existing aeration basins to anoxic zones.
 - b. Internal recycle and return activated sludge rates for efficient nutrient reduction.
 - c. Methanol and Ferric Chloride feed rate and feed location for nitrogen and phosphorous removal.
2. After evaluation of the flow rate optimization recommendations, Kimley-Horn will analyze the optimized configuration at 9 MGD and 12 MGD. The intent is to discern if the recommendations based on the 2014 flow rates will be acceptable at the increased flow rates. If the recommendations are not appropriate for the increased flow rates, Kimley-Horn will run a model scenario at 9 MGD and 12 MGD with the treatment plant operating in the current configuration. The results of these analyses will be included in the letter report submittal. Additional optimization analyses at 9 MGD and 12 MGD are beyond the scope of this project but can be added as an additional service.
3. Kimley-Horn will meet with City staff at the Port Orange WWTF site to review the analysis and recommendations with the engineering, operations, and maintenance personnel. The BioWin computer model will be brought to the WWTF site for an interactive work session with City staff. Additional scenario analyses will be performed as requested by City staff during the work session. The optimization configuration recommendations will be finalized and accepted by City staff at the interactive work session.
4. Kimley-Horn will prepare a report summarizing this evaluation. The report will consist of analysis methodology, calibration results, analysis discussion and results, and improvement recommendations.

E. Biosolids Disposal Evaluation

1. Kimley-Horn will conduct a literature review of current biosolids stabilization and dewatering system options available to the City of Port Orange. The literature review will be limited to "main stream" processes currently used by the industry and widely accepted as a proven technology. The review will include a summary of stabilization classifications and available technology to reach each classification. Additionally, the review will include a summary of available dewatering systems and performance ranges of each system.
2. Kimley-Horn will identify available biosolids hauling/disposal companies able to serve the City of Port Orange. Kimley-Horn will identify stabilization requirements, disposal site limitations, and request budgetary hauling/disposal costs from available companies.
3. Kimley-Horn will prepare report describing biosolids stabilization and dewatering options including budgetary pricing, performance comparisons, and advantage/disadvantage identification. Kimley-Horn will meet with City staff to present the draft analysis and discuss staff comments.

F. Effluent Disposal Alternatives Analysis

1. Kimley-Horn will prepare an effluent disposal alternatives analysis the focused on the following disposal options.
 - a. Existing Reclaim Storage/Distribution System
 - b. Sprayfield
 - c. ASR Wells
 - d. Deep Well Injection

G. CIP Development

1. Kimley-Horn will work with City staff to identify capital projects and operational recommendations for the 5-year, 10-year, and 20-year planning horizons.
2. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 3 – Reclaimed Water System Evaluation

A. Data Collection & Analysis

1. Kimley-Horn will prepare for and attend a project kick-off meeting with the City staff. Project objectives, schedule, milestones, communication methods, and base information will be discussed.
2. The City will provide Kimley-Horn with the following information:
 - a. AutoCAD electronic and/or GIS files of the City's existing reclaimed water transmission system mapping.
 - b. Inventory of the City's reclaimed water storage, treatment, and pumping facilities including pump curves, filter capacities, record drawings.
 - c. One year of reclaim water system pumping information including all influent and discharge point flows.
 - d. One year of customer billing information relating active utility connections to Property Appraiser parcel number or physical address.

B. Reclaimed Water System Model

1. Kimley-Horn will create map of the existing reclaimed water system based on the electronic mapping files provided by the City. Kimley-Horn will print a hard copy reclaimed water system map for the City to review and correct with actual line locations, service area boundaries, and pipe sizes.
2. Kimley-Horn will revise the system map one time based on City comments. The system map will then be used as a base file for a WaterCAD system model.
3. Kimley-Horn will prepare a WaterCAD hydraulic model of the City's reclaimed water system network.
4. Reclaimed water demands will be assigned based on historical billing information and field measured pressure data (provided by the City).
5. Kimley-Horn will attempt to calibrate the model as close to measured field conditions as reasonably achievable. Generally, model predictions within 15% of observed pumping rates will be considered as acceptable. The City will be notified if this level of accuracy is not achieved with a reasonable amount of effort. If additional field data is required, Kimley-Horn will advise the City of those needs and re-calibrate the model until the system model is reasonably accurate. Additional services may be required to identify system problems that are contributing to prediction error and/or additional model calibration effort due to unforeseen conditions.
6. Kimley-Horn will prepare recommended reclaimed water system hydraulic standards for acceptance by the City. The hydraulic standards will established for the following parameters:
 - Minimum Reclaimed Water Velocities
 - Maximum Reclaimed Water Velocities
 - Minimum Reclaimed Water Service Pressure
 - Maximum Reclaimed Water Service Pressure
7. For each demand projection (present year, 5-year, 10-year, and 20-year) Kimley-Horn will make system improvement recommendations and operational configuration recommendations that are required for the system meet to the hydraulic standards. Kimley-Horn will review the initial improvement recommendations with City staff and include staff input for the final recommendations.

C. Reclaimed Water Storage Evaluation

1. Kimley-Horn will prepare a reclaimed water storage capacity evaluation of the existing 175 acre reservoir.
 - a. Kimley-Horn will evaluate the annual contributions to the reclaim storage reservoir including wastewater contributions, storm water contributions, exfiltration loss, and distribution system use.
 - b. Kimley-Horn will evaluate the daily diurnal variation and seasonal variations in reclaimed water demand and compare the demands to the daily and seasonal variation in reclaim water contributions to develop reclaim storage reservoir control level strategies. The control strategy recommendations are intended to optimize the usable capacity of the storage reservoir. The reclaimed water demands will include customer use and exfiltration/evapotranspiration estimates. The reclaimed water contributions will include wastewater effluent and stormwater contributions.

D. C CIP Development

3. Kimley-Horn will work with City staff to identify capital projects and operational recommendations for the 5-year, 10-year, and 20-year planning horizons.
4. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 4 – Capital Projects Planning and Revenue Sufficiency Financial Analysis

- A. Kimley-Horn will meet with City Staff to identify existing utility capital improvement projects intended to be undertaken by the City within the next five years. In addition, Kimley-Horn will combine the City's project list with those identified in Tasks 1, 2, and 3. Kimley-Horn will provide brief project narratives and develop opinions of probable construction costs for each project.
- B. Kimley-Horn will develop a five-year capital improvement plan (CIP) from the project list and the results of the wastewater system and reclaimed water system analyses. The list of projects will be prioritized jointly with City staff. Kimley-Horn will prepare for and attend up to two working meetings with staff to reach consensus on a draft CIP to present to the City Commission.
- C. Kimley-Horn will work with the City's utility system financial planner to provide capital improvement project estimates for inclusion in the City's revenue sufficiency analysis. Kimley-Horn will modify the 5-year CIP list based on the recommendations made by City staff and the City's financial planner.
- D. Kimley-Horn will prepare a 20-year long range CIP to identify improvements beyond the 5-year planning horizon. The 20-year CIP will identify potable water source, treatment, and storage requirements that are anticipated beyond the 5-year planning horizon.
- E. Kimley-Horn will contract directly with Burton & Associates to conduct a utility revenue sufficiency analysis for the water, wastewater, and reclaimed water systems (water system information to be provided by others). The revenue sufficiency analysis will consist of the input of all financial, statistical, capital, and operational data and assumptions into Burton & Associates financial model, preparation of a comparative rate survey, two interactive work sessions with City staff to review the results of the analysis and develop scenarios, individual presentations of the analysis to each Commissioner, participation at two public meetings, and preparation of a report documenting the results of the analysis.

Task 5 – Master Plan Report

- A. Kimley-Horn will summarize the work described in Tasks 1-6 in a draft Master Plan document. This draft Master Plan will be submitted for staff review and comment. Up to three hard copies of the Master Plan will be provided along with one electronic PDF copy.
- B. Kimley-Horn will revise the draft Master Plan document one time to incorporate staff comments. Kimley-Horn will provide up to three hard copies and one electronic PDF copy of the final Utility Master Plan.
- C. Kimley-Horn will prepare for and present a summary of the final Utility Master Plan report at a City Council workshop.

Additional Services if required:

Services requested that are not specifically included will be provided under a new and separate IPO agreement or can be performed on an hourly basis upon written authorization.

Schedule:

Kimley-Horn will begin services upon receipt of an executed agreement or written authorization from City staff. Kimley-Horn will provide a draft report within 365 calendar days of written authorization. The final report will be provided within 90 days of receipt of draft submittal comments.

Method of Compensation:

The Engineer will complete the above scope of services on a lump sum basis for a fee of \$496,446.00 (including expenses). A breakdown of fee by task is as follows:

Task	Labor Fee
Task 1 – Wastewater Collection System Evaluation	\$101,528.00
Task 2 – Wastewater Treatment Facility Evaluation	\$160,535.00
Task 3 – Reclaimed Water System Evaluation	\$177,265.00
Task 4 – Capital Projects Planning and Revenue Sufficiency Financial Analysis	\$34,257.00
Task 5 – Master Plan Report	\$22,861.00

Other Special Terms:

Services provided under this will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

CITY OF PORT ORANGE, FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC

By: _____
(Signature)

By: 
(Signature)

(Print Name and Title)

M. Lewis Bryant, PE – Associate
(Print Name and Title)

Date: _____

Date: September 24, 2015

TABLE A
COST ESTIMATE FOR SERVICES

PROJECT:	Wastewater & Reclaimed Water System Master Plan	SHEET	1	OF	1
CLIENT:	City of Port Orange	FILE NO.			
KHA PM:	Lewis Bryant	DATE:	09/24/15		
	City of Port Orange Approved Rates				

		DIRECT LABOR (MAN-HOURS)							TOTAL
		Principal	Senior Professional	Professional	Technical	Clerical	SUB (\$)	Expense (\$)	
NO.	DESCRIPTION	\$245.00	\$197.00	\$135.00	\$113.00	\$65.00			
1.0	Task 1 - Wastewater Collection System Evaluation								
	Data Collection/IdI Report Review/Lift Station Data Review	5.0	20.0	50.0	50.0	15.0			\$18,540.00
	Collection System Modeling	5.0	80.0	150.0	150.0	15.0			\$55,160.00
	Collection System CIP Development	2.0	10.0	20.0	20.0	10.0			\$8,070.00
	SewerCAD Software/1-year Service Package							\$19,758.00	\$19,758.00
								Task 1 Total	\$101,528.00
2.0	Task 2 - Wastewater Treatment Facility Evaluation								
	Data Collection	8.0	55.0	60.0	40.0	20.0			\$26,715.00
	Biological/Hydraulic Modeling	8.0	90.0	195.0	195.0	15.0			\$69,025.00
	Biosolids & Effluent Disposal Evalation	8.0	80.0	195.0	175.0	15.0			\$64,795.00
								Task 2 Total	\$160,535.00
	Task 3 - Reclaimed Water System Evaluation								
	Data Collection	5.0	45.0	95.0	150.0	20.0			\$41,165.00
	Reclaimed Water System Model	5.0	80.0	160.0	175.0	15.0			\$59,335.00
	Reclaimed Water Storage Evaluation	8.0	90.0	195.0	125.0	15.0			\$61,115.00
	CIP Development	2.0	20.0	40.0	40.0	20.0			\$15,650.00
								Task 3 Total	\$177,265.00
	Task 4 - Capital Projects Planning/Revenue Sufficiency Analysis								
	CIP Development/Refinement	2.0	10.0	20.0	10.0	5.0			\$6,615.00
	Burton & Associates						\$25,000.00		\$25,000.00
	Staff Meetings		6.0	6.0		10.0			\$2,642.00
								Task 4 Total	\$34,257.00
	Task 5 - Master Plan Report								
	Prepare Draft and Final Report	8.0	20.0	60.0	10.0	15.0			\$16,105.00
	Staff Review Meetings		6.0	6.0					\$1,992.00
	Council Meeting/Presentation		12.0	12.0		12.0			\$4,764.00
								Task 5 Total	\$22,861.00
TOTALS		66.0	624.0	1264.0	1140.0	202.0	\$25,000.00	\$19,758.00	\$496,446.00



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Task Authorization No 1 under the Master Contract for Engineering Services with Arcadis U.S., Inc. for the Water Master Plan (**Tabled on October 20, 2015**)

DEPARTMENT: Public Utilities

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to remove from the table so Staff can withdraw the item.

SUMMARY:

On September 22, 2015, City Council approved the FY16-21 Capital Improvement budget that will allow the Public Utilities Department to develop a Water Master Plan. Arcadis U.S., Inc. has provided a proposal for master planning the City's Potable Water System. This report will provide a review of the condition and capacity of the City's existing system and an evaluation over a 20-year planning period. The report will demonstrate a specific plan for modifications to the City's Potable Water system. Key features of the plan will include:

Water demand forecasting and future water supply needs identification
Water distribution/transmission system analysis, hydraulic modeling and renewal and replacement needs identification
Water treatment facility evaluation, capacity analysis biological and hydraulic modeling to determine capacity and process improvement needs
Capital project planning and long term financial planning

This master planning effort is consistent with The City Council adopted Strategic Plan dated March 18 and 19, 2015 to attain Goal 1, Infrastructure Preservation, Objective 2, Master Planning.

Task Authorization No 1 will allow staff to move forward with this project. This task is for an amount not to exceed \$498,179.75.

Project No.: MMP001
MMP001

Funding Account No.: 40508005336397
40303005366397

ATTACHMENTS:

1.	Task Authorization No. 1 - signed by	Task Authorization No 1 - Water Master
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	vendor	Plan.pdf
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Robin Fenwick

Created/Initiated - 04/22/2016

TASK AUTHORIZATION NO. 1
Master Contract for Engineering Services dated March 31, 2015
Between the City of Port Orange, Florida and Arcadis U.S., 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 **ARCADIS U.S., INC.**, a Florida corporation with its principal place of business at 630 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated March 31, 2015, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

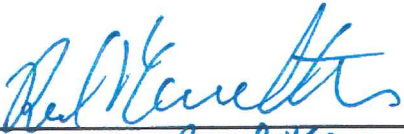
1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to the City of Port Orange Water Master Plant as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "A."
3. Contractor shall complete the services to be provided herein within 540 days of the date of written notice by the City to the Contractor.
4. 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 up to but not to exceed **Four Hundred Ninety-eight Thousand One Hundred Seventy-nine Dollars and seventy-five cents (\$498,179.75)**. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.
5. 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.

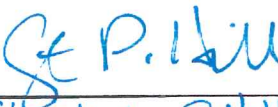
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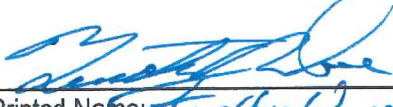
IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

ARCADIS U.S, INC.


Printed Name: Reed Meriwether 10/15/15


By: Christopher P. Hill, Associate Vice President


Printed Name: Timothy Ware 10/15/15

Date: 10/14/15

Witnesses:

CITY OF PORT ORANGE

By: _____
Printed Name: _____ Allen Green, Mayor

Date: _____
Printed Name: _____

Witnesses:

ATTEST:

By: _____
Printed Name: _____ Robin L. Fenwick, CMC, City Clerk

Date: _____
Printed Name: _____

[CA ____]

PORT ORANGE CITY COUNCIL
SPECIAL MEETING/WORKSHOP MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
APRIL 26, 2016

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

Pledge of Allegiance

Silent Invocation

PRESENT:	Councilman Bob Ford Councilman Donald Burnette Councilman Scott Stiltner Vice Mayor Drew Bastian Mayor Allen Green
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ALSO PRESENT:	Jake Johansson, City Manager Margaret Roberts, City Attorney Robin Fenwick, City Clerk
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Rules of Procedure as approved by City Council on December 2, 2014; specifically page 3, portions of letter (e) and #9 (a-e) were read by Robin Fenwick, City Clerk.

Jake Johansson, City Manager, advised of the motorcycle accident involving Port Orange Detective David Fouts and his wife, Jennifer, who did not survive the accident. Detective Fouts is still fighting for his life. The City's Victim Advocate, Carmen Miller, will spearhead all fundraising and donation efforts and there is a "gofundme" account set up by family and friends.

5. Memorial Park Honorees Recognition

Honorees were thanked by Council.

SPECIAL MEETING AGENDA

CONSENT AGENDA

6. Resolution No. 16-25 - ICMA-RC 401(A) Plan 108373
7. Resolution No. 16-26 - ICMA-RC 401(A) Plan 108499
8. Resolution No. 16-27 - ICMA-RC 401(A) Plan 109110

Motion to approve the Consent Agenda
Items #6, 7 and 8 was made by Vice

Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

9. Resolution No. 16-28 - ICMA-RC 401(A) Plan 106920
10. Resolution No. 16-29 - ICMA-RC 401(A) Plan 108525

Items #9 and 10 were withdrawn by Staff since action is not required on those plans.

REGULAR AGENDA

11. Rejection of Proposals for RFP #16-11 - Insurance Broker Services

Motion to reject the insurance proposals was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

WORKSHOP AGENDA

DISCUSSION ITEMS

12. Riverwalk Phase 2 Linear Park Development

Details were reviewed by Ms. Roberts with Council for direction prior to bringing the items to the Planning Commission. The Master Development Agreement (MDA) and other documents will be drafted based on Council's direction and the proposal from the developer.

Mr. Johansson discussed the Project's Risk Assessment Matrix. Before the mitigation efforts, the risk assessment is 2.17; after it is 4.33. Staff recommends a risk assessment average greater than 3.5.

Estimated timeline was discussed by Ms. Roberts. The key differences between the Right-of-Way vs. Easement options were discussed.

Councilman Ford believes better negotiations can be done regarding the key differences in exchange for the land being "given away". He is concerned with the proposal. He wants access to remain available to the public and wants to own the land.

Mr. Johansson advised that the condominiums are not included in Phase 1 of the project; however, the linear park, the restaurant, the demolition of the funeral home and grading of the entire project will happen in Phase 1. The developer has 48 months to commence construction but the current plan is sooner.

Councilman Burnette likes the idea of TIF funds coming from an easement situation. He would like to see the sidewalk wider than ten feet. He asked how the funeral home land will be handled. Ms. Roberts explained that it will be a separate agreement and contingent on the completion of the sidewalk.

Vice Mayor Bastian asked for clarification on the building of the trail. Ms. Roberts explained the bond will be in place while the trail is being built.

Councilman Stiltner wants to see a larger sidewalk for the area (not 10 foot sidewalks). Council agreed. Councilman Stiltner wants guaranteed public access, no matter what. Ms. Roberts advised that either option will guarantee that access. Councilman Stiltner asked how much cost will the City incur in each of the scenarios presented. Wayne Clark, Community Development Director, said \$250,000-\$300,000 for a 12 foot straight path with standard landscaping and benches and no elevation changes. Councilman Stiltner would like to know the value of the feature proposed vs. the land swap value. Ms. Roberts said there will be a bond document that guarantees those improvements. The condominiums will come in a subsequent phase.

Parker Mynchenberg, Parker Mynchenberg & Associates, Inc., explained the details of the elevation of the project, as well as the width of the walkways and the slopes to connect to the north and south walkways. Overhead power will go underground by the developer.

Mayor Green has met with the developer and answered the questions he has knowledge of as presented by Ted Nofall via a previous email. The developer has agreed to discuss Mr. Nofall's questions with him.

Ted Nofall, citizen, asked who is negotiating on the City's behalf. He believes it is a horrible deal for the taxpayers.

Newton White, citizen, is concerned about the maintenance agreement of the walkway.

Mike Gardner, citizen, asked if it would be allowed to have a private owner through the Greenway trail system as has been proposed at other meetings.

Council agreed unanimously to a 20 foot width path and to retain ownership of the right of way. Council is the negotiating team.

Mr. Mynchenberg explained the difference in design with the right of way vs. easement.

Councilman Ford is in agreement with the plan discussed by Mr. Mynchenberg and authorizes the City Attorney to negotiate the trail way placement with the City maintaining ownership of the trail through the right of way option. Council agreed.

Buddy LaCour, Developer, believes the City received more with the easement option but will continue talks with Staff regarding the right of way option.

13. City Center Complex - Landscape Design and Improvements

Branford Adumuah, Public Works Director, introduced Dwight DuRant of Zev Cohen who discussed the conceptual landscape concepts for City Center, as well as the budget for each option.

Councilman Stiltner likes the concepts and wants it to be functional within the complex and have pop at the entrances. He wants maintenance success.

Vice Mayor Bastian wants to see the Fire Station addressed in the plan.

Councilman Burnette asked how the estimated budgets impact our current budget amounts.

Mr. Adumuah said the cost for maintenance is already included in the budget for Public Works.

Mr. Johansson said the costs to construct will need to be worked into the budget. Council agreed with the medium option but wants to include the fire station area and agreed to fund the construction from reserves.

Phil Klema, citizen, has trouble seeing around some of the signs and crosswalk areas. He suggested moving some of the signage and cautioned Council on obstructing the sight lines more.

Mr. Noftall asked who does the maintenance at City Center Complex and is concerned with the ongoing costs for maintenance.

Bobby Ball, Zev Cohen, clarified there may be some increase in maintenance costs but Staff will review the level of service.

Kaitlin Gibson, Atlantic High School Student, introduced herself from the Law & Government Academy.

14. Monthly Finance Report

Ms. Riehm presented the monthly finance report.

Mr. Noftall suggested Council ask Finance for “proper” finance reports, to include a balance sheet, income statement and statement of cash flows. Mayor Green asked Mr. Johansson to provide information on “proper” finance reports including the cost to produce those reports. Ms. Riehm explained the reasoning behind the reports as they are presented versus the reports Mr. Noftall is requesting. An accrual basis would look

Special Meeting/Workshop

April 26, 2016

Page 5 of 5

better on paper but could lead to overspending; therefore, cash basis accounting is used by the City.

ADJOURNMENT – 9:44 P.M.

Mayor Allen Green

Attest:

Robin Fenwick, City Clerk

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
MAY 3, 2016

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

Pledge of Allegiance

Invocation by Rev. Tom Nelson of First United Methodist Church of Port Orange

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

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

AGENDA APPROVAL

Item(s) pulled: Mayor Green asked to pull item #31 to be discussed along with Item #14. Council agreed.

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

SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

5. Carl F. "Buddy" Campbell Proclamation

Mayor Green read the proclamation to Carl "Buddy" Campbell. Council expressed their appreciation for Mr. Campbell's service.

6. 47th Annual Municipal Clerk's Week Proclamation

Mayor Green read the proclamation for Municipal Clerk's Week. Council thanked Robin Fenwick for her service.

7. Women's Lung Health Week Proclamation

Mayor Green read the proclamation for Women's Lung Health Week.

8. Presentation on Volusia County Mosquito Control and the Zika Virus

Jim McNelly, Director of Volusia County Mosquito Control, provided details of their program and information relating to the Zika Virus. Mr. Johansson advised that the Emergency Manager and other City Staff will contact the Volusia Health Department should any issues arise in Port Orange. Councilman Ford asked for protocols to take action of a City to prevent the development of these mosquitoes as they are only container borne. Mr. McNelly thanked Council for being proactive in educating their citizens.

9. Recognition of Public Utilities Garnsey Water Treatment Plant and supporting staff for earning the Florida Section/American Water Works Association 2015 Outstanding Water Treatment Plant Class A Award

Mayor Green presented the Public Utilities Staff with the award and Council thanked them for their service to the City.

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

Bob Duquette, General Manager, presented the reports for Kemper Sports Management and advised of upcoming events.

Mayor Green thanked the Atlantic High School Students from the Law & Government Academy for attending.

PUBLIC HEARING

11. Second Reading - Ordinance No. 2016-5 - Amendment to Fire and Rescue Pension Fund Ordinance - Chapter 54, Article IV of the Code of Ordinances

Mayor Green read Ordinance No. 2016-5.

ORDINANCE NO. 2016-5

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE IV, CODE OF ORDINANCES, CITY OF PORT ORANGE, FLORIDA, ENTITLED FIRE AND RESCUE PENSION FUND; AMENDING SECTION 54-84, DISABILITY BENEFITS; AMENDING SECTION 54-100, DEFERRED

RETIREMENT OPTION PLAN; AMENDING SECTION 54-104, BENEFITS AND CONTRIBUTION FOR MEMBERS HIRED ON OR AFTER DECEMBER 4, 2012; AMENDING SECTION 54-105, STABILIZATION FUND; CREATING A NEW SECTION 54-106, SHARE PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2016-5 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

12. Second Reading - Ordinance No. 2016-6 – Adoption of the 16-1 Comprehensive Plan Amendments/Martin Road; CASE NO. 15-20000002

Mayor Green read Ordinance No. 2016-6.

ORDINANCE NO. 2016-6

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING THE TRANSPORTATION MOBILITY ELEMENT OF THE COMPREHENSIVE PLAN, POLICY 3.2.5, TABLES 1 AND 3, AND FIGURES 2-2, 2-4, 2-8, AND 2-10, TO REMOVE MARTIN ROAD AS A PLANNED COLLECTOR ROAD; PROVIDING FOR CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2016-6 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

13. Second Reading - Ordinance No. 2016-7 – 1st Amendment to the Woodhaven Master Development Agreement and Conceptual Development Plan; CASE NO. 16-40000002

Mayor Green read Ordinance No. 2016-7.

ORDINANCE NO. 2016-7

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE WOODHAVEN PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT (MDA) AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2016-7 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.
Motion carried unanimously by roll call vote.

14. Second Reading - Ordinance No. 2016-8 - General Obligation Refunding Bonds

Mayor Green read Ordinance No. 2016-8.

ORDINANCE NO. 2016-8

AN ORDINANCE OF THE CITY OF PORT ORANGE, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$14,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016, TO REFUND THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2006; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2016-8 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.
Motion carried unanimously by roll call vote.

BOARD APPOINTMENTS, INTERVIEWS, REPORTS

15. Environmental Advisory Board Appointments

Motion to nominate Mr. LaMontange for re-appointment was made by Councilman Burnette, and Seconded by

Councilman Ford. Motion carried unanimously by roll call vote.

Motion to nominate Mr. Terhune to the serve on the Environmental Advisory Board was made by Councilman Burnette, and Seconded by Vice Mayor Bastian. Motion carried unanimously by roll call vote.

16. Environmental Advisory Board Report

Mr. LaMontange discussed details of the recent Board meeting. Councilman Ford asked that the Board consider the issue of septic tanks/systems in Port Orange, as well as drainage from the City's streets.

17. Parks & Recreation Advisory Board Appointment

Motion to nominate Julie Day was made by Councilman Burnette, and Seconded by Councilman Ford.

Motion to nominate Dennis Young was made by Mayor Green, and Seconded by Councilman Stiltner.

Motion to nominate Brian Syford was made by Councilman Stiltner, and Seconded by Councilman Burnette.

Motion to nominate John McClellan was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.

Council voted by ballot, which were announced by the City Clerk as follows:

Councilman Ford – Julie Day
Councilman Burnette – Julie Day
Councilman Stiltner – Brian Syford
Vice Mayor Bastian – John McClelland
Mayor Green – Dennis Young

Julie Day was appointed to the Parks & Rec Advisory Board to fill the unexpired term of Aime Bischoff.

18. Parks & Recreation Advisory Board Report

Jack Wiles, Chair, discussed details of the recent Board meetings.

Sarah Jones, citizen, reminded Council of her idea for a community swimming pool. She would like the Board to consider the idea. Mr. Johansson advised that the swimming pool at the YMCA is a community pool and membership is not required to use the pool. There is a pay as you go fee.

19. Golf Advisory Board Appointments

Motion to nominate Jane Taylor (fulfilling the requirement for a member of the Women's Golf Association) was made by Councilman Stiltner, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

Motion to nominate Alan Angelone (fulfilling the requirement for a member of the Men's Golf Association) was made by Vice Mayor Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

Mr. Johansson advised that Richard Lee was nominated and recommended by the Cypress Head Golf Master Homeowners' Association. He has agreed to the nominated and submitted an application.

Dennis Flesch, citizen, introduced himself and advised that he does not believe there would be a conflict of interest for him to work for KemperSports and serve on this board but he would resign should there be a conflict.

Alan Angelone advised that Tony Delmonte is the President of one of the Cypress Head Board's (but not the Master Board.)

Susan Lovallo, Parks & Recreation Director, clarified the requirement regarding the Cypress Head Master Homeowner's Association. A board member is not required. The ordinance states a member of the Master HOA.

Motion to nominate Anthony Delmonte was made by Councilman Ford, and Seconded by Councilman Stiltner.

Motion carried unanimously by roll call vote.

Motion to nominate John Cameron was made by Councilman Burnette, and Seconded by Vice Mayor Bastian. Motion carried unanimously by roll call vote.

Motion to nominate Dennis Flesch was made by Mayor Green, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilmen Ford and Burnette voting no.

Motion to vote by ballot was made by Councilman Stiltner, and Seconded by Councilman Ford. Motion carried unanimously by roll call vote.

Council voted by ballot, which were announced by the City Clerk as follows:

Councilman Ford – Richard Lee
Councilman Burnette – Richard Lee
Councilman Stiltner – Joseph Longo
Vice Mayor Bastian – William Scheider
Mayor Green – Richard Lee

Richard Lee was appointed (3-2) to the Golf Advisory Board.

Motion to nominate Bob Ford was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

CITIZEN PARTICIPATION (Agenda)

20. Code Enforcement Lien Forgiveness for 48 Springwood Square - Brian Hopkins

Brian Hopkins, property owner, requested forgiveness of the code enforcement lien on 48 Springwood Square.

Mr. Johansson advised that the property owner was aware of the code lien prior to purchasing the property. The Special Magistrate determined that staff was not allowed to cut the grass so a fine was levied.

Ms. Roberts advised that the Lien Amnesty Program dictates 25% of the lien be paid after the County's auction. The proceeds from the auction were deducted from the lien amount and the 25% balance leaves a total due of \$23,208.

Councilman Stiltner agreed with the Lien Amnesty Program and asked the City Attorney to clarify her recommendation. Ms. Roberts said the program was used as written and could be changed if Council so determines.

Vice Mayor Bastian asked if the \$20,000+ should be applied after the 75% is deducted. Ms. Roberts said the program is written to deduct the surplus from an auction then calculate the 75% reduction.

Councilman Burnette is concerned with the precedent being set if this is granted.

Councilman Ford wants to help but wants it fair for everyone. He wants to consider applying the overage to the balance after the 75% reduction is made rather than the overage being applied prior to the reduction. Ms. Roberts said the current program authorizes the 75% reduction after any tax sale overage is applied but is subject to an amendment.

Councilman Stiltner would like to consider the market value of the property during the transaction. Councilman Burnette explained the issues with determining the market value of properties.

Ted Noftall, citizen, addressed Council regarding the 75% being an arbitrary number. He believes the intent of the lien amnesty program is to put properties on the tax roll. He encouraged Council to change the ordinance.

Councilman Ford would like to modify the ordinance. He believes the money coming to the City from a tax sale to be applied after the 75% is deducted. True city costs need to be re-captured.

Councilman Burnette agreed with Councilman Ford.

Motion to deny with Mr. Hopkins being allowed to re-apply under the new ordinance was made by Councilman Burnette, and Seconded by Councilman Ford. Motion carried unanimously by roll call vote.

21. Code Enforcement Lien Reduction Request - 820 Sugar House Blvd.

Michael Slick, Attorney for property owner, Olga Sheynkman, explained the details surrounding the purchase of the property and the issues.

Carl Mueller, 827 Sugar House Drive, asked Council to consider the request to help the community.

Councilman Ford wants the City to foreclose on liens rather than let them sit and destroy neighborhoods.

Ms. Roberts suggested Council consider setting a cap on liens.

Councilman Burnette asked for more options from Staff. He wants Council to look at the big picture.

Mr. Noftall believes Council should write off the liens when they sell and come into compliance (other than real costs).

Councilman Ford doesn't agree with writing the whole lien off. It is there as a deterrent and needs to be in place.

Motion to return the Lien Amnesty Program to Staff to find a better balance was made by Councilman Stiltner, and Seconded by Councilman Ford. Motion carried unanimously by roll call vote.

Marlene Prouty, 832 Sugar House Blvd., encouraged Council to improve the program to help the community and property owners.

CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

Mr. Noftall addressed Council regarding follow-up from last week's meeting regarding the costs of landscaping. He also asked Council and the City Attorney to revisit the lien amnesty program as it relates to the 14th Amendment.

COUNCIL COMMENTS

22. Comments/Concerns from Council Members

Vice Mayor Bastian thanked Staff for having the wall at Yorktowne Blvd. fixed.

Councilman Ford asked if there is a fund for neighborhood repairs. Mr. Johansson said it was cut from the budget previously and will consider it through the budget process.

CONSENT AGENDA

23. Approval of Minutes

a. April 19, 2016 - Regular City Council Meeting

24. Resolution No. 16-21 - LAP Agreement for design of the Victoria Gardens Boulevard Sidewalk

25. Resolution No. 16-22 - Calling a Primary, Regular and Special Election for the purpose of electing a Mayor and two (2) City Council members and providing for qualifying period

26. Resolution No. 16-23 - Approval of the Interlocal Agreement between the City of Daytona Beach, Florida and the City of Port Orange, Florida for potable water interconnects.

27. Write-off of Uncollectible Miscellaneous Accounts Receivable

28. Bid Awards and Contract Items

a. Florida Health Care Insurance Renewal

b. Florida Combined Life Dental Renewal

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

REGULAR AGENDA

29. 2nd Quarter Strategic Plan Update

Alan Rosen, Assistant City Manager, provided details from the Strategic Plan Update for the second quarter.

30. Resolution No. 16-24 - Port Orange City Council Rules of Procedure

Mayor Green read Resolution No. 16-24.

RESOLUTION NO. 16-24

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE PORT ORANGE CITY COUNCIL RULES OF PROCEDURE; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Resolution No. 16-24 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.

Councilman Ford asked that the latest edition of the Roberts Rules of Order should be utilized and stated in the document. Council agreed to the amendment.

Motion carried unanimously by roll call vote.

31. Resolution No. 16-30 - Bond Refunding

Mayor Green read Resolution No. 16-30.

RESOLUTION NO. 16-30

A RESOLUTION OF THE CITY OF PORT ORANGE, FLORIDA, PROVIDING FOR THE ISSUANCE OF \$14,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016 OF THE CITY TO REFUND THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2006; PROVIDING FOR THE RIGHTS, SECURITY AND REMEDIES OF THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT FOR THE SALE OF THE BONDS; AUTHORIZING THE CITY MANAGER TO FIX THE DATE, MATURITIES, INTEREST RATES AND REDEMPTION PROVISIONS WITH RESPECT TO SUCH BONDS; AUTHORIZING THE PRELIMINARY AND FINAL OFFICIAL STATEMENTS; DESIGNATING THE PAYING AGENT, BOND REGISTRAR AND DISSEMINATION AGENT; AUTHORIZING THE APPROPRIATE OFFICIALS OF THE CITY TO TAKE NECESSARY ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Resolution No. 16-30
was made by Vice Mayor Bastian, and
Seconded by Councilman Burnette.

Toby Wagner, Southeastern Investment Securities, advised Council that the bond rating was upgraded to AA2, which is a very strong but rare rating. He believes that is the highest rating in the county. The savings are in excess of \$3 million.

Peter Dame, Bond Counsel, advised this resolution is refinancing the bonds at a lower interest rate to save money.

Motion carried unanimously by roll call vote.

COMMENTS

32. City Attorney Comments

There were no further comments.

33. City Manager Comments

Mr. Johansson advised of the opportunity of a cash sale of a small lot in Eastport. He requested authorization to contract between the listing price and the property appraiser's value using comparable values and other market drivers. An appraisal is not required because we have a broker. There has been no tax revenue since the City's purchase in 2007. The City Council will have final approval of the sale.

Motion to authorize the City Manager to negotiate with the City Council having final approval was made by Councilman Burnette, and Seconded by Vice Mayor Bastian.

Mr. Noftall doesn't agree with the City being in direct competition with private businesses and individuals with property sales.

Motion carried unanimously by roll call vote.

COUNCIL COMMITTEE REPORTS

34. City Council Committee Reports

- a. YMCA – There was nothing new to report.
- b. General Employees' Pension Plan – There was nothing new to report.
- c. River to Sea TPO – Councilman Ford reported on the recent meeting.

ADJOURNMENT: 9:29 p.m.

Attest:

Mayor Allen Green

Robin Fenwick, CMC
City Clerk



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Amendment and Extension to the Piggyback Agreement with Ferguson Enterprises, Inc., dated October 28, 2014.

DEPARTMENT: Public Utilities

GOAL: N/A

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve the Amendment and Extension to the Piggyback Agreement with Ferguson Enterprises, Inc. for an annual amount of \$250,000 (per 12 month period); and to authorize the Mayor and City Clerk to execute all contract documents.

SUMMARY: On October 28, 2014, the Council approved a Piggyback Agreement with Ferguson Enterprises, Inc. to purchase various operational materials that are stocked in the Public Utilities Warehouse.

This Piggyback Agreement did not provide for approval of the renewals. This Amendment and Extension will allow the City to renew the Piggyback for an additional two years. The contract term will be May 1, 2016 through April 30, 2018. This contract provides for purchase of various parts and materials stocked in the City warehouse for use in maintaining and repairing the utility systems.

Public Utilities is requesting an annual spending authorization for \$250,000. Since this contract spans fiscal years, this authority is subject to the approval of future budgets.

Project No.: <u>ZMI044</u>	Funding Account No.: <u>40108005364931</u>
<u>none</u>	<u>40108005365200</u>
<u>none</u>	<u>40108005365531</u>
<u>none</u>	<u>40104005355218</u>
<u>none</u>	<u>40102005335218</u>

ATTACHMENTS:

1.	Amendment No. 1 and Extension Agreement	Amendment No. 1 and Extension Agreement.pdf
2.	Authorization Letter from Vendor	Piggyback Authorization form Vendor.pdf
3.	Renewal Documents from Hillsborough	HILLSBOROUGH THRU APRIL 30 2018.pdf
4.	Ferguson Piggyback Agreement	Ferguson Piggyback Agreement, dated

	dated 10/28/14	10.28.14.pdf
5.	Certificate of Authorization	Justin Montandon SECRETARIAL CERTIFICATE (signed 5.13.15).pdf

Julia Wiggins	Created/Initiated - 04/25/2016
Julia Wiggins	Approved - 04/25/2016
Rick Wilson	Approved - 04/25/2016
Andrew Neff	Approved - 04/27/2016
Diana Fye	Approved - 04/27/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/10/2016
M. Jake Johansson	Final Approval - 05/10/2016

AMENDMENT NO. 1 AND EXTENSION AGREEMENT

THIS AMENDMENT NO. 1 AND EXTENSION OF AGREEMENT ("Agreement") is made and entered into the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 (the "City"), and **FERGUSON ENTERPRISES, INC.** ("Contractor"), a Virginia corporation whose principal address is 12500 Jefferson Avenue, Newport News, Virginia 23602 (collectively "the Parties").

WHEREAS, on the 19th day of March, 2014, Ferguson Enterprises, Inc. entered into a Contract with Hillsborough County, pursuant to Bid No. ITB-P-0035-0-2014/CH (the "Hillsborough County Agreement") for the purchase of materials and parts and supplies required to operate on a daily basis, such as brass fittings for meter installations; meter boxes to set meters; pipe and repair clamps for water main breaks; manhole rings and covers; and sewer repair parts with a term commencing on April 25, 2014 and continuing until April 30, 2016; and

WHEREAS, the Hillsborough County Agreement provides for a renewal of one (1) additional two-year period; and

WHEREAS, the Hillsborough County Agreement was renewed on March 18, 2016 with a term commencing on May 1, 2016 and continuing until April 30, 2018; and

WHEREAS, the Parties entered into a Piggyback Agreement on October 28, 2014 (the "Contract") pursuant to the Hillsborough County Agreement with a term commencing on October 28, 2014 and continuing until April 30, 2016; and

WHEREAS, the Parties desire to renew the Contract for a period commencing on May 1, 2016 and continuing until April 30, 2018; and

WHEREAS, the Port Orange City Council has determined that the execution of this Contract is beneficial to the citizens of the City of Port Orange.

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **Term.** The term of the Contract is hereby extended. Notwithstanding the date of execution, this Agreement shall be effective commencing May 1, 2016 and continuing until April 30, 2018.

2. **City Obligations.** In return for the services identified above, the City agrees to compensate Contractor in an amount up to but not to exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) annually, subject to approval by the 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. **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 119.10, 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

4. Counterparts. 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.

5. All other terms and conditions of the Contract shall remain in full force and effect.

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

Witnesses:

FERGUSON ENTERPRISES, INC.

Susan Braithwaite
Printed Name: Susan Braithwaite

[Signature]
Printed Name: Sandra Tucker

STATE OF Florida
COUNTY OF Orange

By: [Signature]
Printed Name: Justin Montandon
Title: Manager

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.

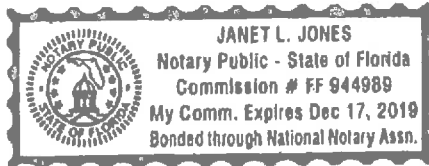
Date: 4/29/16

The foregoing instrument was acknowledged before me this 29th day of April, 2016, by Justin Montandon Sales of Ferguson Enterprises, Inc., a Virginia corporation, and who:

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.



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

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the City, and who is personally known to me.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, 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.

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



801 Thorpe Road, Orlando FL 32824
Ph 407-859-7473 Fax: 407-859-9561

March 31, 2016

City of Port Orange Purchasing

Dear Purchasing

Please accept this letter as authorization for the city of Port Orange to utilize / Piggyback Ferguson's contract Hillsborough County ITB-P-0035-0-2014. Justin Montandon is the Municipal Salesman for Ferguson, and has the authority from Ferguson's corporate board to enter into such an agreement.

Please just let us know if you have any additional needs for documents or information and we will furnish them immediately.

Sincerely,

A handwritten signature in red ink that reads 'Justin Montandon'.

Justin Montandon
Municipal Outside Sales



Hillsborough County
Board of County Commissioners
601 E Kennedy Blvd
Tampa, FL 33601
United States

Type	Contract Purchase Agreement
Order	216207232
Revision	0
Order Date	18-MAR-2016
Created By	Lalican, Gion
Revision Date	
Current Buyer	

Supplier: **FERGUSON ENTERPRISES INC**
8008 E SLIGH AVE
TAMPA, FL 33610
United States

Ship To: **See Below**
Tampa, FL 33601
United States

Bill To: **PO BOX 1110**
Tampa, FL 33601-1110
United States

Customer Account No.	Supplier No.	Payment Terms	Freight Terms	FOB	Transportation	Ship Via
	1008348	NET 30 DAYS	Freight Included	FOB - Destination		Best Way
Effective Start Date		Effective End Date			Amount Agreed (USD)	
01-MAY-2016		30-APR-2018			4,000,000.00	
Supplier Contact				Requester		
BARBER, JENNIFER (813) 881-1982						

Notes: All prices and amounts on this order are expressed in USD
In accordance with ITB-P-0035-0-2014/CH, Water and Sewer Materials.

Awarded by the BOCC on April 23, 2014

Administratively renewed on March 18, 2016

Department: Public Utilities

Department Contact and Phone No.: James Wunderle, (813) 612-7746

Payments in accordance with the Contract Documents, Page: 54.

Pricing based on variety of category discounts from the most current manufacturer's published price list. Appropriate discounts are listed on the awarded bid summary.

This contract purchase agreement is issued based upon a dollar amount and any work or deliveries must not exceed that amount. Invoices must be submitted only for actual work performed and orders delivered and must be consistent with the agreed upon prices, terms, and specifications.

HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS
Standard Purchase Order Terms and Conditions

The vendor, in accepting this purchase order, agrees to and shall be bound by all of the following terms and conditions:

1. The content and conditions of this purchase order may not be verbally modified. Any changes must be in writing and approved by the Director of Procurement. If these conditions are not acceptable, please notify the contact listed on the order before shipping the items or delivering services. If prices are higher than specified, do not ship without prior written approval from the Director of Procurement.

2. All invoices, packing lists and packages must include the order number printed on the upper right corner of the purchase order. The vendor must provide a proper invoice by which payment will be processed. In accordance with 218.76(1), Florida Statutes, if an invoice is subsequently determined to be improper, it shall be returned to the vendor. Proper invoices must include:

- Original invoice.
- Vendor's name and address.
- Vendor's tax identification number.
- Vendor's "remit to" address.
- Invoice date.
- Invoice number.
- Invoice must be billed to "BOCC Hillsborough County Florida."
- Correct purchase order number.
- Description of goods/services purchases, to include quantity and/or hours of work performed.
- Correct unit price (not to exceed four [4] decimal places), extended price, and total amount due.
- Shipping date.
- County department name and/or delivery contact named on the purchase order.
- Conformance to all other requirements specified in the corresponding contract/agreement.

3. All original invoices for goods and services must be emailed to countyfinanceinvoices@hillsclerk.com or mailed to: County Finance Department, Hillsborough County Clerk of the Circuit Court, P.O. Box 1110, Tampa, Florida 33601. Invoices for construction services may be mailed directly to the requesting department or assigned project manager for review and sign off.

4. Payments will be made upon receipt of a proper invoice in accordance with Florida's Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. The following payment options are available:

Method - ACH (Direct Deposit) *
Source - Electronic (Bank)
Fee - None
Remittance/Notice - Email (Invoice # & Amount)

Method - Check
Fee - None
Remittance/Notice - Stub (Invoice # & Amount)

Method - ePayables
Source - Electronic (Credit Card)
Fee - Merchant Services Fee **
Remittance/Notice - Email or Fax (Invoice # & Amount)

* Vendor's bank account information will remain confidential to the extent provided by law and necessary to make ACH payments via direct deposit. Please visit <http://hillsboroughcounty.org/documentcenter/home/view/286> for the ACH enrollment form.

** Merchant services fees are determined by the vendor's agreement with their Merchant Bank. Fees are generally up to 3%. Please visit <http://www.hillsboroughcounty.org/documentcenter/view/285> for the ePayables enrollment form.

5. Materials rejected by the County will be returned to the vendor at the vendor's risk and expense. The County shall not be liable or otherwise responsible for any re-stocking charges unless prior written approval has been provided by the Director of Procurement.
6. Cash discounts will be deducted as provided for on the face of this purchase order or in accordance with the terms of the vendor's quotation or bid.
7. Acceptance by the vendor of this order includes acceptance of all items, conditions, prices, delivery instructions and specifications as shown on the order or attached to or referred to, and which are made a part hereof by reference, as fully and to the same extent as if copied at length herein. In the event of a conflict or discrepancy between this purchase order and any referenced contract document, if one exists, the contract document shall govern. The vendor may not unilaterally modify the terms of this purchase order by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the vendor's order or fiscal forms or other documents forwarded by the vendor for payment. The County's acceptance of product or processing of documentation on forms furnished by the vendor for approval or payment shall not constitute acceptance of the proposed modification to the terms and conditions of this purchase order.
8. If this purchase order is a call or release order against a Blanket Purchase Agreement (BPA) or Contract Purchase Agreement (CPA), all terms and conditions of the subject purchase agreement and this purchase order shall apply to the order. The purchase order number, not the purchase agreement number, must be on the invoice.
9. All shipments by the vendor must be F.O.B Destination, unless otherwise authorized in writing by the Director of Procurement. Any F.O.B. Shipping Point freight charges shall be prepaid and added to the invoice and with a copy of the freight bill attached. The County will not accept collect shipments. All stated delivery times are of the essence.
10. In accordance with law, the County reserves the right to cancel all or part of this purchase order prior to acceptance of the goods or services.
11. Vendors are expected to satisfy all purchase orders in one shipment unless otherwise stipulated in the subject solicitation, award, or authorized by the Director of Procurement in writing. Excessive and unauthorized partial shipments may result in vendor debarment or prohibition from doing business with the County.
12. Vendors are not authorized to deliver any goods or services which are not covered by this purchase order. The County accepts no responsibility and is not obligated to render payment for purchases that are not covered by a duly-issued purchase order or specifically authorized by the Director of Procurement or County Administrator. Vendors violating this condition may be subject to debarment or prohibition from doing business with the County in accordance with the County's Procurement Policies and such vendors may forfeit their right to compensation for such deliveries.
13. INDEMNIFICATION (PATENT OR COPYRIGHT): The vendor shall indemnify and hold harmless, and defend the County and the Board of County Commissioners, their agents and employees, and anyone directly or indirectly employed by either of them, from and against all liabilities, damages, claims, demands or actions at law or in equity, including court costs and attorney's fees that may hereafter at any time be made or be brought by anyone arising out of any infringement of patent rights or copyrights held by others or for the disclosure or improper utilization of any trade secrets by vendor during or after completion of the Work. These obligations shall survive acceptance of any goods and/or services and payment therefore by the County.
14. INDEMNIFICATION (GENERAL LIABILITY): The vendor shall indemnify, hold harmless, and defend the County and the Board of County Commissioners, their agents and employees, and anyone directly or indirectly employed by either of them, from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees, that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any action of fraud or defalcation by the vendor, or anyone performing any act required of vendor in connection with performance of the Contract awarded pursuant to this order. These obligations shall survive acceptance of any goods and/or services and payment therefore by the County.
15. INDEMNIFICATION (GENERAL LIABILITY-GOVERNMENTAL AGENCY-VENDORS ONLY): The County and governmental agency-vendor shall each be liable to the extent permitted by 768.28, Florida Statutes, for the negligent acts, or omissions of their respective officers, employees and agents. Nothing in the foregoing shall be construed as a waiver of

sovereign immunity or as consent to be sued by either the County or the governmental agency-vendor.

16. Any dispute or contractual right regarding this purchase order shall be governed by Florida Law. In the event of a lawsuit by the vendor the venue of such lawsuit shall be in Hillsborough County, Florida and the vendor waives whatever rights it has in the selection of venue.

17. The vendor shall have in its possession any applicable permits, licenses, etc. that may be required by Federal, State, County, or local law to furnish products or services under the scope of this purchase order. The vendor shall be in compliance with all zoning and other ordinances in the performance of the awarded contract.

18. **EQUAL EMPLOYMENT OPPORTUNITY; NON-DISCRIMINATION:** The vendor shall comply with Hillsborough County, Florida - Code of Ordinances and Laws, Part A, Chapter 30, Article II (Hillsborough County Human Rights Ordinance) as amended, which prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, in employment, public accommodations, real estate transactions and practices, County contracting and procurement activities, and credit extension practices. The vendor shall also comply with the requirements of all applicable federal, state and local laws, rules, regulations, ordinances and executive orders prohibiting and/or relating to discrimination, as amended and supplemented. All of the aforementioned laws, rules, regulations, ordinances and executive orders are incorporated herein by reference. Furthermore, Hillsborough County hereby notifies all vendors that Minority Business Enterprises (MBE), Disadvantaged Minority Business Enterprises (DMBE), and Disadvantaged Women Business Enterprises (DWBE) will be afforded a full opportunity to participate in any award made by Hillsborough County and will not be subjected to discrimination on the basis of race, color, sex or national origin.

19. The vendor shall keep adequate records and supporting documentation applicable to this contractual matter. Said records and documentation will be retained by the vendor for a minimum of six (6) years from the date of termination of this contract. The County and its authorized agents shall have the right to audit, inspect and copy all such records and documentation as often as the County deems necessary during the period of this contract and during the period of six (6) years thereafter. This six (6) year time period will be extended until audit findings are issued if an audit is initiated during the six (6) year period. Such activity shall be conducted only during normal business hours. The County, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the vendor as concerns the aforesaid records and documentation.

20. **TAXES:** Counties are exempt from Federal Taxes on transportation charges and any Federal Excise Tax (No. 59-6000661). If you are to prepay charges, do not pay tax as County will not reimburse you for taxes paid. The County's Consumers Certificate of Exemption Number is #85-8012622015C-2, effective 11/30/14.

21. Questions concerning delivery of this order should be directed to the department contact shown on the order. For other questions regarding this order, please contact the Procurement Services Department at P.O. Box 1110, 601 E. Kennedy Blvd., 25th Floor, Tampa, FL 33601, procurementservices@hillsboroughcounty.org, or (813) 272-5790. Please visit www.hillsboroughcounty.org/procurementmanual to view or download the County's Procurement Policy and Procedures Manual.

22. **RISK OF LOSS:** Until acceptance, risk of loss or damage shall remain with the vendor. The vendor shall be responsible for filing, processing, and collecting all damage claims. When the County rejects a product, the vendor shall remove it from the premises within ten (10) days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the vendor. Rejected product not removed by the vendor within ten (10) days shall be deemed abandoned by the vendor, and the County shall have the right to dispose of it as its own property. The vendor shall reimburse the County for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

23. **WARRANTY:** The vendor shall provide to the County a one (1) year written warranty: (a) against poor workmanship, for all services rendered by the vendor, (b) for all products, materials or equipment provided by the vendor in the course of providing service to the County, and (c) for all commodities sold to the County. The warranty period shall begin on the date of final completion and/or acceptance by the County.

24. **FISCAL NON-FUNDING CLAUSE:** This purchase order is subject to funding availability. In the event sufficient budget funds to fund this purchase order become reduced or unavailable, the County shall notify the vendor of such occurrence, and the County may terminate this purchase order, without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the vendor. The County shall be the final authority as to the availability of funds and

how available funds will be allotted. If this purchase order is funded in whole or in part by federal or state dollars which are reduced or become unavailable, the County shall notify the vendor of such occurrence and the County may terminate this purchase order, without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the vendor.

25. ACCESS TO RECORDS: If applicable, vendor shall comply with the requirements of Chapter 119, Florida Statutes, with respect to any documents, papers, and records made or received by vendor in connection with this purchase order.

26. REIMBURSEMENT OF TRAVEL EXPENSES: Travel expenses, if applicable, shall be paid pursuant to the provision of 112.061, Florida Statutes.

Hillsborough County Standard Purchase Order Terms and Conditions - Revised 07/15/2015



CITY OF PORT ORANGE PIGGYBACK AGREEMENT

This Piggyback Agreement is entered to this 28 day of October, 2014, by and between the **CITY OF PORT ORANGE**, a Florida municipal whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **FERGUSON ENTERPRISES, INC.** ("Contractor"), a Virginia corporation whose principal address is 12500 Jefferson Avenue, Newport News, Virginia 23602 (collectively "the Parties").

WHEREAS, on the 19th day of March, 2014, Ferguson Enterprises, Inc. entered into a Contract with Hillsborough County, pursuant to Bid No. ITB-P-0035-0-2014/CH (the "Hillsborough County Agreement"); and

WHEREAS, the Hillsborough County Agreement provides for a term commencing on April 25, 2014 and continuing until April 30, 2016; and

WHEREAS, by entering into this Piggyback Agreement, Contractor agrees to honor the terms of the Hillsborough County Agreement for the purchase of materials and parts and supplies required to operate on a daily basis, such as brass fittings for meter installations; meter boxes to set meters; pipe and repair clamps for water main breaks; manhole rings and covers; and sewer repair parts by the City of Port Orange as set forth in the attached Exhibit "1"; and

WHEREAS, the Hillsborough County Agreement is available in the Office of the City Clerk, City Hall, 1000 City Center, Port Orange, Florida 32129; and

WHEREAS, the Port Orange City Council has determined that the execution of this Contract is beneficial to the citizens of the City of Port Orange.

For good and valuable consideration, conditions and promises, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Premises. The foregoing Premises are true and correct and are incorporated herein by reference.
2. Initial Term. Notwithstanding the date of execution by the City and Contractor, the initial term of this Contract shall be effective commencing on October 28, 2014 and continuing until April 30, 2016.
3. Contractor Obligation. Contractor agrees to sell materials, parts and supplies required to operate on a daily basis, such as brass fittings for meter installations; meter boxes to set meters; pipe and repair clamps for water main breaks; manhole rings and covers; and sewer repair parts to the City at the unit prices set forth in the Hillsborough County Agreement, and the attached Exhibit "2", except as otherwise modified herein. Contractor agrees that all pricing shall remain valid for the duration of this Agreement. Contractor shall not deliver goods or services without a written purchase order, signed by an authorized agent of the City of Port Orange. Contractor shall cause goods to be delivered to the City in the most expedient, cost effective manner. All items shall be shipped to the City of Port Orange designated facility identified in each purchase order, FOB Inside Delivery. Contractor shall bear the risk of loss for goods delivered under this Contract from the time of shipping to the City until delivered at the destination specified by the City for delivery.
4. Authorization for Services. This Contract standing alone does not authorize the performance of any work or services to be provided by the Contractor or require the City to place any orders for materials, parts, or

supplies. Authorization for performance of services by the Contractor under this Contract shall be in the form of written purchase order(s) issued and executed by the City.

The City makes no covenant or promise as to the number of available projects, nor that Contractor will perform any work or services for the City during the life of this Contract. The City reserves the right to contract with other parties for the services contemplated by this Contract, as determined in the City's sole and absolute discretion.

5. City Obligations. The City agrees to compensate Contractor at the unit prices set forth in the Hillsborough County Agreement pursuant to periodic Task Authorizations and Purchase Orders issued by the City under this Contract in an amount subject to a limit up to but not to exceed \$500,000.00 during the term of this Contract. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

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 20 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.

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

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

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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contractor work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Limits:</u> <u>Additional Coverage:</u>	Auto Liability Bodily Injury: \$100,000 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

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

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

15. Modifications or Changes to this Contract

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

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

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

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

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

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

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

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

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

20. Inspection

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

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect

and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

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

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

22. 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.

23. 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.

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

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 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 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

(a) As may have been outlined in Exhibit "1," Exhibit "2," 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.

(b) For the purposes of this Contract, any reference in the Hillsborough County Agreement to "County" shall be construed to mean the "City of Port Orange."

(c) In the event of a conflict between the Hillsborough County Agreement and this Contract, this Contract with the City of Port Orange 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: Public Utilities Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5750
Contractor:	Ferguson Enterprises, Inc. Attention: Justin Montandon 12500 Jefferson Avenue Newport News, Virginia 23602 (407) 859-7473

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 this page intentionally left blank]

Witnesses:

FERGUSON ENTERPRISES, INC.

Susan Braithwaite
Printed Name: Susan Braithwaite

By: Justin Montandon
Printed Name: Justin Montandon
Title: Municipal Sales

Shawn Tucker
Printed Name: Shawn Tucker

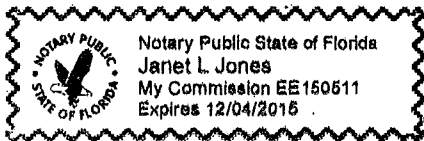
Date: 10/23/2014

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 23rd day of Oct, 2014 by Justin Montandon, as Municipal Sales of Ferguson Enterprises, Inc., a Virginia corporation, and who:

[Notary: Please select one]

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



Janet L. Jones
Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Barbara J. Abbate
Printed Name: Barbara J. Abbate

By: Allen Green
Allen Green, Mayor

Theresa Gutierrez
Printed Name: Theresa Gutierrez

Date: 10/28/14

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 28 day of Oct, 2014, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

Witnesses:

ATTEST:

Barbara J. Abbate
Printed Name: Barbara J. Abbate

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

Theresa Gutierrez
Printed Name: Theresa Gutierrez

Date: 10/28/14

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 28 day of Oct, 2014, 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.



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

[CA ____]

**SECRETARIAL CERTIFICATE
OF
AUTHORIZATION**

The undersigned Assistant Secretary of Ferguson Enterprises, Inc., a Virginia corporation (the "Corporation"), hereby certifies that: i) certain of the Corporation's facilities in Florida are doing business as Ferguson Waterworks, and ii) Justin Montandon is in Outside Sales in Florida and iii) that the resolutions adopted by the Corporation's Board of Directors effective July 31, 2013, duly authorize certain of the Corporation's officers, including the Assistant Secretary, to designate, and I hereby do so designate Justin Montandon as an authorized representative of the Corporation to act for and on behalf of the Corporation to prepare and submit bids and proposals to the Corporation's customers, to enter into contracts, agreements or other documents, and to execute such documents and undertake all such acts as may be deemed in the best interest of the Corporation, including the execution of bonds and in doing so, to contractually bind the Corporation. Unless withdrawn sooner, this certification of authorization shall be effective until July 31, 2015.

Dated: June 3, 2014



FERGUSON ENTERPRISES, INC.

By: 
David N. Meeker, Assistant Secretary

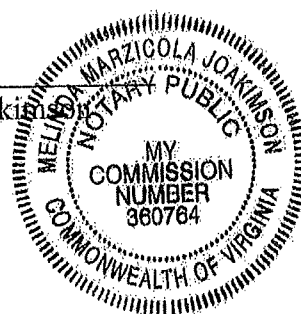
Commonwealth of Virginia)

City of Newport News)

Sworn to subscribed and acknowledged before me this 3rd day of June, 2014, by David N. Meeker, personally known to me, in his capacity as Assistant Secretary of Ferguson Enterprises, Inc., a Virginia corporation, on behalf of such corporation.


Notary – Melinda Marzicola Joakims

My commission expires: August 31, 2017



**SECRETARIAL CERTIFICATE
OF
AUTHORIZATION**

The undersigned Assistant Secretary of Ferguson Enterprises, Inc., a Virginia corporation (the "Corporation"), hereby certifies that: i) certain of the Corporation's facilities in Florida are doing business as Ferguson Waterworks, and ii) Justin Montandon is in Outside Sales in Florida and iii) that the resolutions adopted by the Corporation's Board of Directors effective July 31, 2014, duly authorize certain of the Corporation's officers, including the Assistant Secretary, to designate, and I hereby do so designate Justin Montandon as an authorized representative of the Corporation to act for and on behalf of the Corporation to prepare and submit bids and proposals to the Corporation's customers, to enter into contracts, agreements or other documents, and to execute such documents and undertake all such acts as may be deemed in the best interest of the Corporation, including the execution of bonds and in doing so, to contractually bind the Corporation. Unless withdrawn sooner, this certification of authorization shall be effective until July 31, 2016.

Dated: May 13, 2015



FERGUSON ENTERPRISES, INC.

By: _____

David N. Meeker, Assistant Secretary

Commonwealth of Virginia)
)
City of Newport News)

Sworn to subscribed and acknowledged before me this 13th day of May, 2015, by David N. Meeker, personally known to me, in his capacity as Assistant Secretary of Ferguson Enterprises, Inc., a Virginia corporation, on behalf of such corporation.

Notary – Melinda Marzicola Joakimson

My commission expires: August 31, 2017





CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Award RFP #16-13 Internet and Voice-Over-IP Telephony Access to Bright House Networks Enterprise Solutions, Inc.

DEPARTMENT: Administrative Services

GOAL: 4 - Fiscal Sustainability

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve RFP award #16-13 for Internet and Voice-over-IP Telephony Services, in an amount not to exceed \$77,088 per year for a term of three (3) years to Bright House Networks Enterprise Solutions, Inc., and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: RFP #16-13 Internet and Voice-over-IP Telephony Services was publicly advertised on 02/04/2016. Two (2) submittals were received (see bid tabulation attached) with Bright House Networks Enterprise Solutions, Inc., being deemed the most responsive proposal.

The City currently has a 40 megabit internet access connection provided via Level3 Communications in order to deliver all critical IT services throughout the entire organization. This internet access is severely saturated and regularly runs at 100% utilization, causing off-site data and cloud replication to fail. Bright House will deliver a 1000 megabit fiber optic connection directly to City Hall. This will allow the City to leverage more cloud based services to improve our disaster recovery preparedness, as well as significantly increase the speed of internet access to staff along with the bandwidth of our WiFi networks to citizens. Along with the main connection to City Hall, Bright House will also provide individual 100 megabit internet connections at facilities not accessible via the City's fiber optic ring including Fire Stations 72, 74, 75, and the Parks Maintenance Building. This is a significant increase from their current speed of 3 megabits. This upgrade will allow Fire Rescue and Parks personnel to access internet resources much more efficiently.

Along with internet access, Bright House will also provide a SIP circuit for Voice-over-IP telephony access. SIP is a modern means of providing dial tone for incoming and outgoing calls to and from the City. This is an improvement over the current telephony access provided by Level3 which utilizes T1 circuits, a legacy technology. One of the major advantages to SIP is the ability to quickly scale up the number of available incoming and outgoing phone lines in advance of a disaster.

In addition to the increased internet connection speeds and enhanced phone services, the City will also see a cost savings in the amount of approximately \$30,000 per year

over the current contract with Level3 Communications.

Information Technology will oversee contract administration and allocate funding for internet access and phone services. Individual departments are charged for long distance telephone usage.

Project No.: N/A Funding Account No.: 501-0700-519.41-00

ATTACHMENTS:

1.	Standard Contract for Services	Bright House Networks LLC Standard Contract for Service with City of Port Orange.pdf
2.	RFP 16-13 Internet and Voice-Over-IP Telephony Access	RFP 16-13 Internet and Voice -Over-IP Telephony Access Final.pdf
3.	RFP 16-13 Bid Tabulation	RFP 16-13 Tabulation Sheet.pdf
4.	Bright House Final Proposal	Bright House Networks Final Proposal.docx

James Hicks	Created/Initiated - 05/03/2016
Cindy DePina	Approved - 05/03/2016
Diana Fye	Approved - 05/03/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/11/2016
M. Jake Johansson	Final Approval - 05/11/2016



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2016, 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 **BRIGHT HOUSE NETWORKS, LLC**, a Delaware limited liability corporation registered to transact business in Florida, whose principal address is 5823 Widewaters Parkway, East Syracuse, New York 13057 ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

- (a) The Contractor hereby agrees to provide the City of Port Orange with all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, as more specifically described in City of Port Orange Request for Proposal Number 16-13 and Bright House Networks Enterprise Solutions Proposal dated April 14, 2016, attached hereto as Exhibit "1."

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

Term: The term of this Contract shall commence on the last date the Contract is signed by the Parties and shall continue until September 30, 2019 (the "Initial Term").

Renewals: This Contract may be renewed for an additional two (2) years at the discretion of the City.

Manner and Place: As outlined in Exhibit "1," 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. Contractor shall not deliver goods or services without a written Purchase Order(s), signed by an authorized agent of the City of Port Orange.

Time and Essence: Contractor acknowledges that time is of the essence for Purchase Order(s) issued hereunder.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be in the form of a written Purchase Order(s) 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 as set forth in Exhibit "1," subject to a limit up to but not to exceed Seventy-Seven Thousand Eighty-Eight and 00/100 Dollars (\$77,088.00) for each fiscal year, plus applicable state and federal fees and surcharges. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then-current fiscal year. All payments shall be

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

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

4. **Contract Administration.** The Information Technology Manager, James Hicks, shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

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 20 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.

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 119.10, 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 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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

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

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

12. 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.

13. 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.

14. *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.

15. *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.

16. *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.

17. *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.

18. *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.

19. 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.

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

21. 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.

22. 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.**

23. Additional Provisions. As may have been outlined in Request for Proposal Number 16-13, 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.

24. 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.

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

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

Copy to: City of Port Orange
Attention: James Hicks, Information Technology Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5545

Contractor: Bright House Networks, LLC
Attention: Lisa Bryant, Account Executive
65 South Keller Road
Orlando, Florida 32810
(386) 589-9663 – Mobile
Lisa.Bryant@mybrighthouse.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.

26. 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.

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

[Remainder of this page intentionally left blank]

Witnesses:

BRIGHT HOUSE NETWORKS, LLC

By: _____

Printed Name: _____

Paul Woelk, Bright House Networks Enterprise

Solutions Vice President and Business Operation

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

Printed Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Paul Woelk, as Bright House Networks Enterprise Solutions Vice President and Business Operations for Bright House Networks, LLC, a Delaware limited liability corporation registered to transact business in Florida, and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, 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.

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

[CA 5201]



Initial Budgetary Proposal:

Dedicated Fiber Internet Access, SIP, and High Speed Data

Prepared For: City of Port Orange

Prepared By: Lisa T. Bryant

Date: 4/14/2016

Solution Includes:

• <u>PORT ORANGE CITY HALL / 1000 City Center Cir</u>		
○ 1000Mbps Dedicated Internet Access	\$5,000	per month
▪ 128 IP Addresses	\$49	per month
○ 48 SIP Sessions	\$550	per month
▪ Includes: 500TNs, 5,000 Domestic LD Minutes		
○ 5,000 Domestic Long Distance Minute Plan	\$125	per month
• <u>PORT ORANGE FIRE STATION #72 / 6027 Central Park Blvd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE FIRE STATION #75 / 1701 Town West Blvd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE FIRE STATION #74 / 6701 Airport Rd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE PARKS MAINTENANCE FACILITY / 5839 Trailwood Dr</u>		
○ High Speed Data 100X10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE CYPRESS HEAD CELL TOWER / 6272 S. Williamson Blvd</u>		
○ High Speed Data 50x5	\$85	per month
○ (1) Static IP	\$15	per month
TOTAL PER MONTH		\$6,424 per month

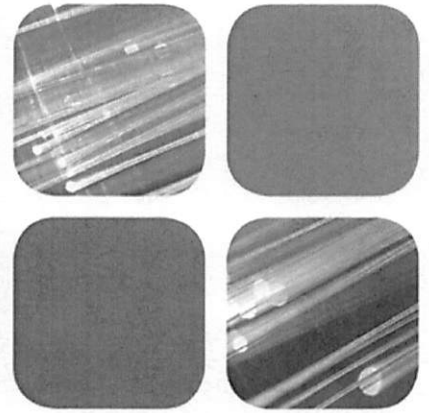
Considerations:

- 36 Month Term (with 2 year renewal option as specified in RFP No. 16-13).
- One-Time Installation Fee for Coax Based Services: \$300.
- Assumes 90-120 days for construction/installation – this is a standard timeline.
- Fiber is backed by a Service Level Guarantee of a 1 Hour Response Time and a 4 Hour Mean Time to Repair.

Note: Agreement is contingent on Bright Acceptance of Quoted Rates and Term against Internal Financial Feasibility Model.

Bright House Networks Enterprise Solutions

Voice | Data | Cloud | Managed Services



FINAL

Proposal for:



City of Port Orange

Lisa Bryant

Account Executive
Bright House Networks Enterprise Solutions
65 S Keller Rd
Orlando, Florida 32810
Cell: 386-479-4074
Lisa.Bryant@mybrighthouse.com

Proposal Date: 4/14/2016

BRIGHT HOUSE NETWORKS
enterprise solutions



WE'RE WIRED DIFFERENTLY.

EXHIBIT "1"



Central Florida Division

City of Port Orange,

Thank you for the opportunity to assist you with your business services needs. As the local leader of advanced communications and networking services, we think globally, but invest locally in the long-term success of our clients and our community. We've built our leading edge all fiber network from the ground up to provide the connectivity, security, and reliability today's organizations demand.

The strength of our network, combined with a comprehensive portfolio of products and services, allows us to design and deliver highly customized, scalable, and technologically advanced Enterprise Solutions. Most importantly, we don't force a one-size-fits-all product; we work closely with our clients to deliver an integrated solution that meets your organization's specific needs.

All of our innovative solutions are delivered over our privately owned and operated all fiber network and backed by a world-class team of dedicated account representatives, management, engineers, and technicians who are locally based to provide full-time support 24/7/365. The result is superior performance you can always rely on.

Please take a few moments to review this product overview and proposal, and let me know if you have any questions. I'm looking forward to working with you and your business.

Sincerely,

Lisa Bryant
Enterprise Account Executive



Overview

Bright House Networks Enterprise Solutions is a trusted provider of advanced communications and networking services with an extensive, privately owned, all fiber network in the markets we serve. A leading provider in Florida, we also have footprints in Bakersfield, CA; Birmingham, AL; Indianapolis, IN, and Detroit, MI. Our comprehensive product portfolio of Voice, Data, Cloud, and Managed Services combines the strength of our reliable all fiber network and the versatility of our multi-faceted, cloud-based features and services. Our industry-leading products and locally based, dedicated team of management, engineers, and technicians can support the needs of medium businesses to large scale, multi-site organizations.

We believe that in order to truly deliver advanced networking solutions that are reliable, customized, and innovative, we need a strong personal relationship with every business we serve. We don't force a one-size-fits-all, cookie-cutter product that fails to take the client's needs into account. Instead, we listen to our client's requirements and deliver a customized solution that's developed, designed, and supported by a world-class technology team. We learn our client's business to fully understand their needs and goals, and we work closely with them to exceed those goals.

Our success is based on a premise: to think differently about our clients.

- We view them differently. We know our clients. They have a face and a name. We see them as true partners, not line items.
- We deliver solutions differently. We innovate from a client-centric point of view, not a company-defined product line-up. Our products and services are delivered with real-time guaranteed service levels (SLAs).
- We build client relationships differently. We base them on strong local connections and superior customer service, including a local account team and executive management support that eliminates bureaucracy and accelerates problem solving.
- We're focused differently. We own and operate our network end-to-end to invest in the long-term success of each client, and our community, with superior network performance they can always count on.

Simply put – We're Wired Differently.



Hosted Voice

Hosted Voice from Bright House Networks Enterprise Solutions is a fully managed cloud-based solution that offers advanced unified communications customized to fit your organization's specific needs. It's a fully scalable solution that improves productivity and provides a flexible, cost-effective pay-as-you-go feature to fit any budget. Hosted Voice provides seamless connection to the office from anywhere, maximizing the productivity of your mobile and remote employees.

Hosted Voice is reliable and responsive. Our fully redundant facilities-based IP core infrastructure ensures availability and quality of service. Features such as voice mail and automated attendant are located in the cloud, which means there is no loss of service due to inclement weather or local loss of power, ensuring business continuity. As technology advances, features are seamlessly integrated in the Enterprise Solutions cloud and automatically upgraded, eliminating costly and difficult upgrades that organizations face when managing a premise-based voice platform.

Hosted Call Center

Hosted Call Center is a cloud-based call center solution to fit multiple needs and functions ranging from an informal to highly complex call center environment. It supports call center functions to intelligently route calls with cloud-based inbound call center features such as customizable Call Center Agent Feature Packs, advanced call control, supervisor monitoring features, robust call center reporting, and real-time tracking.

Whether you have a simple, informal call center environment or operate a complex high-volume call center, Enterprise Solutions will scale the solution to your organization's needs. From automatically routing calls anywhere with a simple call distribution and queuing scenario to advanced routing and call management options, our fully managed solution includes all the equipment, software, and service, without burdensome startup costs.

Enterprise Trunking

Enterprise Trunking from Bright House Networks Enterprise Solutions is a smart choice for an organization with a substantial investment in an existing private branch exchange (PBX) or key system. Enterprise Trunking is a cost-effective way to upgrade and expand your premise-based voice system using dedicated fiber-based connectivity.

Enterprise Trunking seamlessly integrates your organization's data, local, and long distance calling over a dedicated and secure all fiber connection. It can be customized to the specifications of your organization to ensure interoperability with any premise-based phone system, and can be scaled up quickly as your company's needs expand.



Dedicated Internet Access

Bright House Networks Enterprise Solutions provides reliable Dedicated Internet Access that can support large bandwidth requirements by providing a dedicated all fiber connection between your company and the Internet. Our solutions are scalable, so it's simple to adjust bandwidth as your company expands and requirements change.

Dedicated Internet Access easily integrates with our portfolio of enterprise products and services to provide your organization with a cost-effective, seamless solution utilizing the latest in advanced technologies. We provide exceptional connectivity with our fully redundant facilities-based IP core infrastructure to support the complex operations of large organizations.

Metro Ethernet

Metro Ethernet is a private and secure Wide Area Network (WAN) solution that connects across multiple sites. Bright House Networks Enterprise Solutions delivers Metro Ethernet services that provide flexible, seamless point-to-point and multipoint-to-multipoint connectivity that can be customized to cost-effectively meet your organization's growing bandwidth demands. Delivering wide area connectivity with symmetrical upload and download speeds up to 10 Gbps, Metro Ethernet allows your organization to securely extend its reach and connect multiple locations via dedicated all fiber access.

Our all fiber Metro Ethernet services can be easily deployed in multiple configurations based on your organization's specific requirements. We optimize existing resources by working in conjunction with your current LAN infrastructure and IT staff to support and connect all your locations to streamline operations and enhance employee productivity. Metro area connectivity needs differ from organization to organization, so we don't force a one-size-fits-all service. We'll customize a Metro Ethernet solution to fit your exact specifications, now and for the future.

Unified Communications

Unified Communications (UC) from Bright House Networks Enterprise Solutions allows organizations to take full advantage of today's borderless work environment, both within the office and outside of it, by increasing productivity, improving reachability, and enhancing efficiency.

UC works with our Hosted Voice solution adding significant enhancements including instant messaging and presence, desktop sharing, video calling, and web collaboration. Cloud-powered and fully managed, it provides a seamless communications experience across fixed and mobile platforms – your desk phone, desktop, Apple and Android devices, or laptop.



Managed Security

Managed Security from Bright House Networks Enterprise Solutions provides a comprehensive selection of Managed Internet Security and Managed Email Security services to protect your network, applications, and email from the growing threat of security breaches and attacks with leading edge firewall protection and advanced network defense systems to inbound and outbound email.

Enterprise Solutions will design and proactively manage a customized solution to help you keep pace with emerging security threats. We partner with industry leader Cisco for customized email security solutions and enterprise class firewall and router equipment that scale to meet your needs.

Managed Network

Eliminate costly and unexpected capital expenses by converting to an affordable monthly operating expense with our Managed Network services. Managed Wide Area Network (WAN) and Managed Local Area Network (LAN) from Bright House Networks Enterprise Solutions can help your organization stay competitive and improve profitability. We provide new Cisco equipment with ongoing warranty support, software patch updates, maintenance, repair, and replacement, saving your organization the cost of network upkeep.

Equipment monitoring is performed 24/7/365, maximizing your company's network availability, performance, and efficiency. Our upfront network design and installation ensures the best technology solution for your organization's network needs.

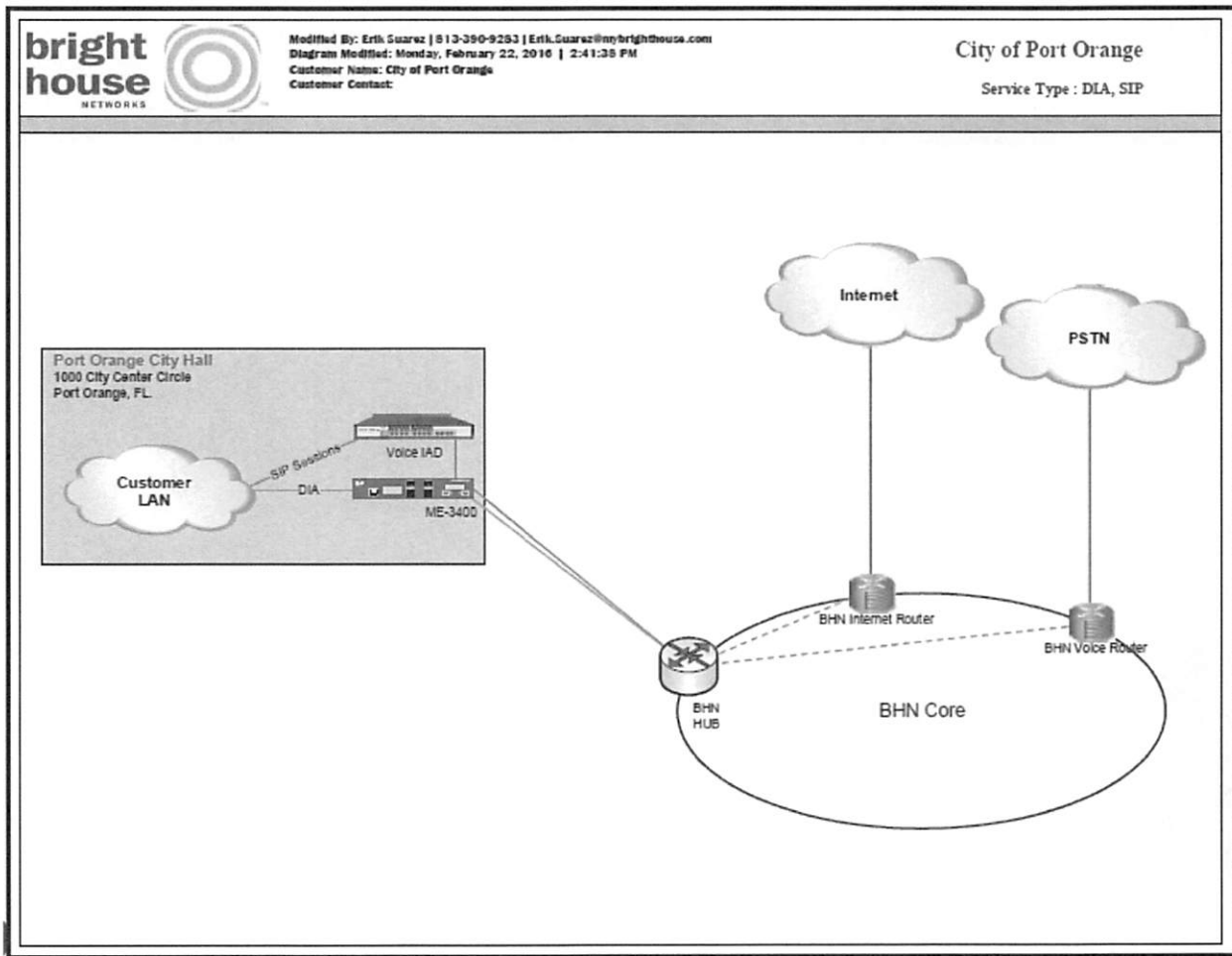
Managed WiFi

Keep your workforce, customers, and business partners connected 24/7/365 with Managed WiFi from Bright House Networks Enterprise Solutions. Managed WiFi includes the installation, implementation, and ongoing management of your organization's own private and secure WiFi network. It's designed to align with your specific security requirements and includes the installation of multiple WiFi access points to ensure superior and reliable signal quality.

Managed WiFi will support your growing access needs, while providing consistent, secure wireless connectivity. Our solutions are backed by strong service level guarantees over our privately owned all fiber network. Our core fiber backbone is supported by 24/7/365 monitoring.



Network Diagram:



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SECTION 00090

SCOPE OF SERVICES AND REQUIREMENTS

RFP FOR INTERNET ACCESS AND TELEPHONY SERVICE

INTRODUCTION & BACKGROUND

The City of Port Orange is requesting proposals from qualified service providers for enterprise grade internet access and telephony service. The intent of this RFP is to enter into a contract or contracts for Internet Access and Telephony Service for a three (3) year term with an option to renew for an additional two (2) years beginning September 1st, 2016.

The City of Port Orange is currently connected to the internet via Level3 Communications at the synchronous rated bandwidth of 40Mbps with a Class C IP address range of 66.193.239.1 through 66.193.239.254.

Telephony service is currently provided by the means of two (2) primary rate interfaces delivering up to 46 concurrent calls with a block of 500 direct inward dials in the 386-506-5500 through 386-506-5999 range. The City of Port Orange is aiming to eliminate the usage of primary rate interfaces in favor of the more modern session initiation protocol, with the possibility of a primary rate interface as a failover mechanism.

SPECIFICATIONS

Qualified service providers will be required to provide all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, Port Orange, FL.

INTERNET ACCESS

- Minimum synchronous bandwidth of 200Mbps, scalable up to 1Gbps using existing leased circuits/networks or using circuits/networks bundled as part of the solution.
- Minimum of 128 contiguous (256 preferred) static IP addresses reserved exclusively for the use of the City of Port Orange.
- Internet Access delivered to point of presence (POP) at Port Orange City Hall.
- All equipment to include connections, routers, media converters, battery backups, etc.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 hours per day, 365 days per year.

TELEPHONY SERVICE

- Session Initiation Protocol (SIP) Trunk with minimum 50 concurrent calls, scalable up to 100 concurrent calls.
- Local number portability for continued use of current direct inward dial (DID) block of 386-506-5500 through 386-506-5999.
- Trunk shall provide local, long distance, and international calling with the option for bundled usage packages and/or pricing per minute.
- Trunk shall provide E911 calling with PS/ALI service.
- Trunk should be engineered for voice quality of service.

- Compatibility and interface with Cisco Unified Communications Manager call control platform.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 per day, 365 days per year.

TERM

The term of this contract shall be for three (3) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

CITY OF PORT ORANGE, FLORIDA

Internet and Voice -Over-IP Telephony Access RFP #16-13



Prepared by:

City of Port Orange Purchasing Division

January 2015

Release date: **February 4, 2016**

Non -Mandatory pre-proposal meeting: **February 18, 2016 at 10:30 a.m.**

Last day for questions: **February 25, 2016 at 5:00 p.m.**

Proposal due date and time: **March 10, 2016 at 2:30 p.m.**

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5718

dfye@port-orange.org

www.port-orange.org



SECTION 00020

Legal Notice to Proposers RFP #16-13 Internet and Voice -Over-IP Telephony Access

Notice is hereby given that the City of Port Orange is soliciting proposals for Internet and Voice -Over-IP Telephony Access. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until **2:30 P.M. on March 10, 2016** which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the proposer unopened. All proposals will be evaluated to ensure they contain all required forms in order to deem the proposer responsive or non-responsive. Proposals will be opened and read aloud at 2:30 P.M. in council chambers.

There will be a Non-Mandatory pre-proposal meeting for the project at **10:30 A.M.** (local time) on **February 18, 2016** at City Hall, Council Chambers (1st floor) 1000 City Center Circle, Port Orange, Florida 32129. Although the Pre-Bid meeting is not mandatory, it will offer potential bidders the opportunity to ask questions and discuss the project/specifications directly with staff.

DESCRIPTION: Internet and Voice -Over-IP Telephony Access

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

Copies of the proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from Onvia (DemandStar) via their website at www.demandstar.com or from Diana M. Fye, CPPB, FCPA, Purchasing Manager, 1000 City Center Circle, Port Orange, Florida 32129 via email dfye@port-orange.org. All questions shall be directed **in writing** to the Purchasing Manager, Diana M. Fye, CPPB, FCPA, dfye@port-orange.org and reference "Questions on RFP #16-13 Internet and Voice -Over-IP Telephony Access" in the subject line. Last day for questions will be **February 25, 2016**.

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

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

Proposals shall be **submitted in the City Clerk's office** with one (1) original, five (5) copies and one (1) digital (CD or flash drive) version, addressed to Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129 in a **SEALED ENVELOPE** plainly marked on the outside: **"RFP #16-13 Internet and Voice -Over-IP Telephony Access"**.

Diana M. Fye, CPPB, FCPA, Purchasing Manager
Legal Ad - One Time – **February 4, 2016**

SECTION 00025

**TABLE OF CONTENTS
CITY OF PORT ORANGE
RFP #16-13 Internet and Voice -Over-IP Telephony Access**

<u>Section</u>	<u>Title</u>
00020	Invitation to Proposal - Legal Advertisement
00025	Table of Contents
00030	Proposer Acknowledgment Form
00040	Proposer's Checklist
00050	Proposer's Submittal Checklist
00060	Standard Purchase Definitions
00070	General Requirements for RFP's
00080	Additional Information
00090	Scope of Services & Requirements for RFP
00100	Local Business Affidavit
00110	Sworn Statement on Public Entity Crimes
00120	Anti-Collusion Statement
00130	Drug Free Preference Statement
00140	Standard City of Port Orange Contract Documents

SECTION 00030



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5718
Fax (386) 506-5711

RFP #16-13

PROPOSER ACKNOWLEDGEMENT FORM

THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL

RFP TITLE: Internet and Voice -Over-IP Telephony Access

RFP RELEASE DATE: February 4, 2016

NON MANDATORY PRE-BID MEETING DATE & TIME: February 18, 2016 at 10:30 a.m. City Hall Chambers

RFP DEADLINE FOR QUESTIONS: February 25, 2016 at 5:00 p.m.

RFP DUE DATE & TIME: March 10, 2016 at 2:30 p.m. City Hall, City Clerk's Office

Proposals Received After the Above Date and Time Will Not Be Considered.

If returning as a "No Submission," please state reason (s): _____

PROPOSER'S COMPANY NAME: _____

PROPOSER'S COMPANY MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

PHONE NUMBER: _____ EMAIL: _____

ACKNOWLEDGMENT OF ADDENDA: (You must circle the correct # of addenda issued) 0 1 2 3 4 5

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, or equipment, and is in all respects fair and made without collusion or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this proposal for the proposer. In submitting a proposal to the City of Port Orange, the proposer offers and agrees that if the proposal is accepted, the proposer will convey, assign or transfer to the City of Port Orange all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Antitrust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the proposer.

X _____
AUTHORIZED SIGNATURE (MANUAL)

NAME (TYPED)

TITLE

DATED

SECTION 00040



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5718
Fax (386) 506-5711

PROPOSER'S CHECKLIST

The 10 Most Critical Things to Keep in Mind When Responding to an RFP for the City of Port Orange

1. _____ **Read the entire document.** Note critical items such as: mandatory requirements; supplies and/or services required; submittal dates; number of copies required for submittal; funding amount and source; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. _____ **Note the Purchasing Manager's name, address, phone numbers and e-mail address.** This is the only person (or their designee) you are allowed to communicate with regarding the Proposal and is an excellent source of information for any questions you may have.
3. _____ **Attend the pre-proposal conference** if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the City of any ambiguities, inconsistencies, or errors in the proposal.
4. _____ **Take advantage of the "question and answer" period.** Submit your questions to the Purchasing Manager by the due date listed in the RFP and view the answers given in the formal "addenda" issued for the RFP. All addenda issued for a proposal are posted on www.demandstar.com website and will include all questions asked and answered concerning the RFP. It is the proposer's responsibility to be sure all addenda were received.
5. _____ **Follow the format required in the RFP** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. _____ **Provide complete answers/descriptions.** Read and answer all questions and requirements. Don't assume the City or evaluator/evaluation ranking committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the City. The proposals are evaluated based solely on the information and materials provided in your response.
7. _____ **Use the forms provided**, i.e., cover page, proposer acknowledgment form, exhibits, etc.
8. _____ **Check the website for RFP addenda's.** Before submitting your response, check the DemandStar website at www.demandstar.com to determine whether any addenda were issued for the RFP. If so, you must circle for each addenda issued on the "Proposer acknowledgement form".
9. _____ **Review and read the RFP document again.** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete.
10. _____ **Submit your response on time.** Note all the dates and times listed in the proposal and within the document, and be sure to submit all required items on time. Late proposal responses are never accepted.

SECTION 00050

PROPOSER'S SUBMITTAL CHECKLIST



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5718
Fax (386) 506-5711

This checklist is for the Proposer's use in preparing their proposal. It is not intended to include all details necessary to prepare a proposal and it is not intended as a substitute for the requirements of the Specifications. Use of this checklist does not relieve the proposer from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable proposal.

Proposer's Submittal Checklist:

Envelope: (1) original, (5) copies and (1) digital (CD or flash drive) version of the proposal (tabbed, indexed and in the following order)

- ☐ 1. Table of Contents (Section 00025)
- ☐ 2. Proposer Acknowledgement Form (Section 00030)
- ☐ 3. Letter of Interest (Section 00090)
- ☐ 4. Proposer's Checklist (Section 00040)
- ☐ 5. Listing of Previous Experience (Section 00090)
- ☐ 6. Staff Qualifications (Section 00090)
- ☐ 7. Methodology and Implementation Process (Section 00090)
- ☐ 8. Public Entity Crime Statement: (Section 00110)
- ☐ 9. Anti-Collusion Statement (Section 00120)
- ☐ 10. Drug Free/Tie Preference Statement (Section 00130)
- ☐ 11. Insurance Certificates – Submit a Copy (Section 00080)
- ☐ 12. Fee Proposal. (Section 00090)
- ☐ 13. Local Business Affidavit – (Section 00100, Optional)
- ☐ 14. Exceptions, if applicable

SECTION 00060

CITY OF PORT ORANGE PURCHASING DIVISION

STANDARD PURCHASE DEFINITIONS

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

1. Addendum means a written instrument issued by the Contract Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.
2. Alternate Bid means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.
3. Appropriate, Appropriated, or Appropriation means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
4. Bid is a complete, properly signed response to an invitation for bid, which if accepted, would bind the Bidder to perform the resultant Contract.
5. Bidder or Proposer is a person, firm, or entity that submits a Bid in response to a Solicitation. Any Bidder/Proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
6. Bid Guaranty guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
7. Bids are responses to an Invitation for Bids.
8. City means the City of Port Orange.
9. Construction means the construction, repair, rehabilitation, alteration, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
10. Contractor means the person, firm or entity selling goods or services to the City under a Contract.
11. Deliverables means the goods, products, materials, and/or services to be provided to the City by a Bidder.
12. Due Date means the date and time specified for receipt of Bids.
13. Goods are supplies, materials, or equipment.
14. Invitation for Bid (IFB) or Bid means a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
15. Lowest Responsible Bid means the Bid meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the

Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.

16. Lowest Responsible Bidder means the Bidder submitting Lowest Responsible Bid.
17. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
18. Offer means a complete signed response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation for Bid, a proposal submitted in response to a Request for Proposal, a quote submitted in response to a Request for Quotation, or a statement of qualifications and interest submitted in response to a Request for Qualifications.
19. Pre-Bid Conference means a conference conducted by the Purchasing Office, held in order to allow Bidders to ask questions about the proposed Contract and particularly the Contract specifications.
20. Professional Services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
21. Proposal is a complete, properly signed response to a Request for Proposal, which if accepted, would bind the Bidder to perform the resultant Contract.
22. Purchase Order is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
23. Request for Proposal (RFP) means a Solicitation requesting pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
24. Services include all work or labor performed for the City on an independent contractor basis other than construction.
25. Solicitation means, as applicable, an Invitation for Bid, Request for Proposal, Request for Qualifications or a Request for Quotation.
26. Subcontractor means a person, firm or entity providing goods or services to a Bidder to be used in the performance of the Bidder's obligations under the Contract.
27. Unbalanced Bid means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.

SECTION 00070

CITY OF PORT ORANGE PURCHASING DIVISION

GENERAL REQUIREMENTS FOR RFP

These instructions are standard for all contracts for commodities or services issued through the City of Port Orange Purchasing Division. General Requirements apply to all advertised bids; however, these may be superseded, in whole or in part, by the SPECIAL REQUIREMENTS/INSTRUCTIONS OR OTHER DATA CONTAINED HEREIN. READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

1. ACCEPTANCE BY CITY

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

2. ADDENDA

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

The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this Invitation for Bid/Request for Proposal or in any addendum to the BID/RFP. Where there appears to be a conflict between the BID/RFP and any addenda issued, the last addendum issued shall prevail.

3. ANTI-COLLUSION STATEMENT

By submitting this bid, the Bidder/Proposer affirms that this bid is without previous understanding, agreement, or connection with any person, business, or corporation submitting a bid for the same materials, supplies, or equipment, and that this bid is in all respects fair, and without collusion or fraud. Additionally, Bidder/Proposer agrees to abide by all conditions of this bid and certifies that they are authorized to sign this bid for the Bidder/Proposer. In submitting a bid to the City of Port Orange, the Bidder/Proposer offers and agrees that if the bid is accepted, the Bidder/Proposer shall convey, sell, assign or transfer to the City of Port Orange all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange.

At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Bidder/Proposer.

4. APPLICABLE LAWS

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

5. ASSIGNMENT

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

6. CONTRACT

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

7. BID FORM COMPLETION, SUBMISSION AND RECEIPT OF BIDS

Unless otherwise specified, Bidders/Proposers shall use the bid forms supplied by the Purchasing Division. Bids shall be typewritten or handwritten in ink and shall bear the original signature of the Bidder's/Proposer's authorized representative. Bids containing erasures or corrections must be initialed by the Bidder/Proposer in ink. Bids shall be submitted by mail or hand delivery only. No Bids will be accepted by facsimile transmission, e-mail or other electronic delivery. Bids submitted by mail shall be addressed to: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center, Port Orange, Florida 32129. Bids submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Bid submittals will be accepted until 2:30 p.m. on the date indicated in the bid documents or as addenda issued by the City. One (1) envelope shall be submitted. The envelope contains required forms/price and will be evaluated and deemed responsive or non-responsive. All bids deemed non-responsive will be returned to the Bidder/Proposer and will not be opened.

Bids (Envelope) shall contain one (1) original and five (5) copies and one (1) digital (Cd or flash drive) version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE. The envelope shall be plainly marked on the outside to include the bid project name, bid number and name of the bidder/proposer.

8. BID RETURNS

Bidder/Proposers shall return all completed bids to the City of Port Orange at the addresses set forth in paragraph 7 above on the date and at the time specified. Late bids will not be accepted and shall be returned to Bidder/Proposers unopened.

9. BID PROTEST

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

1. As soon as possible after receipt, the Purchasing Manager provides written bid protest to City Manager, City Attorney, and Department Head involved and Supervisor directly involved in acquisition.
2. Purchasing Manager schedules an informal meeting with an appeals committee consisting of the above mentioned individuals and protestor. The intent of the meeting is to provide a review and/or solution prior to going before Council. After reviewing all relevant information, the City Manager renders a decision.
3. If the protestor disagrees, he may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council issues their decision. For the most part, the City Council's decision is final. The protestor can appeal the decision by taking court action only on very narrow defined grounds. Decisions at all levels must be in writing to the protestor.

10. BID TABULATION

Bidders/Proposers who wish to receive a copy of the bid tabulation may obtain it via www.demandstar.com or by contacting the City of Port Orange, Purchasing Manager at dfye@port-orange.org.

11. BONDS

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

Purchasing Manager upon failure on the part of the Bidder/Proposer to enter into a contract within the time specified after the award of bid.

12. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders shall be made in writing by the City of Port Orange Purchasing Division.

13. CONDUCT OF PROPOSERS

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

14. CONFLICT OF INTEREST

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

15. CONFLICT OF INSTRUCTIONS

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

16. CONTRACT OBLIGATION

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

17. CONTRACT RENEWALS

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

18. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.)

19. COPYRIGHT AND PATENT RIGHTS

Bidder/Proposer warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this bid, and successful Bidder/Proposer

agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

20. COST INCURRED BY BIDDER/PROPOSER

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

21. DEFAULT PROVISIONS

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

22. DELIVERY OF GOODS/SERVICES

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

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

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

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

23. DETERMINATION OF LOWEST AND BEST BIDDER/PROPOSER

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

1. The ability, capacity and skill of the Bidder/Proposer to perform the contract
2. Whether the Bidder/Proposer can perform the contract within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder/Proposer.
4. The quality of performance of previous contracts.
5. The previous and existing compliance by the Bidder/Proposer with laws and ordinances relating to the contract.
6. The sufficiency of the financial resources and ability of the Bidder/Proposer to perform the contract or provide the service.
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the Bidder/Proposer to provide further maintenance and service for the use of the subject of the contract.

9. The number and scope of conditions attached to the bid.

10. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

24. DISCLOSURE OF CONFLICTS

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

25. DISQUALIFICATION OF BIDDER/PROPOSER

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

26. EVALUATION

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

27. EVALUATING RFP'S

The evaluation process is formally conducted by a committee appointed by the Purchasing Manager as required by general law. The evaluation is based upon specific criteria outlined in the IFB/RFP. The user department shall assign a weight to each of the evaluation criteria by its relative importance, with the total weights equaling 100. Each committee member establishes a summary of total scores for all the vendors. The summary of total scores is used to rank the vendors. Based upon the scores/ranking of the committee members, consensually a short list is obtained. In this IFB/RFP process this short list will consist of no less than three vendors (Unless less than three were received). This committee falls under the Florida Sunshine Law and therefore cannot speak with one another concerning the IFB/RFP unless in a public committee meeting. These meetings also shall be announced publicly in a designated area and meetings are recorded. In the case of the IFB/RFP, one member of the Selection Committee may consist of one (1) member from the City Council; and at least one member from the user department, except as otherwise required by general law. The Selection Committee schedules oral presentations from the three firms that were short-listed. At the oral presentation, the short listed firms present an over view of their company and their approach to the scope of work outlined. Upon conclusion of the oral presentations, with the same criteria and procedures, the committee members then evaluate those three firms again to determine a second ranking. Then, by consensus a final ranking is determined. That final ranking is then presented to the City Council by the using department head

requesting approval to negotiate with the individual/firm ranked as number one. A contract is completed pursuant to the negotiations with this individual and/or firm. If a successful contract cannot be obtained with the number one ranked firm, the negotiations then move to the team ranked as number two, never to return to the number one again.

28. EXCEPTIONS TO SPECIFICATIONS

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

29. FACILITIES

The City reserves the right to inspect the Bidder's/Proposer's facilities at any time.

30. FAILURE TO RESPOND

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

31. GOVERNING FORMS

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

32. GOVERNING LAW

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

The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services.

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

33. GRANT FUNDING

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

34. HIPAA COMPLIANCE

Bidder/Proposer agrees to comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, 45 CFR Parts 160-164, as amended, referred to as "HIPAA," to the extent that the

Bidder/Proposer uses, discloses or has access to protected health information as defined by HIPAA.

35. IDENTICAL TIE BIDS

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

36. INDEMNIFICATION/HOLD HARMLESS

Contractor covenants and agrees that it will indemnify and hold harmless the City and all of the City's officers, agents, and employees from any claim, loss, damage, costs, charge or expense arising out of any act, action, neglect or omission by contractor during the performance of the contract, whether direct, or indirect, and whether to any person or property to which the City of said parties may be subject, except that neither the contractor nor any of its sub-contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of City or any of its officers, agents, or employees.

37. INDEPENDENT CONTRACTOR

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

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

38. INSPECTIONS AND TESTING

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

39. INSURANCE

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Proposer shall maintain insurance during the life of this agreement, and the City of Port Orange shall be listed as additional insured on that insurance document. A waiver of subrogation must be added in all areas and shall suffice in lieu of additional insured on workers' compensation, in an amount and a form set forth herein, to insure against risks, which are identified herein. Insurance providers must be rated "A" or better accordingly to the A.M. Best Company.

40. INSURANCE CANCELLATION

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

the right to consider the Contract breached which shall justify the termination thereof.

41. INVOICES AND PAYMENTS

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

42. IRREVOCABILITY OF BID/PROPOSAL

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

43. LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Bids received after the Proposal Due Date and time are late and shall not be considered. Modifications received after the Bid Due Date are also late and shall not be considered. Letters of withdrawal received after the Bid Due Date are late and shall not be considered. Letters of withdrawal received after contract award shall be deemed a breach of contract, subject to penalties as set forth in the contract and IFB/RFP.

44. LEGAL REQUIREMENTS

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

Upon execution of a contract, the successful Bidder/Proposer shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

45. LICENSES, PERMITS AND TAXES

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

46. MAINTENANCE

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

47. NAME BRANDS

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

48. NON DISCRIMINATION

There shall be no discrimination as to race, color, religion, gender, age, marital status, national origin, ancestry, and physical or mental disability in the operations conducted under this contract. Included as applicable activities by the contractor under this section are the solicitation for or purchase of goods or services, or the subcontracting of work in performance of this contract.

49. NOTICE TO CONTRACTOR

The employment of unauthorized aliens by any contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

50. OPTIONAL CONTRACT USAGE

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

51. PATENTS/COPYRIGHTS

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

52. PRE-BID MEETING OR PRE-PROPOSAL MEETING

The Purchasing Manager shall determine if the pre-bid or pre-proposal meeting is mandatory and provide the date, time and location in the IFB/RFP legal advertisement and IFB/RFP specifications. The meeting shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-bid and pre-proposal meeting is normally mandatory. Only Bidders/Proposers attending a mandatory pre-bid meeting will be eligible to submit a Bid or Proposal. The representative of each Bidder/Proposer shall be an authorized employee of the Bidder/Proposer and shall sign in accordingly.

53. PREPARATION OF PROPOSAL

In preparing Proposals the Proposal Form, the Bid Form (when a Bid Bond is permitted as proposal security), Certificate as to Corporate Principal, Public Entity Crimes Statement, Anti-Collusion Statement, and Drug Free Preference Statement must be properly executed in ink.

Upon the prescribed Schedule of Unit Prices, all bid prices shall be typewritten or written in ink, in both words and numerals, in the blank spaces for each item, with the amounts extended if a unit price bid, and all amounts totaled. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid. The sum of the Total Bid as calculated from the individual items, Schedule of Unit Prices, shall equal the Total Price. Except as provided below, bids containing substitutions or combinations of alternates will not be considered unless such substitutions or combinations are specifically authorized by the Proposal. The Bidder/Proposer shall sign his/her name and give his/her business address in the spaces provided therefore. If the Proposal is made as a partnership, it shall be signed by all partners; if made by a corporation, it shall be signed in the name of the corporation by one of the officers thereof and shall have affixed the seal of the corporation.

54. POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES

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

55. PRICING

Bidder/Proposer certifies that prices, terms and conditions in the bid will be firm for acceptance for a period of ninety (90) days from the date of bid opening unless otherwise stated by the City. Bids may not be

withdrawn before the expiration of ninety (90) days. Prices shall be firm, with no escalator clauses unless specified by the City. Bids may be withdrawn after ninety (90) days only upon written notification to the City. Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: no price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, Bidder/Proposer shall indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid.

56. PROTECTION

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

57. PROPRIETY INFORMATION

Upon receipt by the City, responses to IFBs/RFPs, become public records subject to the provisions Florida's state policy on public records, Section 119, Florida Statutes. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed, and provide specific legal authority of the asserted exemption. Any financial statement that an agency requires a prospective Bidder/Proposer to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution.

58. PUBLIC ENTITY CRIMES

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

59. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

Section 119.071(1)(c), Florida Statutes: Any financial statement that an agency requires a prospective Bidder/Proposer to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law. This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide that sealed bids, proposals, or replies received by a Florida public agency shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Bidder/Proposers will not be able to procure a copy of their competitor's bids until an intended decision is reached or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10 day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate bids or proposals and negotiate contracts shall be closed in certain circumstances. Specifically, ***portions of such meetings*** may now be closed to the public during oral

presentations made by a vendor, or where a vendor answers questions. In other words, neither Bidder/Proposers, nor the public will be permitted to sit in on meetings, unless this exemption is waived by the City Council, wherein their competitors are making presentations or discussing their bid or proposal with the committee members. The portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing Bidder/Proposers, but the new law limits public attendance to portions of such meetings.

60. PURCHASE ORDER AND DELIVERY

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

61. QUESTIONS, INTERPRETATIONS

Questions regarding interpretation of bids, bid results or bid awards shall be directed in writing to the Purchasing Division and referenced by bid number no later than the last day for questions as specified in the bid documents. The City of Port Orange shall not be responsible for oral interpretations given by any City personnel or representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

62. QUALITY

All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new. The items bid must be new, the latest model, of the best quality and highest grade workmanship unless otherwise specified in this bid by the City.

63. RIGHT OF WITHDRAWAL RFP

A RFP proposal may not be withdrawn before the expiration of ninety (90) days from the proposal due date.

64. RIGHTS TO RFP SUBMITTED MATERIAL

All proposals, responses, inquiries, or correspondence relating to or in reference to an IFB/RFP, and all reports, charts, and other documentation submitted by Bidders/Proposers shall become the property of the City when received.

65. RIGHT OF NEGOTIATION RFP

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

66. RECORDS/AUDIT

The proposer shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. At all reasonable times, these records, unless exempt or confidential, shall be subject to review, inspection, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract and in accordance with the requirements of public records retention as prescribed by general law. Records which relate to any litigation, appeals or settlements of claims arising from performance under this requirement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

67. RECYCLED MATERIALS

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

68. REQUEST FOR ADDITIONAL INFORMATION

Prior to the final Bid/RFP selection, Bidders/Proposers may be required to submit additional information which the City may deem necessary to further evaluate the Bidder's/Proposer's qualifications to perform under the terms of the Bid/RFP and subsequent Contract.

69. REJECTING OF BIDS, REBIDDING

The City reserves the right to accept or reject any or all bids or parts of bids, to waive irregularities and technicalities, and to request re-bids. The City also reserves the right to award the contract on such items the City deems will best serve the interests of the City. The City further reserves the right to award the contract on a "split order" basis, or such combination as shall best serve the interests of the City unless otherwise specified. The City Council shall have the authority to reject any and all bids. If the lowest and best bid exceeds the budgeted amount and the City Council does not make additional funds available, the purchasing agent with the help of the department head shall have the authority to re-advertise the article or articles for bidding after making sufficient changes in the plans or specifications to bring the cost within the limit of the money available. (Code 1981, § 8-28.)

70. REVIEW OF PROPOSALS

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

71. RULES, REGULATIONS AND LICENSING REQUIREMENT

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

72. SAMPLES

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

73. SEPARATION AND DISTRIBUTION

The Bid/RFP has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate. The City will utilize Demand Star for distribution of BIDS and RFP'S at: www.demandstar.com. In addition, vendors may obtain a .pdf version of the IFB/RFP by submitting a request to the Purchasing Manager, e-mail: dfye@port-orange.org.

74. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

75. SIGNATURE REQUIRED

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

76. SIGNED BID CONSIDERED AN OFFER

The signed bid is considered an offer on the part of the Bidder/Proposer, which offer shall be considered accepted upon approval by the City of Port Orange City Council (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful Bidder/Proposer, as authorization for delivery of the items awarded subject to requirements of detailed specifications and those contained herein. In the event of default on the part of the Bidder/Proposer after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

77. SILENCE OF SPECIFICATIONS

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

78. STATE LICENSING REQUIREMENTS

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

79. SUPPLEMENTAL MATERIALS

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

80. TAXES

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

81. TERM CONTRACTS

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

82. TERMINATION

The City of Port Orange reserves the right to terminate the contract for default if Bidder/Proposer breaches any of the terms therein, including warranties of Bidder/Proposer or if the Bidder/Proposer becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but not

limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Bidder/Proposer with a written notice of such cancellation. Should the City exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Bidder/Proposer.

83. TERMINATION - NOTICE

Either party may cancel the contract at any time after award, unless otherwise specified. The City shall be required to give the vendor notice thirty days prior to the date of cancellation of the contract. The vendor shall be required to give the City written notice (60) sixty days prior to the date of cancellation of the contract. The City of Port Orange may terminate the contract without cause upon thirty (30) days written notice.

84. TITLE TRANSFER

Title and Risk of Loss of goods shall not pass to City of Port Orange until City of Port Orange actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. Bidder/Proposer is advised to consult the using department for instructions. The place of delivery shall be specified in the bid specification and/or on the Purchase Order as a "Deliver To:" address.

85. USE OF PROPOSAL FORMS

Bidder/Proposer shall complete the appropriate Proposal Form(s) included in the IFB/RFP. All blanks on the Bid/Proposal Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A."

Supplemental information may be attached to the Proposal Forms. Failure to fully complete the appropriate Proposal Forms may result in disqualification of the bid/proposal.

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

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

86. VARIANCES

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

87. WAIVER OF IRREGULARITIES

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in proposals received whenever such waiver or rejection is in the best interest of the City and/or it does not meet the minimum requirements set forth. All reasonably responsive bids/proposals will be considered. However, the City reserves the right to waive formalities or informalities in bids/proposals, to reject, with or without cause, any or all bids/proposals or portions of bids/proposals, or

to interview or not interview individual Bidders/Proposers, and to accept any bids/proposals or portions of bids/proposals deemed to be in the best interest of the City. The city council shall have the authority to waive any and all non-substantial irregularities in any and all formal bids. (Code 1981, § 8-29)

88. WARRANTIES

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

89. PUBLIC RECORDS COMPLIANCE

Contractor shall comply with public records laws as set forth in Section 119, Florida Statutes, and shall specifically:

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

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

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

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

The failure of Contractor to comply with a public records request shall constitute a material breach of the contract.

90. NON-EXCLUSIVITY:

The City of Port Orange reserves the right to procure items herein described in any manner it sees fit, including but not limited to: awarding of other contracts, the use of contracts awarded by GSA, federal agencies, the State of Florida, any county or municipality, or any authorized contract, whichever is considered in the best interest of the City.

91. LOCAL PREFERENCE:

In accordance with City Of Port Orange City Code 2-275, local businesses shall have **five business days** from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.

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

The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.

SECTION 00080

ADDITIONAL INFORMATION

TIMELINE

The schedule for the RFP is as follows:

RFP release date	February 4, 2016
Pre-Proposal meeting (non-mandatory)	February 18, 2016 at 10:30 a.m.
RFP deadline for questions	February 25, 2016 at 5:00 p.m.
Proposal due date and time	March 10, 2016 at 2:30 p.m.

NON-MANDATORY PRE-PROPOSAL MEETING

There will be a non-mandatory pre-proposal meeting for the project at **10:30 A.M.** (local time) on **February 18, 2016** at City Hall, Council Chambers (1st floor) 1000 City Center Circle, Port Orange, Florida 32129. Although the Pre-Bid meeting is not mandatory, it will offer potential bidders the opportunity to ask questions and discuss the project/specifications directly with staff.

PROPOSAL SUBMISSION AND WITHDRAWAL

Unless otherwise specified, Proposer shall use the forms supplied by the Purchasing Division.

Proposals, once opened, become the property of the City, cannot be withdrawn, and will not be returned to the proposers. Upon opening, Proposals become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

Proposers are required to submit one (1) original, five (5) copies, and (1) digital (CD or flash drive) version of all documents, sealed and marked on the outside of the package, **“RFP #16-13 Internet and Voice - Over-IP Telephony Access”** with the firm’s name, address, city, state and zip code plainly labeled on the outside. Packages must be delivered to the City of Port Orange City Clerk’s Office, Attn: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, 1000 City Center Circle, Port Orange, FL 32129 on or before **2:30 p.m. on March 10, 2016.**

Due to the timing of mail service, the City cautions Proposers to assure actual delivery of proposals to the City prior to the deadline set for receiving proposals. Carrier and hand deliveries of proposals will be accepted in the City Clerk’s Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until **2:30 p.m. (local time), on March 10, 2016.** or as amended by addendum issued by the City. Proposals received after the established deadline shall not be considered.

Complete submittals shall include:

Envelope (tabbed, indexed and placed in the following order: 1 original, 5 copies and 1 digital (CD or flash drive) version.

1. Table of contents (Section 00025)
2. Proposer Acknowledgement Form (Section 00030)
3. Letter of Interest (Section 00090)
4. Proposers Checklist (Section 00040)
5. Listing of Previous Experience (Section 00090)
6. Staff Qualifications (Section 00090)

7. Methodology and Implementation Process (Section 00090)
8. Public Entity Crime Statement (Section 00110)
9. Anti -Collusion Statement (Section 00120)
10. Drug Free/Tie preference Statement – (Section 00130)
11. Insurance Certificates-Submit a Copy (Section 00080)
12. Fee Proposal. (Section 00090)
13. Local Business Affidavit-(Section 00100 Optional)
14. Exceptions, if applicable

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

ADDITIONAL INFORMATION/ADDENDA

All questions shall reference “Questions on RFP #16-13 Internet and Voice -Over-IP Telephony Access” in the subject line. All questions concerning this RFP shall be submitted in writing no later than **5:00 p.m.** on **February 25, 2016** to:

Diana M. Fye, CPPB, FCPA
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129
dfye@port-orange.org

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

It is the proposer's responsibility to be sure all correct number of addenda was received. The Proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the proposer to ensure all addenda have been received prior to submitting a proposal.

Written responses, in the form of an addendum, will be provided via the Demand Star website at:
www.demandstar.com

WITHDRAWAL AND AWARD

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

INSURANCE REQUIREMENTS

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Bidder/Proposer shall maintain insurance during the life of the Contract. Bidder/Proposer shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation

coverage, the bidder's/proposer's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

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. Bidder/Proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Bidder/Proposer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000. Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Limits:</u> <u>Additional Coverage:</u>	Auto Liability Bodily Injury: \$100,000 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
Property Insurance Builders Risk. <u>Limits:</u> <u>Additional Coverage:</u>	Buildings - Completed value of contract. "All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
Professional Liability (Errors & Omissions) <u>Limits:</u>	Coverage- \$1,000,000 minimum	

SECTION 00090

SCOPE OF SERVICES AND REQUIREMENTS

RFP FOR INTERNET ACCESS AND TELEPHONY SERVICE

INTRODUCTION & BACKGROUND

The City of Port Orange is requesting proposals from qualified service providers for enterprise grade internet access and telephony service. The intent of this RFP is to enter into a contract or contracts for Internet Access and Telephony Service for a three (3) year term with an option to renew for an additional two (2) years beginning September 1st, 2016.

The City of Port Orange is currently connected to the internet via Level3 Communications at the synchronous rated bandwidth of 40Mbps with a Class C IP address range of 66.193.239.1 through 66.193.239.254.

Telephony service is currently provided by the means of two (2) primary rate interfaces delivering up to 46 concurrent calls with a block of 500 direct inward dials in the 386-506-5500 through 386-506-5999 range. The City of Port Orange is aiming to eliminate the usage of primary rate interfaces in favor of the more modern session initiation protocol, with the possibility of a primary rate interface as a failover mechanism.

SPECIFICATIONS

Qualified service providers will be required to provide all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, Port Orange, FL.

INTERNET ACCESS

- Minimum synchronous bandwidth of 200Mbps, scalable up to 1Gbps using existing leased circuits/networks or using circuits/networks bundled as part of the solution.
- Minimum of 128 contiguous (256 preferred) static IP addresses reserved exclusively for the use of the City of Port Orange.
- Internet Access delivered to point of presence (POP) at Port Orange City Hall.
- All equipment to include connections, routers, media converters, battery backups, etc.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 hours per day, 365 days per year.

TELEPHONY SERVICE

- Session Initiation Protocol (SIP) Trunk with minimum 50 concurrent calls, scalable up to 100 concurrent calls.
- Local number portability for continued use of current direct inward dial (DID) block of 386-506-5500 through 386-506-5999.
- Trunk shall provide local, long distance, and international calling with the option for bundled usage packages and/or pricing per minute.
- Trunk shall provide E911 calling with PS/ALI service.
- Trunk should be engineered for voice quality of service.

- Compatibility and interface with Cisco Unified Communications Manager call control platform.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 per day, 365 days per year.

TERM

The term of this contract shall be for three (3) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

PROPOSAL SUBMISSION REQUIREMENTS:

The successful proposer shall submit a proposal to include the following requirements:

- Provide internet access synchronous bandwidth monthly pricing based in increments of 200Mbps, 250Mbps, 300Mbps, 350Mbps, 400Mbps, 450Mbps, and 500Mbps.
- Provide internet access static IP addressing monthly pricing based in increments of 128 static IP address and 256 static IP addresses (if available).
- Provide internet access pricing of all one-time installation, configuration, and/or setup fees.
- Provide internet access sample service level agreements (SLA).
- Provide telephony service monthly pricing for session initiated protocol (SIP) trunking based in increments of 50 concurrent calls, 75 concurrent calls, and 100 concurrent calls.
- Provide telephony service monthly pricing for portability and ownership for block of 500 direct inward dials (DID).
- Provide telephony service monthly pricing for bundled/bulk usage packages and pricing per minute for long distance and international calling rates.
- Provide telephony service sample service level agreements (SLA).

In addition to standard required forms, proposals must contain the following information:

1. Table of Contents
2. Proposer Acknowledgement Form –Completed and Signed
3. Letter of Interest
The number of years the proposer has been in business and the proposer’s qualifications and experience providing similar services locally and for municipalities or government agencies. Please indicate whether your company has had a judgement held and whether any contract awarded by another government agency has been terminated in default or convenience.
4. Proposers Checklist
5. Listing of Previous Experience
Provide a list of similar services that the provider has offered within the last three (3) years including date of project, contact person and phone number, and a brief description of each project.

6. Staff Qualifications: Must include a designated Account Manager.
Provide at a minimum, one (1) Account manager dedicated to project oversight and communication with the City.
7. Methodology and Implementation Process
Provide a clear discussion of how the proposer will accomplish the objectives set forth in the scope of services, including needs/resources from City staff members.
8. Sworn Statement on Public Entity Crimes
Completed and signed in ink.
9. Anti-Collusion Statement
Completed and signed in ink.
10. Drug Free Preference Statement
Completed and signed in ink.
11. Insurance Certificates
Submit a Copy.
12. Fee Proposal.
Provide a fee proposal for completing all work outlined in the scope of services. Also include a standard fee schedule (hours, rates or other fee schedule) for the personnel who would be assigned to this project.
13. Local Business Affidavit – Optional Completed and signed in ink.
14. Exceptions, If applicable

PROPOSAL SUBMITTALS:

Proposers must indicate whether their firm has had a judgement held and whether any contract awarded by another government agency has been terminated in default or convenience.

EVALUATION PROCEDURE:

The Selection Committee is comprised of City staff and may include City Council Member or Council appointed Board of Commission member who will evaluate and rank proposals based on a weighted score point formula. All interested professionals are hereby cautioned not to contact any staff or Council member of the City of Port Orange, or any member of the Selection Committee. Any and all questions should be made through the Purchasing Manager and any attempts to lobby or persuade through any other channels may result in disqualification.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all proposers responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process. The committee may choose to conduct an oral interview with each finalist.

The City's evaluation criteria will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services;
2. The ability, capability and skill of the proposer to perform the contract, including the range of services offered.
3. Whether the provider can perform the contract within the time specified without delay or interference.
4. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
5. The character, integrity, reputation, judgment, experience and efficiency of the proposer;
6. Professional licensure required when service of a skilled nature is required by law to perform such service and/or skill;
7. The quality of performance of previous contracts;
8. The number and scope of conditions attached to the bid or proposal;
9. Responsiveness of client references;
10. Net costs;
11. Such other information as may be secured.
12. Local preference policy

CRITERIA:

Firms submitting the required criteria will have their proposals evaluated and scored for quality of response, qualifications and experience and cost. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value.

EVALUATION CRITERIA	Category Score
Fee Proposal	80
Quality of Response (ability, capacity, skill)	20

FORMAL ORAL PRESENTATIONS/INTERVIEWS (If Required):

The City may choose to conduct oral interviews with, or receive oral presentations from one or more of the proposers. If the City chooses to allow oral interviews and/or presentations, such interviews or oral presentations will not be open to the public pursuant to the conditions set forth in Florida Statute 286.0113. If oral presentations or interviews are held the following guidelines will be used:

The City's Purchasing Division will establish the schedule and proposers will be notified via www.demandstar.com at least (5) calendar days in advance of the date, time and place of the presentations. The specific format of each presentation will be provided to proposers with the notifications.

The City will allot equal time for each proposer divided into two sequential parts: formal presentations and question and answers. The times allotted are maximums and no firm will be penalized for using less than the allotted time.

FINAL RANKING AND RECOMMENDATION FOR AWARD:

After the oral presentation is completed, the Committee will score all proposals to determine a final ranking of proposers considered to be most capable of performing the required project in the best interest of the City.

The Committee's final ranking will be provided to the Purchasing Manager to read aloud. The City's Project Manager will provide a notice of intent to award to the Purchasing Manager. The final ranking sheets by the committee will be posted on www.demandstar.com The City project manager will create an agenda item recommending award to the City Council. City Council's decision will be final.

ESTIMATED TIME SCHEDULE

Release of RFP:	February 4, 2016
Non-Mandatory pre-proposal meeting	February 18, 2016 at 10:30 a.m.
Last day for questions:	February 25, 2016 at 5:00 p.m.
Return Deadline for RFP'S:	March 10, 2016 by 2:30 p.m. local time
Interviews, Ranking and Award:	To be determined
Proposers Begin Work:	To be determined

CONTRACT TERM / COMPLETION TIME:

The contract shall be valid upon issuance of Notice to Proceed and/or purchase order and continue for a one (1) year period with three (3) additional one (1) year renewal options.

SECTION 00100 (Optional)
LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY
City of Port Orange

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

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

BUSINESS NAME: _____

CONTACT PERSON/TITLE: _____

MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

Length of Time at Address Provided: _____

Physical Presence of Business: ☐ Headquarters. ☐ Manufacturing Facility, or ☐ Locally Owned Franchise

and within Legal Boundaries: ☐ The City of Port Orange ☐ Volusia County ☐ The State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship

☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

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

ATTESTATION – I understand that:

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

BEFORE ME; the undersigned authority, in and for the State of Florida and the City of Port Orange personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

SWORN AND SUBSCRIBED BEFORE ME

NOTARY SEAL

SIGNATURE OF NOTARY PUBLIC

THIS _____ DAY OF _____, 20____
My Commission Expires: _____

SIGNATURE OF AFFIANT DATE

PRINTED NAME OF AFFIANT / TITLE

COMPANY

Remainder of this page intentionally left blank

SECTION 00110

PUBLIC ENTITY CRIME STATEMENT

STATE OF FLORIDA §
COUNTY OF VOLUSIA §

Before me, the undersigned authority, personally appeared affiant _____, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Public Entity Crime Statement pursuant to Section 287.133, Florida Statutes, for the undersigned firm to receive a contract with the City of Port Orange, a public entity, for goods or services.
2. The firm acknowledges that “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, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 following the date of being placed on the convicted vendor list.”
3. The firm warrants that none of its employees or affiliates are on the convicted vendor list kept and published by the State Department of Management Services.

FURTHER AFFIANT SAYETH NAUGHT.

Name of Firm: _____

By: _____
Name and Title

Date: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____ and who: [] is personally known to me; or [] has produced _____ as identification.

Notary Public, State of _____
Printed Name, Commission Seal and Term Expiration Date

SECTION 00120

ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

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

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

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

NAME OF FIRM: _____

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

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

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

NO PROPOSAL (REASON):

SECTION 00130

DRUG FREE PREFERENCE STATEMENT

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

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

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

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

Name of Firm: _____

By: _____
Name and Title

Date: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____ and who: [] is personally known to me; or [] has produced _____ as identification.

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



CITY OF PORT ORANGE STANDARD CONTRACT FOR GOODS/SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20____, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

(a) The Contractor hereby agrees to provide the following equipment, materials, labor and other such related services to the City of Port Orange:

(i) _____

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

Term: The initial term of this Contract shall commence on the date this Contract is signed on behalf of the City and shall continue for a period of _____ thereafter (the "Initial Term"). In addition to the Initial Term, this Contract may be renewed for up to ____ additional _____ term(s) upon written consent of the parties and appropriation by City Council.

Manner and Place: As outlined in _____, in accordance with Standard Construction Details as required on all City owned facilities and properties (i.e. rights-of-way) and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances. Contractor shall not deliver goods or services without a written purchase order, signed by an authorized agent of the City of Port Orange. *If the contract is for goods include the following:* Contractor shall cause goods to be delivered to the City in the most expedient, cost effective manner. All items shall be shipped to the City of Port Orange designated facility identified in each purchase order, FOB Inside Delivery. Contractor shall bear the risk of loss for goods delivered under this Contract from the time of shipping to the City until delivered at the destination specified by the City for delivery.

Time and Essence: _____ from the date set out in paragraph 3 below or upon receipt of Notice to Proceed.

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "____" attached hereto, subject to a limit up to but not to exceed \$_____. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

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

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

4. Contract Administration. The _____ shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

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 22 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 that ordinarily and necessarily would be required by the City in order to perform the service.

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

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

(d) Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are

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

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

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 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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contractor work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.

Comprehensive Business, Automobile Liability to include all automobiles. <u>Additional Coverage:</u>	<u>Limits:</u> Auto Liability Body Injury: \$100,000 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
Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of contract. "All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
Professional Liability (Errors & Omissions)	<u>Limits:</u> Coverage- \$1,000,000 minimum	

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 2-272 (Alterations or modifications of contracts), 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 Contractor's 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. Disputes. The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within thirty-(30) days from the date of such decision, Contractor mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Contractor shall proceed diligently with the performance of this Contract in accordance with that decision.

23. 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.

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

25. Additional Provisions. As may have been outlined in _____ and 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.

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

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

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

Copy to: City of Port Orange
Attention: _____
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-____

Contractor: _____
Attention: _____

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

28. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: _____

By: _____

Printed Name: _____

Title: _____

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

Printed Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

[CA ____]



CITY OF PORT ORANGE, FLORIDA
RFP TABULATION SHEET

ALL PROPOSALS ACCEPTED BY THE CITY OF PORT ORANGE ARE SUBJECT TO THE CITY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE PROPOSERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. PROPOSALS FROM THE PROPOSERS LISTED HEREIN ARE THE ONLY PROPOSALS RECEIVED TIMELY AS OF THE OPENING DATE AND TIME. ALL OTHER PROPOSALS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE. ALL PROPOSALS ARE SUBJECT TO REVIEW BY THE CITY AND AWARD REQUIRES A FORMAL CONTRACT AND APPROVAL BY CITY COUNCIL.

BID NUMBER: RFP #16-13
BID TITLE: Internet and Voice -Over-IP Telephony Access
OPENING DATE/TIME: 03/10/16 AT 2:30 P.M.

		Response 1	Response 2	Response 3	Response 4
Submittal Requirements		Bright House Networks Enterprise Solutions	Alternative Choice Communications Inc./Masergy		
1	Table of Contents	Yes	Yes		
2	Bidder Acknowledgement Form	Yes	Yes		
3	Letter of Interest	Yes	Yes		
4	Proposers Checklist	Yes	Yes		
5	Listing of Previous Experience	Yes	Yes		
6	Staff Qualifications	Yes	Yes		
7	Methodology and Implementation Process	Yes	Yes		
8	Public Entity Crime Statement	Yes	Yes		
9	Anti -Collusion Statement	Yes	Yes		
10	Drug Free/Tie preference Statement	Yes	Yes		
11	Insurance Certificates	Yes	Yes		
12	Fee Proposal	Yes	Yes		
13	Local Business Affidavit (Optional)	Yes	No		
14	Exceptions (If Applicable)	No	No		
15	Deemed Responsive?	Responsive	Responsive		

Opened and tabulated by: David Battaglia, Purchasing Agent
Witnessed by: Mick Neals, Buyer



CITY OF PORT ORANGE, FLORIDA
RFP TABULATION SHEET

ALL BIDS ACCEPTED BY THE CITY OF PORT ORANGE ARE SUBJECT TO THE CITY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BIDS FROM THE BIDDERS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE OPENING DATE AND TIME. ALL OTHER BIDS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE. ALL BIDS ARE SUBJECT TO REVIEW BY THE CITY AND AWARD REQUIRES A FORMAL CONTRACT AND APPROVAL BY CITY COUNCIL.

BID NUMBER: RFP# 16-13
BID TITLE: Internet and Voice -Over-IP Telephony Access
OPENING DATE/TIME: 03/10/16 AT 2:30 P.M.

	Response 5	Response 6	Response 7	Response 8
Submittal Requirements				
1 Table of Contents				
2 Bidder Acknowledgement Form				
3 Letter of Interest				
4 Proposers Checklist				
5 Listing of Previous Experience				
6 Staff Qualifications				
7 Methodology and Implementation Process				
8 Public Entity Crime Statement				
9 Anti -Collusion Statement				
10 Drug Free/Tie preference Statement				
11 Insurance Certificates				
12 Fee Proposal				
13 Local Business Affidavit (Optional)				
14 Exceptions (If Applicable)				
15 Deemed Responsive?				



CITY OF PORT ORANGE, FLORIDA
RFP TABULATION SHEET

ALL BIDS ACCEPTED BY THE CITY OF PORT ORANGE ARE SUBJECT TO THE CITY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BIDS FROM THE BIDDERS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE OPENING DATE AND TIME. ALL OTHER BIDS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE. ALL BIDS ARE SUBJECT TO REVIEW BY THE CITY AND AWARD REQUIRES A FORMAL CONTRACT AND APPROVAL BY CITY COUNCIL.

BID NUMBER: RFP #16-13
BID TITLE: Internet and Voice -Over-IP Telephony Access
OPENING DATE/TIME: 03/10/16 AT 2:30 P.M.

	Response 9	Response 10	Response 11	Response 12
Submittal Requirements				
1 Table of Contents				
2 Bidder Acknowledgement Form				
3 Letter of Interest				
4 Proposers Checklist				
5 Listing of Previous Experience				
6 Staff Qualifications				
7 Methodology and Implementation Process				
8 Public Entity Crime Statement				
9 Anti -Collusion Statement				
10 Drug Free/Tie preference Statement				
11 Insurance Certificates				
12 Fee Proposal				
13 Local Business Affidavit (Optional)				
14 Exceptions (If Applicable)				
15 Deemed Responsive?				

Bright House Networks Enterprise Solutions

Voice | Data | Cloud | Managed Services



FINAL

Proposal for:



City of Port Orange

Lisa Bryant

Account Executive
Bright House Networks Enterprise Solutions
65 S Keller Rd
Orlando, Florida 32810
Cell: 386-479-4074
Lisa.Bryant@mybrighthouse.com

Proposal Date: 4/14/2016

BRIGHT HOUSE NETWORKS
enterprise solutions



WE'RE WIRED DIFFERENTLY.

Central Florida Division

City of Port Orange,

Thank you for the opportunity to assist you with your business services needs. As the local leader of advanced communications and networking services, we think globally, but invest locally in the long-term success of our clients and our community. We've built our leading edge all fiber network from the ground up to provide the connectivity, security, and reliability today's organizations demand.

The strength of our network, combined with a comprehensive portfolio of products and services, allows us to design and deliver highly customized, scalable, and technologically advanced Enterprise Solutions. Most importantly, we don't force a one-size-fits-all product; we work closely with our clients to deliver an integrated solution that meets your organization's specific needs.

All of our innovative solutions are delivered over our privately owned and operated all fiber network and backed by a world-class team of dedicated account representatives, management, engineers, and technicians who are locally based to provide full-time support 24/7/365. The result is superior performance you can always rely on.

Please take a few moments to review this product overview and proposal, and let me know if you have any questions. I'm looking forward to working with you and your business.

Sincerely,

Lisa Bryant
Enterprise Account Executive

Overview

Bright House Networks Enterprise Solutions is a trusted provider of advanced communications and networking services with an extensive, privately owned, all fiber network in the markets we serve. A leading provider in Florida, we also have footprints in Bakersfield, CA; Birmingham, AL; Indianapolis, IN, and Detroit, MI. Our comprehensive product portfolio of Voice, Data, Cloud, and Managed Services combines the strength of our reliable all fiber network and the versatility of our multi-faceted, cloud-based features and services. Our industry-leading products and locally based, dedicated team of management, engineers, and technicians can support the needs of medium businesses to large scale, multi-site organizations.

We believe that in order to truly deliver advanced networking solutions that are reliable, customized, and innovative, we need a strong personal relationship with every business we serve. We don't force a one-size-fits-all, cookie-cutter product that fails to take the client's needs into account. Instead, we listen to our client's requirements and deliver a customized solution that's developed, designed, and supported by a world-class technology team. We learn our client's business to fully understand their needs and goals, and we work closely with them to exceed those goals.

Our success is based on a premise: to think differently about our clients.

- **We view them differently.** We know our clients. They have a face and a name. We see them as true partners, not line items.
- **We deliver solutions differently.** We innovate from a client-centric point of view, not a company-defined product line-up. Our products and services are delivered with real-time guaranteed service levels (SLAs).
- **We build client relationships differently.** We base them on strong local connections and superior customer service, including a local account team and executive management support that eliminates bureaucracy and accelerates problem solving.
- **We're focused differently.** We own and operate our network end-to-end to invest in the long-term success of each client, and our community, with superior network performance they can always count on.

Simply put – We're Wired Differently.

Hosted Voice

Hosted Voice from Bright House Networks Enterprise Solutions is a fully managed cloud-based solution that offers advanced unified communications customized to fit your organization's specific needs. It's a fully scalable solution that improves productivity and provides a flexible, cost-effective pay-as-you-go feature to fit any budget. Hosted Voice provides seamless connection to the office from anywhere, maximizing the productivity of your mobile and remote employees.

Hosted Voice is reliable and responsive. Our fully redundant facilities-based IP core infrastructure ensures availability and quality of service. Features such as voice mail and automated attendant are located in the cloud, which means there is no loss of service due to inclement weather or local loss of power, ensuring business continuity. As technology advances, features are seamlessly integrated in the Enterprise Solutions cloud and automatically upgraded, eliminating costly and difficult upgrades that organizations face when managing a premise-based voice platform.

Hosted Call Center

Hosted Call Center is a cloud-based call center solution to fit multiple needs and functions ranging from an informal to highly complex call center environment. It supports call center functions to intelligently route calls with cloud-based inbound call center features such as customizable Call Center Agent Feature Packs, advanced call control, supervisor monitoring features, robust call center reporting, and real-time tracking.

Whether you have a simple, informal call center environment or operate a complex high-volume call center, Enterprise Solutions will scale the solution to your organization's needs. From automatically routing calls anywhere with a simple call distribution and queuing scenario to advanced routing and call management options, our fully managed solution includes all the equipment, software, and service, without burdensome startup costs.

Enterprise Trunking

Enterprise Trunking from Bright House Networks Enterprise Solutions is a smart choice for an organization with a substantial investment in an existing private branch exchange (PBX) or key system. Enterprise Trunking is a cost-effective way to upgrade and expand your premise-based voice system using dedicated fiber-based connectivity.

Enterprise Trunking seamlessly integrates your organization's data, local, and long distance calling over a dedicated and secure all fiber connection. It can be customized to the specifications of your organization to ensure interoperability with any premise-based phone system, and can be scaled up quickly as your company's needs expand.

Dedicated Internet Access

Bright House Networks Enterprise Solutions provides reliable Dedicated Internet Access that can support large bandwidth requirements by providing a dedicated all fiber connection between your company and the Internet. Our solutions are scalable, so it's simple to adjust bandwidth as your company expands and requirements change.

Dedicated Internet Access easily integrates with our portfolio of enterprise products and services to provide your organization with a cost-effective, seamless solution utilizing the latest in advanced technologies. We provide exceptional connectivity with our fully redundant facilities-based IP core infrastructure to support the complex operations of large organizations.

Metro Ethernet

Metro Ethernet is a private and secure Wide Area Network (WAN) solution that connects across multiple sites. Bright House Networks Enterprise Solutions delivers Metro Ethernet services that provide flexible, seamless point-to-point and multipoint-to-multipoint connectivity that can be customized to cost-effectively meet your organization's growing bandwidth demands. Delivering wide area connectivity with symmetrical upload and download speeds up to 10 Gbps, Metro Ethernet allows your organization to securely extend its reach and connect multiple locations via dedicated all fiber access.

Our all fiber Metro Ethernet services can be easily deployed in multiple configurations based on your organization's specific requirements. We optimize existing resources by working in conjunction with your current LAN infrastructure and IT staff to support and connect all your locations to streamline operations and enhance employee productivity. Metro area connectivity needs differ from organization to organization, so we don't force a one-size-fits-all service. We'll customize a Metro Ethernet solution to fit your exact specifications, now and for the future.

Unified Communications

Unified Communications (UC) from Bright House Networks Enterprise Solutions allows organizations to take full advantage of today's borderless work environment, both within the office and outside of it, by increasing productivity, improving reachability, and enhancing efficiency.

UC works with our Hosted Voice solution adding significant enhancements including instant messaging and presence, desktop sharing, video calling, and web collaboration. Cloud-powered and fully managed, it provides a seamless communications experience across fixed and mobile platforms – your desk phone, desktop, Apple and Android devices, or laptop.

Managed Security

Managed Security from Bright House Networks Enterprise Solutions provides a comprehensive selection of Managed Internet Security and Managed Email Security services to protect your network, applications, and email from the growing threat of security breaches and attacks with leading edge firewall protection and advanced network defense systems to inbound and outbound email.

Enterprise Solutions will design and proactively manage a customized solution to help you keep pace with emerging security threats. We partner with industry leader Cisco for customized email security solutions and enterprise class firewall and router equipment that scale to meet your needs.

Managed Network

Eliminate costly and unexpected capital expenses by converting to an affordable monthly operating expense with our Managed Network services. Managed Wide Area Network (WAN) and Managed Local Area Network (LAN) from Bright House Networks Enterprise Solutions can help your organization stay competitive and improve profitability. We provide new Cisco equipment with ongoing warranty support, software patch updates, maintenance, repair, and replacement, saving your organization the cost of network upkeep.

Equipment monitoring is performed 24/7/365, maximizing your company's network availability, performance, and efficiency. Our upfront network design and installation ensures the best technology solution for your organization's network needs.

Managed WiFi

Keep your workforce, customers, and business partners connected 24/7/365 with Managed WiFi from Bright House Networks Enterprise Solutions. Managed WiFi includes the installation, implementation, and ongoing management of your organization's own private and secure WiFi network. It's designed to align with your specific security requirements and includes the installation of multiple WiFi access points to ensure superior and reliable signal quality.

Managed WiFi will support your growing access needs, while providing consistent, secure wireless connectivity. Our solutions are backed by strong service level guarantees over our privately owned all fiber network. Our core fiber backbone is supported by 24/7/365 monitoring.



Initial Budgetary Proposal: Dedicated Fiber Internet Access, SIP, and High Speed Data

Prepared For: City of Port Orange

Prepared By: Lisa T. Bryant

Date: 4/14/2016

Solution Includes:

• <u>PORT ORANGE CITY HALL / 1000 City Center Cir</u>		
○ 1000Mbps Dedicated Internet Access	\$5,000	per month
▪ 128 IP Addresses	\$49	per month
○ 48 SIP Sessions	\$550	per month
▪ Includes: 500TNs, 5,000 Domestic LD Minutes		
○ 5,000 Domestic Long Distance Minute Plan	\$125	per month
• <u>PORT ORANGE FIRE STATION #72 / 6027 Central Park Blvd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE FIRE STATION #75 / 1701 Town West Blvd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE FIRE STATION #74 / 6701 Airport Rd</u>		
○ High Speed Data 100x10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE PARKS MAINTENANCE FACILITY / 5839 Trailwood Dr</u>		
○ High Speed Data 100X10	\$135	per month
○ (1) Static IP	\$15	per month
• <u>PORT ORANGE CYPRESS HEAD CELL TOWER / 6272 S. Williamson Blvd</u>		
○ High Speed Data 50x5	\$85	per month
○ (1) Static IP	\$15	per month
TOTAL PER MONTH		\$6,424 per month

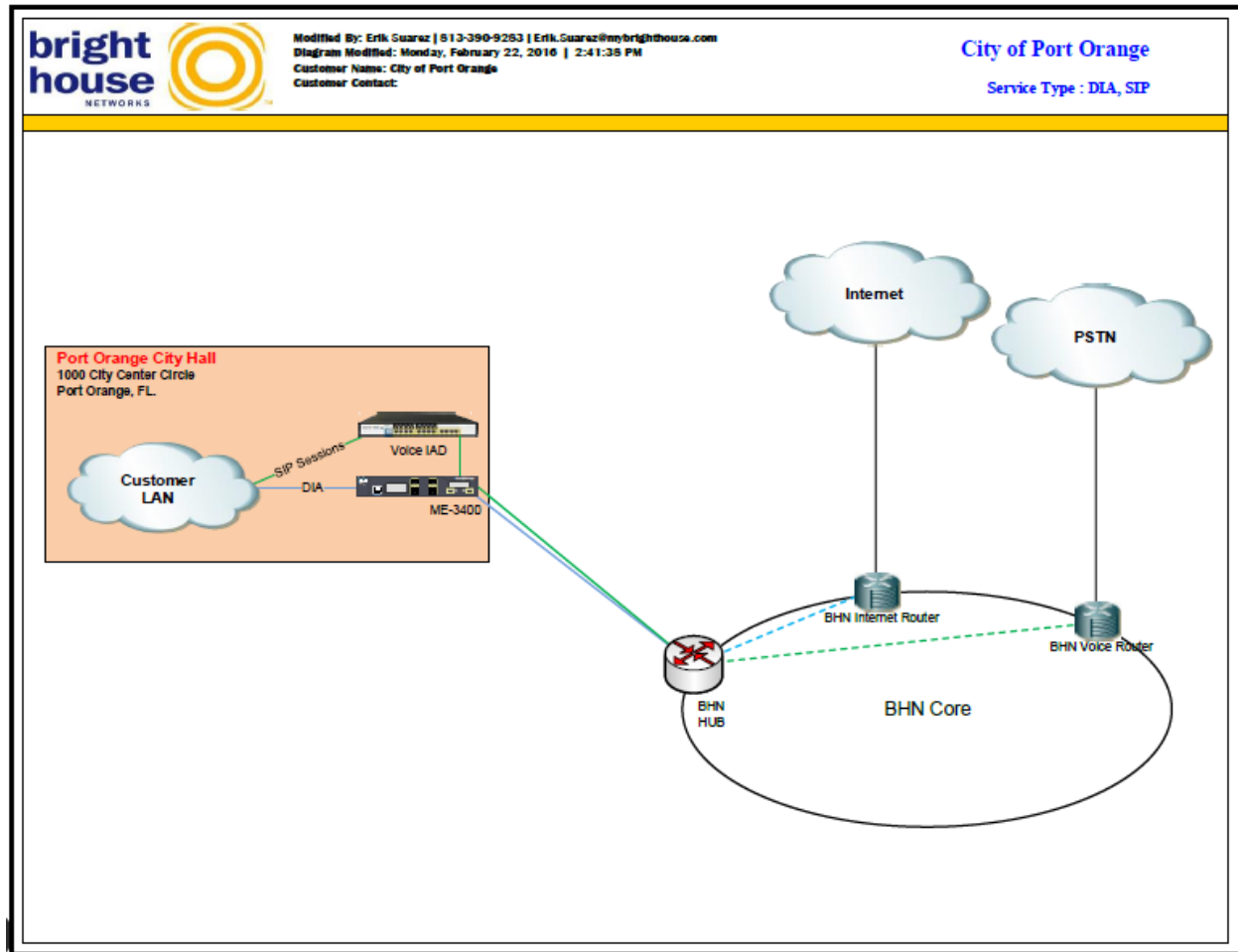
Considerations:

- 36 Month Term (with 2 year renewal option as specified in RFP No. 16-13).
- One-Time Installation Fee for Coax Based Services: \$300.
- Assumes 90-120 days for construction/installation – this is a standard timeline.
- Fiber is backed by a Service Level Guarantee of a 1 Hour Response Time and a 4 Hour Mean Time to Repair.

Note: Agreement is contingent on Bright Acceptance of Quoted Rates and Term against Internal Financial Feasibility Model.



Network Diagram:



###



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Sole Source purchase and waiver of normal bidding procedures for SolarBee mixers for high-quality reclaimed water circulation equipment for the Recharge Reservoir Lakes A & B

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: 3 - Finish reclaimed lakes in order to increase capacity for water filtration and disposal

RECOMMENDED MOTION: Move to approve to approve the sole source purchase and waiver of normal bidding procedures for six (6) SolarBee mixers in an amount not to exceed \$311,578; to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: Currently the City has 5 solarBee mixers in the two reclaimed reservoir lakes used for augmentation (providing additional reclaimed water to meet peak demand periods). These units have performed well mixing oxygen near the units with tests showing a reduction in Biochemical Oxygen Demand. Six additional SolarBee mixers are needed to provide complete coverage of the lakes to enable sufficient oxygen mixing to improve lake water quality reducing algal blooms and provide the potential to discharge from the newly constructed outfall structure. This purchase includes factory delivery, installation, startup and a year maintenance agreement.

Purchase of these SolarBee mixers will enhance the City's ability to meet the stringent discharge requirements for the outfall discharge to the wetlands. Nutrient levels in the lakes are within the wetlands discharge limits. Particulate matter (solids) can be managed via the newly installed filter unit. The SolarBee mixers will reduce BOD by adding more oxygen to the water column. If BOD can be maintained at or below 5 mg/l discharge to the wetlands can occur eliminating the need to discharge to the Halifax River.

Public Utilities staff has researched several other oxygen mixing processes and recommends this approach.

Pursuant to City Ordinance 2-267, formal bidding requirements may be waived with sole source justification. The Purchasing Division advertised the intent to Sole Source on Quote Wire for seven (7) calendar days to solicit complaints or protests of which no complaints, nor protests, were received.

Project No.: RIM005
RIM005

Funding Account No.: 40104005356397
40504005356397

ATTACHMENTS:

1.	Standard Contract for Services	Medora Corporation Standard Contract for Services with City of Port Orange.pdf
2.	Approved Sole Source Form and Quote	Medora - Solarbees Sole Source Approved.pdf
3.	Certificate of Insurance	Cert of Ins - Medora.pdf
4.	Staff Report on SolarBees	Staff Report on SolarBees.pdf

Julia Wiggins	Created/Initiated - 04/22/2016
Julia Wiggins	Approved - 04/22/2016
Rick Wilson	Approved - 04/22/2016
Andrew Neff	Approved - 04/28/2016
Diana Fye	Approved - 04/28/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/10/2016
M. Jake Johansson	Final Approval - 05/11/2016



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2016, 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 **MEDORA CORPORATION**, a North Dakota corporation, whose principal address is 3225 Highway 22 N, Dickinson, North Dakota 58601 ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

- (a) The Contractor hereby agrees to provide the City of Port Orange six (6) Solar Bee Mixers Model Number SB10000 v20 with factory delivery, installation and startup as more specifically described in Medora Corporation Quotation dated March 24, 2016, attached hereto as Exhibit "1."
- (b) The time, manner and place for performance of such services shall be:

Term: The term of this Contract shall commence on the last date this Contract is signed by the Parties and shall continue until September 30, 2016 (the "Term").

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

Time and Essence: Contractor acknowledges that time is of the essence for the Purchase Order(s) issued hereunder.

Authorization for Services: This Contract standing alone does not authorize goods or services provided by the Contractor or require the City to place any orders for goods or services. Authorization for performance of services by the Contractor under this Contract shall be in the form of written Purchase Order(s) issued and executed by the City Manager.

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the prices set forth in Exhibit "1," subject to a limit up to but not to exceed Three Hundred Eleven Thousand Five Hundred Seventy-Eight and 00/100 Dollars (\$311,578.00) during the term of this Contract. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

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

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

6. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 22 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 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 119.10, Florida Statutes.

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

11. Termination for Non-Appropriation of Funds

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

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

12. Insurance. Contractor shall maintain insurance 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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

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

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

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

23. 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.

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

25. Additional Provisions. 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.

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Andrew Neff, Public Utilities Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5750
Contractor:	Medora Corporation Attention: Joel Bleth, President 3225 Highway 22 N Dickinson, North Dakota 58601-9419 (701) 225-4495 – Telephone (701) 225-0002 - Facsimile customerservice@medora.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.

28. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

MEDORA CORPORATION

By: _____

Joel Bleth, President

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF NORTH DAKOTA
COUNTY OF STARK

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Joel Bleth, as President of Medora Corporation, a North Dakota corporation, and who:

[Notary: Please select one]

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

Notary Public, State of North Dakota

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____ By: _____
Allen Green, Mayor

Printed Name: _____ Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

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

Witnesses:

ATTEST:

Printed Name: _____ By: _____
Robin L. Fenwick, CMC, City Clerk

Printed Name: _____ Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, 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.

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

[CA 5395]

PRICING

6. Equipment Cost - For Equipment and Option Details, See Attached Documents

Pricing for Solar-Powered Machines:

Quantity	Equipment Description	Cost Each	Equipment Total
6	SB10000 v20 SolarBee Mixers:	\$44,700	\$268,200
Equipment Subtotal:			\$268,200
Applicable Taxes:			-to be determined -
Factory Delivery, Installation and Startup:			\$61,968
Multiple Unit Installation Discount:			\$18,590
Equipment, Delivery and Installation Total:			\$311,578

EQUIPMENT & SERVICE OPTIONS

Options for Solar Models		
SCADA	<i>All SB v20 models come standard with a SCADA brain-board with six outputs. (For on-site communication options, please contact our SCADA Engineering Department.)</i>	Please request option list
Beekeeper Service Program	A maintenance and support program is available for all models, which covers: damages from Acts of God and vandalism; power system upgrades and updates; scientific and technical support; scheduled and unscheduled field service calls; and extends the warranty during the term of the Beekeeper (please see attached Beekeeper summary for further details).	Years 1 & 2: \$7,789/year Years 3, 4 & 5: \$18,695/year for the above quoted SBs



Medora Corporation
3225 Highway 22 • Dickinson, ND 58601
Tel: (701) 225-4495 • www.MedoraCo.com



Quotation: Reservoir Circulation Equipment for Lakes A & B

Date: March 24, 2016

Project #: 4142

To: Thomas C. Troutman

Chief Operator Reclaimed Water Treatment Plant

City of Port Orange Public Utilities

817 Oak Street

Port Orange, FL. 32127

Office: 386.506.5786 / Fax: 386.756.5298 / Cell: 386.566.4347

e-mail: ttroutman@port-orange.org

From: Michael Lipparelli - E2 Water Solutions, Medora Corp. local representative

Michael@E2H2O.com • 352-589-6161

Mike Christensen, Medora Corporation East U.S. Manager, Wells, MN

mike.c@medoraco.com • 866-553-5590

Darren Tessier, Medora Corporation Sales Engineering Dept., Dickinson, ND

darren.t@medoraco.com • 866-437-8076

Thomas,

Thank you for supporting our SolarBee mixing technology and for being a loyal customer. We are eager to work with the City of Port Orange Public Utilities and E2 Water Solutions to provide additional high-quality reclaimed water circulation equipment for Lakes A & B. Please note that improvements have been made to the SolarBee mixers recently, upgrading your recommended machine to the new SB10000 v20. In addition, the price of this model has been lowered to make projects more cost effective for places like the City of Port Orange. Feel free to contact us with any questions.

Sincerely,

Darren Tessier
Medora Corporation

EXHIBIT "1"

PROJECT DESCRIPTION

1. Name and Location of Reservoir

Lake A - 11.3 miles northwest of the City of Port Orange Reclaimed Water Treatment Plant

Lake B - same as above (GPS at site entrance, north end of Lake A: 29.104796°, -81.124813°)

2. Description of Reservoir:

Lake A is a Reclaimed Water Recharge Reservoir with a depth of 12 feet. Formerly, only the northern part of the reservoir was used year-round, and during the wet weather season, water was stored in the southern part of the reservoir as well. There is now a plan to dredge the southern area of the reservoir, which will expand Lake A to 100 acres. Nearly 100% of the inflow comes from reclaimed water; there is very little groundwater input.

Lake B is also a Reclaimed Water Recharge Reservoir (to the east on aerial photo). It is L-shaped with an approximately 75-acre surface area and 12-foot depth. The inlets in both lakes are at elevation 40 feet. Reclaimed water flows into the north end of Lake B at a permitted rate of 6 MGD. The flow continues to the south end of Lake B, then through a pipe to the south end of Lake A. Effluent will be used to supply residential and business users in and around Port Orange.

3. Project Objectives

Epilimnetic deployment - Primary Objectives: To provide long-distance circulation in order to control harmful blue-green algae blooms, which will in turn reduce related odors, pH, BOD and TSS levels, and to improve fish habitats and overall water quality.

4. Medora Corp. Recommendation / System Design for this Installation

To meet the above objectives for complete lake treatment, we recommend the installation of six (6) SolarBee model SB10000 v20 machines, which would amount to a total of six SolarBees in Lake A and five SolarBees in Lake B (see aerial photo below for placement). This recommendation is based on the acreage of the lakes. The new v20 machine, the latest version of our SolarBee mixer, has improved software, motor, motor magnets, and motor controller cord, as well as larger PV modules.

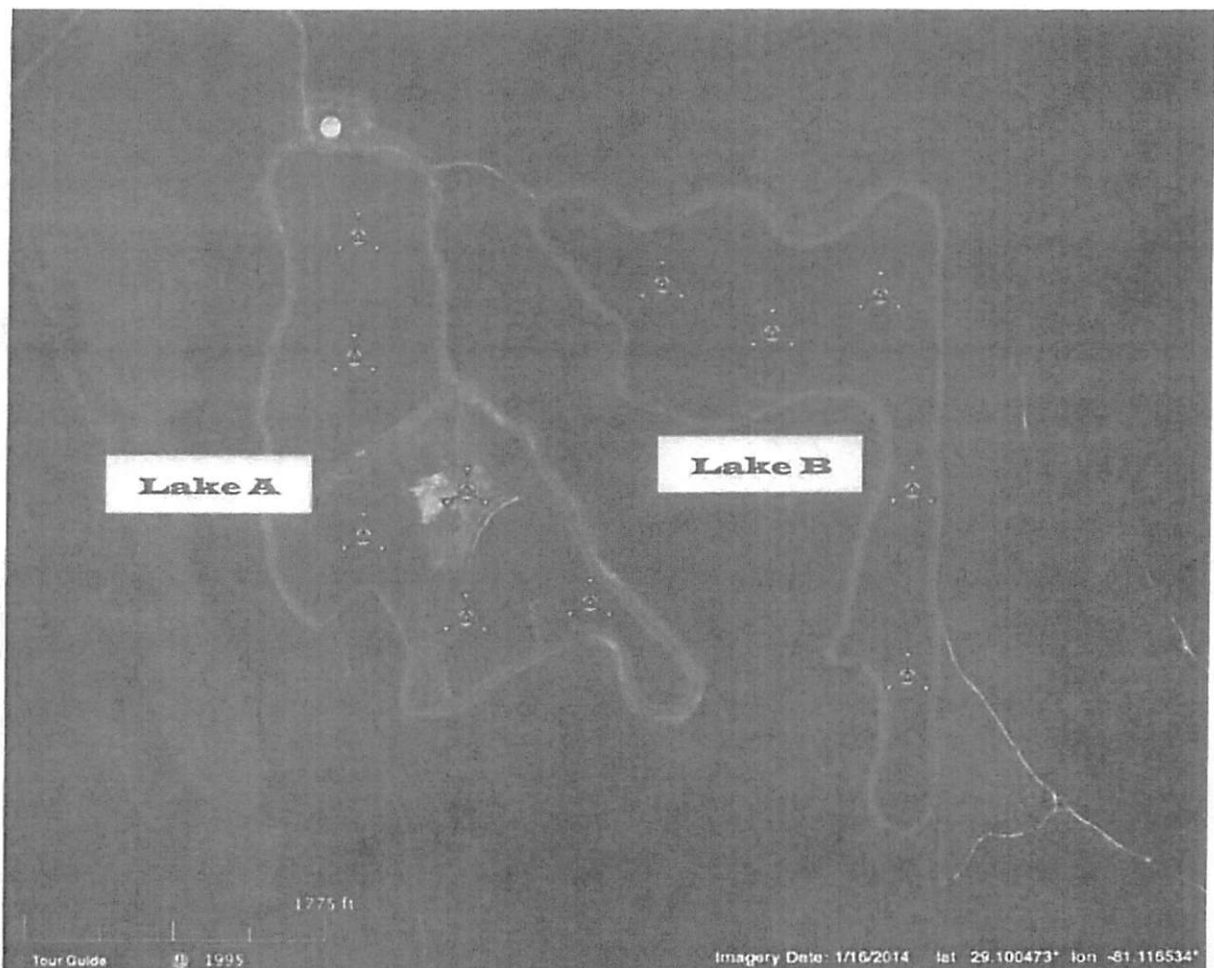
Water Level Note: The recommended model requires 4 feet of water to effectively circulate; however, if the water level drops below this, the machines can run dry, in shallow water or drained conditions, without damage.

EPA Note: The US EPA produced a paper in June 2015 to help cities and other organizations develop a Cyanobacteria Management Plan (CMP) for lakes. This paper states that surface mechanical mixing equipment (such as our SolarBee lake circulators), has been used in U.S. water bodies for controlling cyanobacteria, i.e., blue-green algae. "This mixing of the water column disrupts the cyanobacteria migration and limits availability of nutrients." (U.S. EPA, 2014d)

To read the full paper, it can be downloaded at this link:

<http://www2.epa.gov/nutrient-policy-data/recommendations-public-water-systems-manage-cyanotoxins-drinking-water>

5. Proposed Machine Locations:



SB10000 v20 machines are not drawn to scale; the five existing SolarBees and six additional SolarBees would be configured as shown above for complete lake coverage in both lakes. The southern part of Lake A is to be dredged, expanding the size of the entire lake to about 100 acres.

TERMS

7. General Provisions

A. Equipment Purchase, Not a Construction Project: This equipment is portable, and can be easily relocated or removed entirely from the premises at any time. It does not become an integral part of any building or other structure, or part of "real estate." Therefore, to purchase it, the City should use the same procedure as for purchasing other portable equipment, such as a forklift, a drill press, or an office desk. Medora reserves the right not to accept an order if the purchase is incorrectly characterized as a "construction" project." Medora has not found any State or other jurisdiction where construction or contractor statutes apply to portable equipment that is sold by a factory, with on-site final assembly and placement performed by factory personnel.

B. Assumptions: This quotation may be based on worksheets, calculations or other information that has been provided by the City. The City should bring to Medora's attention any discrepancies, errors in data, or false assumption that Medora may have made while preparing this quotation.

C. Expiration: This quotation expires in 90 days, or on the date of any new quotation for this project, whichever is sooner.

D. Delivery Time: Delivery and Installation will be scheduled at time of order, and is usually between 4 and 8 weeks.

E. Payment Terms: For a federal, state, or local government purchaser with a good credit rating, full payment is due in US dollars 30 days after invoice date, which is generally the date when the goods leave the Medora factory. For a non-government purchaser, full payment must be made by credit card or cashier's check before the goods leave the Medora factory though, in some cases, based on availability of a payment bonding or a bank Letter of Credit, 30 day credit terms may be extended upon special request by the purchaser. If there are any issues with these payment terms, please do not rely on this quotation until the issues have been resolved with Medora.

F. Add for Taxes and Any Governmental Fees: Except as indicated above, no taxes, tariffs or other governmental fees are included in the quote shown above, nor are there any costs added for special insurance coverage the customer may require. It is the customer's responsibility to pay all local, state, and federal taxes, including, sales and use taxes, business privilege taxes, and fees of all types relating to this sale, whether they are imposed on either Medora or the customer, or whether these taxes and fees are learned about after the customer orders the equipment. The customer's purchase order should indicate any taxes or fees due on equipment and/or services, and whether the customer will pay them directly to the governing body or include the tax payment with the purchase for Medora to submit them to the governing body.

~~**G. Add for Special Insurance Requirements:** Medora Corporation maintains adequate liability and workman's compensation insurance to generally comply with its requirements for doing business in all fifty U.S. states, and will provide at no charge certificates of insurance when requested. However, if additional insurance or endorsements beyond the company's standard policy are required by the customer, then the costs of those additional provisions and/or endorsements will be invoiced to the customer after the costs become known.~~

H. Add for Special Training, Safety, Signage, or Other Requirements: Medora has a very strong safety training program for its employees. If any special training classes for Medora personnel are required by the customer, please notify Medora well in advance. The cost of this training will be added to this quotation or invoiced to the customer separately. The same applies to any other special requirements the customer may have, including providing of project signage or any other requirement.

I. Customer to Follow Medora's Maintenance and Safety Guidelines: The customer agrees to follow proper maintenance, operating, and safety instructions regarding the equipment as contained in the safety manual that accompanies the equipment or is sent to the customer's address.

J. Regulatory Compliance. The customer must comply with all applicable Federal and State governmental regulations. It is the customer's sole responsibility to inquire about governmental regulations and ensure that GridBee and SolarBee equipment is deployed and maintained so as to remain in compliance with these regulations and guidelines, and to hold Medora harmless from any liability caused by non-compliance with these regulations and guidelines.

K. Warranty. Medora Corporation has the best parts and labor warranties that we are aware of in the industry. The details of the Warranty which applies to this project are either attached to this document or are available at:
<http://lakes.medoraco.com/lakes/product-information>

8. To Accept This Quotation

To order the equipment, please issue a purchase order to Medora Corporation, 3225 Hwy. 22, Dickinson, ND 58601. The purchase order can be mailed to the address above, faxed to 866-662-5052, or emailed to the home office at orderprocessing@medoraco.com. The purchase order should refer to the date of this quotation, and will be assumed to include this entire quotation by reference.

If purchase orders are not utilized, please sign and date below, provide billing information, and fax to 866-662-5052 or email to orderprocessing@medoraco.com.

Signing below acknowledges acceptance of this quotation. Please indicate which of the following options have been chosen:

Proposal Date: March 24, 2016

Project #: 4142

☐ Equipment Purchase with Factory Delivery, Installation & Startup

☐ Beekeeper Service Program (Years 1 & 2)

☐ Beekeeper Service Program (Years 3, 4 & 5)

Signature

Date

Printed Name

Title

EXHIBIT "1"

Exhibit "2"

Payment and Performance Bond

(Exhibit "2" includes a total of 4 pages)

RETURN RECORDED DOCUMENT TO:

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

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. CA3220352

PRINCIPAL:

Developer or Contractor: Medora Corporation
Principal Business Address: 3225 Highway 22 North
Dickinson, North Dakota 58601
Contact Person: Joel Bleth, President
Phone Number: (701) 225-4495

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: \$311,578.00

City Case/Project No. RIM005

Description of Work: Assembly of six (6) Reservoir Circulators with factory delivery, installation and setup located at the Reservoir (Lakes) A & B.

Project Location: Port Orange, Volusia County, Florida

Legal Description: Reservoirs (lakes) A & B, 11.3 miles North West of the City of Port Orange.
See Attached Exhibit "A"

Front Page

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

Legal Description

A portion of Section 20, Township 16 South, Range 32 East, less and except the Southerly 615 feet +/- (80 acres) and the Easterly 875 feet +/- of said Section 20, with access off Shunz Road located in Volusia County, Florida.

EXHIBIT "A"

RETURN RECORDED DOCUMENT TO:

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

**Assembly of Six (6) Reservoir Circulators with factory delivery,
installation and start up located at the Reservoirs (Lakes) A & B**

City Project No. RIM005

Bond No. _____

Space Reserved for Recording Data

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

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

BY THIS BOND, We, MEDORA CORPORATION 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 **THREE HUNDRED ELEVEN THOUSAND FIVE HUNDRED
SEVENTY-EIGHT AND 00/100 DOLLARS (\$311,578.00)**, 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 _____,
2016, entered into by and between the Principal and the City, for the assembly of six (6) Reservoir Circulators with
factory delivery, installation and start up located at the Reservoirs (Lakes) A & B, 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 in duplicate originals, each of which shall be deemed an original, this _____, day of _____, 2016.

Attest:

MEDORA CORPORATION
(Name of Principal)

(As to Corporate Principal) Secretary

By: _____
Name/Title: Joel Bleth, President

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

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

(Corporate Seal)

NOTE: Data 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.



SINGLE/SOLE SOURCE JUSTIFICATION

(Waiver of Competitive Quotes / Bids)

DATE: 03/29/2016

Selected Vendor: Medora Corporation

Vendor # in Naviline: 259005

Vendor E-Mail: darren.t@medoraco.com

Amount requested for current fiscal year expenditure with above Vendor: \$ 311,578.00

Department: Public Utilities

Fiscal Year: 2016

City Contact Name: Julia Wiggins, PU Budget Analyst Phone Ext: 5751

Brief Description of Purchase: Purchase of six (6) SolarBee Model SB10000 v20 for reservoir circulation equipment

(Section I) SOURCE JUSTIFICATION – Check boxes as appropriate:

Part A Award to SINGLE SOURCE. (Check one) * Attach a departmental memorandum (Justification of Request)

- ☒ [XX] Service Agreements and/or repair services/parts unavailable from any other source except original equipment manufacturer or their designated servicing dealer.

*** Attach manufacturer's written certification that item is OEM.**

*** Attach the manufacturer's (not distributor's) written certification that no other distributor exists.**

- ☐ [] Compatibility of equipment or supplies required. List equipment with which purchase will be used:

Model # _____ Serial # _____ Manufacturer _____

- ☐ [] Upgrade to existing software. Available only from the producer of this software who sells on direct basis only.

A. Attach the producer's written certification stating sold on direct basis only and no other distributor exists.

- ☐ [] Used or demonstration equipment available at a lower-than-new cost. (Provide copy of quote showing used vs. new pricing.)

- ☐ [] Other. (Explain in Section II)

Part B Award to SOLE SOURCE. (Check box below) * Attach a departmental memorandum (Justification of Request)

- ☒ [XX] Patent, copyright or unique design restrictions ***Attach verification from Manufacturer***

- ☐ [] Proprietary rights in technical data and/or product formulations (e.g. cleaning compounds, lubricating oils, paint, etc.) which can only be determined through extensive laboratory analysis and examination ***Attach verification from Manufacturer***

- ☐ [] Only producer, such as utility supplier or construction material supplier, that will meet the specialized needs of the department or perform the intended function ***Attach verification from Manufacturer***

- ☐ [] Only known source in the market. (Explain in Section II technical or other reasons why similar or like items are not available.)

(Section II) **EXPLANATION.** *(Use additional sheet if needed)*

SEE ATTACHED MEMO

(Section III) **AUTHORIZATION/APPROVALS**

DEPARTMENT APPROVAL:

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the service or material described in this single/sole source justification be authorized as single/sole source for the service or material. **Purchasing approval required prior to submitting for City Manager approval.**

Department Head Approval: Andrew Lohoff Date: 3/31/16

IT Approval *(Software or hardware purchases only)*: _____ Date: _____

PURCHASING APPROVAL:

Single/Sole source requests shall be posted on Quote Wire for seven (7) business days by Purchasing. Prospective vendors shall provide information regarding their ability to supply the commodities or contractual services described. If no complaints or protests are received from vendors after seven days of posting, the single/sole source shall be deemed a valid request. *(Result of Quote Wire post attached.)* **Purchasing Manager approval required prior to submitting for City Manager approval.**

Quote Wire #: MN16-23 Date Posted: 4-1-16 Complaints/Protest (Yes/No) N

Posted by: [Signature] 4-1-16

Purchasing Manager Approval: [Signature] Date: 4/11/16

CITY MANAGER APPROVAL:

City Manager Approval: M.H. [Signature] Date: 4-11-16



Memorandum

To: Diana Fye, Purchasing Manager
From: Andrew Neff, Public Utilities Director *AN*
Subject: **Sole Source Justification – Medora Corporation**
Date: March 31, 2016

Medora Corporation is the original equipment manufacturer of the Solarbee Model SB10000 v20.

The City currently has five (5) SolarBee's Model # SB10000 v20 installed at the Reclaimed Reservoir Lakes for circulation. This equipment has been proven to provide long-distance circulation in order to control harmful blue-green algae blooms, which will in turn reduce related odors, pH, BOD, and TSS levels that will improve fish habitats and overall water quality.

This request is for an additional six (6) SolarBee's. By adding these additional units, we believe there should be sufficient reduction in BOD to attain our discharge limits to the adjacent wetlands.

These units do not require electricity, they are solar powered. Our research indicates these are the only units that do not require electrical connection.

March 24, 2016

City of Port Orange
Thomas C. Troutman
817 Oak Street
Port Orange, FL 32127

Dear Thomas,

This letter is to certify that the Model SB10000 v20 high-flow, long-distance water circulation equipment, which the City of Port Orange is considering purchasing, is available only through Medora Corporation of Dickinson, North Dakota.

Medora Corporation the exclusive manufacturer of this equipment, which encompasses 13 or more patents with 50+ patent claims, plus some additional patents pending and the sole licensee of this technology. A list of granted patents are available at:
<http://www.medoraco.com/about>.

In addition, the machines come with a warranty far longer than any other in the industry:

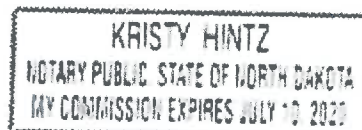
- a. 2-yr machine warranty, that covers parts and labor w/ optional extended warranty
- b. v20 machines: 10-yr motor warranty (proprietary brushless motor exclusive to Medora Corporation)
- c. 25-yr solar panel performance warranty
- d. Factory Installation crews trained for: at heights, over water and confined Spaces.

The purchase price presented for this equipment is the same price charged to all U.S. agencies and other organizations, after allowing for small differences in delivery and installation charges based on quantity and mileage differences between projects.

Sincerely,



Willard Tormaschy, Corporate Secretary



(Notary Seal)

The above individual signed this letter in my presence on March 24, 2016.

Attested to by Kristy Hintz Notary Public, Stark County, State of North Dakota



Medora Corporation
3225 Highway 22 • Dickinson, ND 58601
Tel: (701) 225-4495 • www.MedoraCo.com



Quotation: Reservoir Circulation Equipment for Lakes A & B

Date: March 24, 2016

Project #: 4142

To: Thomas C. Troutman

Chief Operator Reclaimed Water Treatment Plant

City of Port Orange Public Utilities

817 Oak Street

Port Orange, FL. 32127

Office: 386.506.5786 / Fax: 386.756.5298 / Cell: 386.566.4347

e-mail: ttroutman@port-orange.org

From: Michael Lipparelli - E2 Water Solutions, Medora Corp. local representative

Michael@E2H2O.com • 352-589-6161

Mike Christensen, Medora Corporation East U.S. Manager, Wells, MN

mike.c@medoraco.com • 866-553-5590

Darren Tessier, Medora Corporation Sales Engineering Dept., Dickinson, ND

darren.t@medoraco.com • 866-437-8076

Thomas,

Thank you for supporting our SolarBee mixing technology and for being a loyal customer. We are eager to work with the City of Port Orange Public Utilities and E2 Water Solutions to provide additional high-quality reclaimed water circulation equipment for Lakes A & B. Please note that improvements have been made to the SolarBee mixers recently, upgrading your recommended machine to the new SB10000 v20. In addition, the price of this model has been lowered to make projects more cost effective for places like the City of Port Orange. Feel free to contact us with any questions.

Sincerely,

Darren Tessier

Medora Corporation

PROJECT DESCRIPTION

1. Name and Location of Reservoir

Lake A - 11.3 miles northwest of the City of Port Orange Reclaimed Water Treatment Plant

Lake B - same as above (GPS at site entrance, north end of Lake A: 29.104796°, -81.124813°)

2. Description of Reservoir:

Lake A is a Reclaimed Water Recharge Reservoir with a depth of 12 feet. Formerly, only the northern part of the reservoir was used year-round, and during the wet weather season, water was stored in the southern part of the reservoir as well. There is now a plan to dredge the southern area of the reservoir, which will expand Lake A to 100 acres. Nearly 100% of the inflow comes from reclaimed water; there is very little groundwater input.

Lake B is also a Reclaimed Water Recharge Reservoir (to the east on aerial photo). It is L-shaped with an approximately 75-acre surface area and 12-foot depth. The inlets in both lakes are at elevation 40 feet. Reclaimed water flows into the north end of Lake B at a permitted rate of 6 MGD. The flow continues to the south end of Lake B, then through a pipe to the south end of Lake A. Effluent will be used to supply residential and business users in and around Port Orange.

3. Project Objectives

Epilimnetic deployment - Primary Objectives: To provide long-distance circulation in order to control harmful blue-green algae blooms, which will in turn reduce related odors, pH, BOD and TSS levels, and to improve fish habitats and overall water quality.

4. Medora Corp. Recommendation / System Design for this Installation

To meet the above objectives for complete lake treatment, we recommend the installation of six (6) SolarBee model SB10000 v20 machines, which would amount to a total of six SolarBees in Lake A and five SolarBees in Lake B (see aerial photo below for placement). This recommendation is based on the acreage of the lakes. The new v20 machine, the latest version of our SolarBee mixer, has improved software, motor, motor magnets, and motor controller cord, as well as larger PV modules.

Water Level Note: The recommended model requires 4 feet of water to effectively circulate; however, if the water level drops below this, the machines can run dry, in shallow water or drained conditions, without damage.

EPA Note: The US EPA produced a paper in June 2015 to help cities and other organizations develop a Cyanobacteria Management Plan (CMP) for lakes. This paper states that surface mechanical mixing equipment (such as our SolarBee lake circulators), has been used in U.S. water bodies for controlling cyanobacteria, i.e., blue-green algae. "This mixing of the water column disrupts the cyanobacteria migration and limits availability of nutrients." (U.S. EPA, 2014d)

To read the full paper, it can be downloaded at this link:

<http://www2.epa.gov/nutrient-policy-data/recommendations-public-water-systems-manage-cyanotoxins-drinking-water>

5. Proposed Machine Locations:



SB10000 v20 machines are not drawn to scale; the five existing SolarBees and six additional SolarBees would be configured as shown above for complete lake coverage in both lakes. The southern part of Lake A is to be dredged, expanding the size of the entire lake to about 100 acres.

PRICING

6. Equipment Cost - For Equipment and Option Details, See Attached Documents

Pricing for Solar-Powered Machines:

Quantity	Equipment Description	Cost Each	Equipment Total
6	SB10000 v20 SolarBee Mixers:	\$44,700	\$268,200
Equipment Subtotal:			\$268,200
Applicable Taxes:			-to be determined -
Factory Delivery, Installation and Startup:			\$61,968
Multiple Unit Installation Discount:			\$18,590
Equipment, Delivery and Installation Total:			\$311,578

EQUIPMENT & SERVICE OPTIONS

Options for Solar Models		
SCADA	<i>All SB v20 models come standard with a SCADA brain-board with six outputs. (For on-site communication options, please contact our SCADA Engineering Department.)</i>	Please request option list
Beekeeper Service Program	A maintenance and support program is available for all models, which covers: damages from Acts of God and vandalism; power system upgrades and updates; scientific and technical support; scheduled and unscheduled field service calls; and extends the warranty during the term of the Beekeeper (please see attached Beekeeper summary for further details).	Years 1 & 2: \$7,789/year Years 3, 4 & 5: \$18,695/year for the above quoted SBs

TERMS

7. General Provisions

A. Equipment Purchase, Not a Construction Project: This equipment is portable, and can be easily relocated or removed entirely from the premises at any time. It does not become an integral part of any building or other structure, or part of "real estate." Therefore, to purchase it, the City should use the same procedure as for purchasing other portable equipment, such as a forklift, a drill press, or an office desk. Medora reserves the right not to accept an order if the purchase is incorrectly characterized as a "construction" project." Medora has not found any State or other jurisdiction where construction or contractor statutes apply to portable equipment that is sold by a factory, with on-site final assembly and placement performed by factory personnel.

B. Assumptions: This quotation may be based on worksheets, calculations or other information that has been provided by the City. The City should bring to Medora's attention any discrepancies, errors in data, or false assumption that Medora may have made while preparing this quotation.

C. Expiration: This quotation expires in 90 days, or on the date of any new quotation for this project, whichever is sooner.

D. Delivery Time: Delivery and Installation will be scheduled at time of order, and is usually between 4 and 8 weeks.

E. Payment Terms: For a federal, state, or local government purchaser with a good credit rating, full payment is due in US dollars 30 days after invoice date, which is generally the date when the goods leave the Medora factory. For a non-government purchaser, full payment must be made by credit card or cashier's check before the goods leave the Medora factory though, in some cases, based on availability of a payment bonding or a bank Letter of Credit, 30 day credit terms may be extended upon special request by the purchaser. If there are any issues with these payment terms, please do not rely on this quotation until the issues have been resolved with Medora.

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K. Warranty. Medora Corporation has the best parts and labor warranties that we are aware of in the industry. The details of the Warranty which applies to this project are either attached to this document or are available at:
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If purchase orders are not utilized, please sign and date below, provide billing information, and fax to 866-662-5052 or email to orderprocessing@medoraco.com.

Signing below acknowledges acceptance of this quotation. Please indicate which of the following options have been chosen:

Proposal Date: March 24, 2016

Project #: 4142

☐ Equipment Purchase with Factory Delivery, Installation & Startup

☐ Beekeeper Service Program (Years 1 & 2)

☐ Beekeeper Service Program (Years 3, 4 & 5)

Signature

Date

Printed Name

Title

Tomoka Reclaimed Reservoir Lakes

Solar Bee Study



Prepared by: Steve Parnell 3/21/16

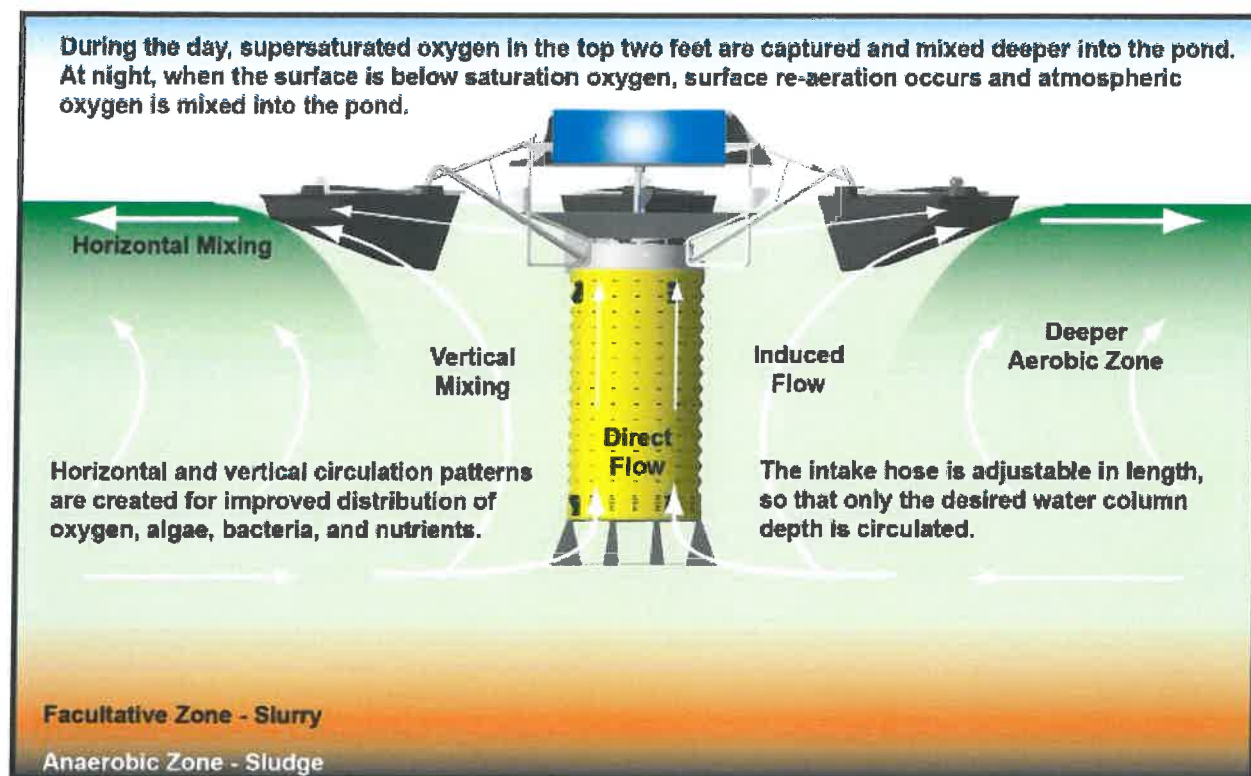


The City of Port Orange's Reclaimed Water Recharge Reservoirs are situated on 542 acres located on the south side of Shuntz Road approximately 3.5 miles west of Tomoka Farms Road. The City utilizes two >80 acre lakes for storage of reclaimed water from the City's wastewater treatment facility. The reclaimed water in the lakes is allowed to naturally recharge the groundwater or can be withdrawn from a 2 MGD Kruger filtration system and augmented back into the City's reclaimed water system. Average daily discharge to the recharge lakes varies greatly depending on rainfall. The average discharge to the lakes in 2015 was 0.790 MGD with an average Total Nitrogen loading rate of 4mg/l and Total Phosphorus loading rate of 0.86 mg/l. Due to the increased nitrogen and phosphorus loading rates occurring on the recharge lakes, algae blooms and fish kills are a common sight. The most common cause is reduced oxygen in the water, which in turn may be due to factors such as drought, algae bloom, overpopulation, or a sustained increase in water temperature.

An algae bloom is the natural appearance of a large amount of algae or scum floating on the surface of a body of water. Algae blooms occur in nutrient-rich lakes and rivers, though the presence of fertilizer or animal waste runoff can cause increased nutrient levels and algae bloom growth. A few species of algae produce toxins, but most fish kills due to algae bloom are a result of decreased oxygen levels. When the algae die, decomposition uses oxygen in the water that would otherwise be available to fish. Excessive anthropogenic nutrient enrichment of phosphorus and nitrogen allow for rapid growth and multiplication of phytoplankton. After eutrophication starts and is in progress, the phytoplankton reach their maximum population density and begin to die. As the dead phytoplankton accumulate, detritus, or organic matter waste, forms at the surface along with other bacteria and algae. As more phytoplankton die, the higher the concentration of organic matter becomes; and with a higher concentration of organic matter, more bacteria will reproduce. Consequently, as more bacteria, phytoplankton, and algae exponentially grow and multiply, the more submerged aquatic vegetation die, because they do not have access to sunlight due to eutrophication.

Once this snowball-like course of action is in full motion, a dead zone has been created. The lack of natural mixing and aeration in the lake waters and increased organic loading are the key factors contributing to the poor water quality at the recharge lakes. The City began to look for solutions best suited for the lakes and several different methods of achieving the goal of increased mixing and aeration were considered. Larger bubble diffusers, surface agitation, and solar mixing were all reviewed. High energy and maintenance cost of the first two options ultimately led the City to narrow its choice to solar mixing. Solar Bee mixers take advantage of the way water forms thin horizontal layers in all reservoirs. Utilizing solar power, they pull in water at a desired depth from all corners of the lake, and provide efficient mixing that distributes dissolved oxygen evenly throughout the mixed depth. The result is a reduction in BOD, TSS, Total Nitrogen and Total Phosphorus.

In February 2014 the City installed five Solar Bee SB10000/ v18 10,000 GPM Circulators. Lake A received 2 Solar Bee circulators and Lake B received 3 Solar Bees circulators. Each Solar Bee is capable of flowing 14.4 MGD. The water quality in the recharge lakes prior to the addition of the Solar Bees was poor, fish kills were commonplace and odorous conditions were present. (See Table Below)



2013 Recharge Reservoir Lake A+B Data

Highlight indicates Solar Bees in operation

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	21.1	2.68	.40	5.24	NO
Lake B	18.7	2.76	.16	6.32	NO

2014 Recharge Reservoir Lake A+B Data

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	21.1	2.48	.22	6.70	NO
Lake B	9.9	2.72	.14	6.23	NO

2015 Recharge Reservoir Lake A+B Data

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	8.1	2.21	.49	4.42	NO
Lake B	8.1	6.62	.99	3.23	NO

2016 Recharge Reservoir Lake A+B Data

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	5.6	.33	.14	3.59	NO
Lake B	8.0	.40	.16	4.13	NO

* Only two months data *

E2 water solutions reviewed the lake sizes and data and recommended 11 Solar Bees for the proposed application. The City chose to install only five Solar Bees, 2 in Lake A and 3 in Lake B. Extensive testing of the lake water was performed before and after Solar Bee installation. The Solar Bees resulted in a 60.8% reduction in TSS, 28% reduction in BOD, 7.1% reduction in Total Nitrogen, 51% reduction in Total Phosphorus. Noticeable visual improvements have been noticed at the lakes and a fish kill has yet to occur. However, small dead zones still develop in the lakes due to an insufficient number of Solar Bees.

In Conclusion, the data provided shows numerical proof the Solar Bees are helping to reduce TSS, BOD, TN, TP in the recharge lakes. With the installation of the remaining 6 Solar Bees, I feel very confident that the recharge lakes will meet the 5/5/3/1 nutrient criteria for permitted discharge to receiving wetlands.

[My DemandStar](#)[Buyers](#)[Account Info](#)[Log Bid](#)[View Bids](#)[Log Quote](#)[\[View Quotes\]](#)[Supplier Search](#)[Build Broadcast List](#)[Reports](#)

Quote Details

Quote Number	MN16-23
Quote Name	SolarBee Model SR10000 v20
Broadcast Date	4/1/2016 9:22:01 AM Eastern
Date Due	4/11/2016 10:00:00 AM Eastern
Delivery Requirements	None specified
Shipping Notes	Delivery and installation included in price.
Additional Specifications	Include delivery and setup in price.
Insurance & Additional Requirements	The Contractor shall maintain insurance during the life of this agreement and the City of Port Orange must be listed as additional insured on that insurance document. A waiver of subrogation must be added in all areas and shall suffice in lieu of additional insured on workers compensation, in an amount and a form set forth herein, to insure against risks, which are identified herein. Insurance providers must be rated A or better by A.M. Best's rating.
Terms & Conditions	Net 30 upon receipt and approval.
Status Notes	
Broadcast List Filtered	No
Commodity Codes	View
Documents	View

Suppliers

Line Items

0 Supplier(s) found.

Response Status:

Submitted Quote

Supplier	City	Attributes	Programs	Response Status	Quote Total 	Delivery (days ARO)	Complete / Partial	Actions
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Subtotals will be rounded up to the nearest cent

[<< Return](#)



CERTIFICATE OF LIABILITY INSURANCE

MEDOR-1

OP ID: PK

DATE (MM/DD/YYYY)

01/04/2016

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 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 Dacotah Insurance - Dickinson PO Box 1037 Dickinson, ND 58602-1037 Thomas Heisler	CONTACT NAME: Thomas Heisler PHONE (A/C, No, Ext): 701-225-1200 FAX (A/C, No): 701-483-0102 E-MAIL ADDRESS: Tom.heisler@dactohbank.com INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Indemnity Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 25666
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COVERAGES **CERTIFICATE NUMBER:** **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	ADCL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	X COMMERCIAL GENERAL LIABILITY	X	Y6600E550663TIA16	01/01/2016	01/01/2017	1,000,000
						1,000,000
						5,000
						1,000,000
						2,000,000
						2,000,000
						E&O 1,000,000
						1,000,000
A	X AUTOMOBILE LIABILITY	X	BA0E55066315CAG	01/01/2016	01/01/2017	1,000,000
A	X UMBRELLA LIAB		YSMCUP0E550663TIL16	01/01/2016	01/01/2017	8,000,000
	X EXCESS LIAB					8,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	YIN Y N/A	X YHUB0E51928A16	01/01/2016	01/01/2017	1,000,000
						1,000,000
						1,000,000
A	Foreign Gen. Liab		ZPP15R9678316	01/01/2016	01/01/2017	Liability 1,000,000
A	Foreign Auto Liab		ZPP15R9678316			Liability 1,000,000

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

30 Day Cancellation

CERTIFICATE HOLDER

CITYPO1

City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

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

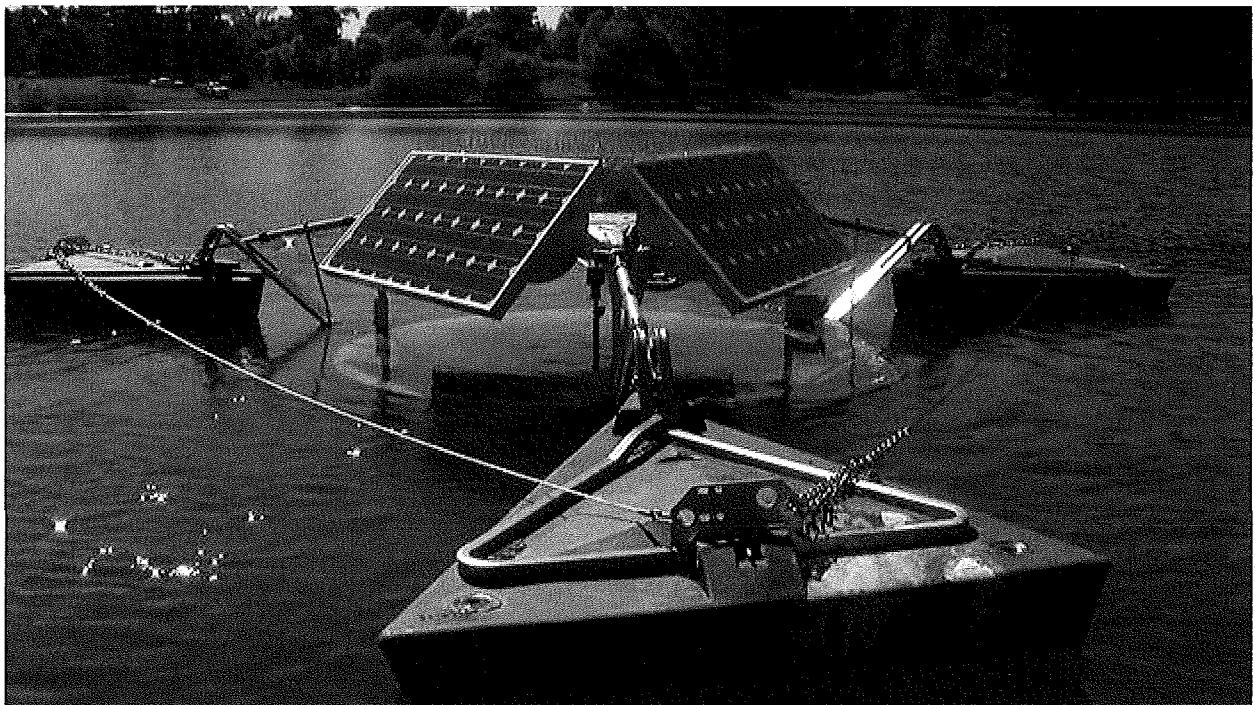
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Tomoka Reclaimed Reservoir Lakes

Solar Bee Study



Prepared by: Steve Parnell 3/21/16



The City of Port Orange's Reclaimed Water Recharge Reservoirs are situated on 542 acres located on the south side of Shuntz Road approximately 3.5 miles west of Tomoka Farms Road. The City utilizes two >80 acre lakes for storage of reclaimed water from the City's wastewater treatment facility. The reclaimed water in the lakes is allowed to naturally recharge the groundwater or can be withdrawn from a 2 MGD Kruger filtration system and augmented back into the City's reclaimed water system. Average daily discharge to the recharge lakes varies greatly depending on rainfall. The average discharge to the lakes in 2015 was 0.790 MGD with an average Total Nitrogen loading rate of 4mg/l and Total Phosphorus loading rate of 0.86 mg/l. Due to the increased nitrogen and phosphorus loading rates occurring on the recharge lakes, algae blooms and fish kills are a common sight. The most common cause is reduced oxygen in the water, which in turn may be due to factors such as drought, algae bloom, overpopulation, or a sustained increase in water temperature.

An algae bloom is the natural appearance of a large amount of algae or scum floating on the surface of a body of water. Algae blooms occur in nutrient-rich lakes and rivers, though the presence of fertilizer or animal waste runoff can cause increased nutrient levels and algae bloom growth. A few species of algae produce toxins, but most fish kills due to algae bloom are a result of decreased oxygen levels. When the algae die, decomposition uses oxygen in the water that would otherwise be available to fish. Excessive anthropogenic nutrient enrichment of phosphorus and nitrogen allow for rapid growth and multiplication of phytoplankton. After eutrophication starts and is in progress, the phytoplankton reach their maximum population density and begin to die. As the dead phytoplankton accumulate, detritus, or organic matter waste, forms at the surface along with other bacteria and algae. As more phytoplankton die, the higher the concentration of organic matter becomes; and with a higher concentration of organic matter, more bacteria will reproduce. Consequently, as more bacteria, phytoplankton, and algae exponentially grow and multiply, the more submerged aquatic vegetation die, because they do not have access to sunlight due to eutrophication.

Once this snowball-like course of action is in full motion, a dead zone has been created. The lack of natural mixing and aeration in the lake waters and increased organic loading are the key factors contributing to the poor water quality at the recharge lakes. The City began to look for solutions best suited for the lakes and several different methods of achieving the goal of increased mixing and aeration were considered. Larger bubble diffusers, surface agitation, and solar mixing were all reviewed. High energy and maintenance cost of the first two options ultimately led the City to narrow its choice to solar mixing. Solar Bee mixers take advantage of the way water forms thin horizontal layers in all reservoirs. Utilizing solar power, they pull in water at a desired depth from all corners of the lake, and provide efficient mixing that distributes dissolved oxygen evenly throughout the mixed depth. The result is a reduction in BOD, TSS, Total Nitrogen and Total Phosphorus.

In February 2014 the City installed five Solar Bee SB10000/ v18 10,000 GPM Circulators. Lake A received 2 Solar Bee circulators and Lake B received 3 Solar Bees circulators. Each Solar Bee is capable of flowing 14.4 MGD. The water quality in the recharge lakes prior to the addition of the Solar Bees was poor, fish kills were commonplace and odorous conditions were present. (See Table Below)

2015 Recharge Reservoir Lake A+B Data

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	8.1	2.21	.49	4.42	NO
Lake B	8.1	6.62	.99	3.23	NO

2016 Recharge Reservoir Lake A+B Data

	TSS	Total Nitrogen	Total Phosphorus	BOD	5,5,3,1 Compliant
Lake A	5.6	.33	.14	3.59	NO
Lake B	8.0	.40	.16	4.13	NO

Only two months data

E2 water solutions reviewed the lake sizes and data and recommended 11 Solar Bees for the proposed application. The City chose to install only five Solar Bees, 2 in Lake A and 3 in Lake B. Extensive testing of the lake water was performed before and after Solar Bee installation. The Solar Bees resulted in a 60.8% reduction in TSS, 28% reduction in BOD, 7.1% reduction in Total Nitrogen, 51% reduction in Total Phosphorus. Noticeable visual improvements have been noticed at the lakes and a fish kill has yet to occur. However, small dead zones still develop in the lakes due to an insufficient number of Solar Bees.

In Conclusion, the data provided shows numerical proof the Solar Bees are helping to reduce TSS, BOD, TN, TP in the recharge lakes. With the installation of the remaining 6 Solar Bees, I feel very confident that the recharge lakes will meet the 5/5/3/1 nutrient criteria for permitted discharge to receiving wetlands.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Manheim Consignment Agreement

DEPARTMENT: Police Services

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: To approve the Consignment Agreement.

SUMMARY: Each year the POPD seizes vehicles used in violation of the Florida Contraband Forfeiture Act. Once these vehicles are forfeited to the City through the required legal process, they may be used by the POPD or sold at auction.

Also, the POPD takes in property that has been lost or abandoned. Property that has been lost or abandoned and recovered by the POPD is held for at least 90 days (per Florida Statue) and thereafter becomes the property of the City by operation of law. Once the property has vested in the City, it may be put into use or sold.

This agreement is for the auction of 4 vehicles (2 forfeiture vehicles and 2 found property vehicles).

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Manheim Consignment Agreement	Manheim Consignment Agreement.pdf
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Matthew Jones
Thomas Grimaldi
Tracey Riehm
Margaret Roberts
M. Jake Johansson

Created/Initiated - 05/10/2016
Approved - 05/11/2016
Approved - 05/12/2016
Approved - 05/12/2016
Final Approval - 05/12/2016

CONSIGNMENT AGREEMENT

THIS CONSIGNMENT AGREEMENT is entered into this _____ day of _____, 2016, by and between the CITY OF PORT ORANGE, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter the "City"), and MANHEIM REMARKETING, INC., a Delaware corporation registered to transact business in Florida, whose principal address is 6205 Peachtree Dunwoody Road, Atlanta, Georgia 30328 (hereinafter the "Auction"). (The City and Auction are hereinafter collectively referred to as the "Parties.")

WHEREAS, the Auction is engaged in the business of selling used vehicles on consignment; and

WHEREAS, the City desires to sell four vehicles on consignment; and

WHEREAS, Auction desires to sell those vehicles on behalf of the City.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Consigned Property. The City shall cause to be delivered to Auction the following vehicles (hereinafter the "Consigned Property" or "Consigned Vehicle(s)");

- (i) 1998 Lincoln Continental, VIN: 1LNFM97V2WY604577
- (ii) 1998 Honda CR 250R Motorcycle, VIN: JH2ME033XWM000542
- (iii) Baja Dirt Bike, Serial No.: LUAHYD10881997256
- (iv) 4-Wheeler ATV, black front fenders/white rear fenders

2. Certificate of Title and Registration. All Consigned Vehicles furnished to Auction shall be on consignment and no title or property rights shall be transferred until sold by Auction. The City shall forward to Auction the certificate of title and/or registration for each vehicle, as needed, together with any other documents in possession of the City to affect transfer upon sale, and all documents shall be endorsed as required prior to delivery to Auction. Auction shall not deliver, endorse, or otherwise part with the possession of such documents except to the purchaser of the Consigned Vehicle after sale and receipt of payment in accordance with the terms of this Agreement.

3. Consignment Period. Auction shall accept possession of the Consigned Property for consignment and will attempt to sell the Consigned Property at public auction within thirty (30) days after receipt. If the Consigned Property is not sold within thirty (30) days, the Auction shall return the Consigned Property to the City. The Consignment Period may be extended in increments of thirty (30) days at the sole discretion of the City.

4. Storage. Auction shall provide storage for the Consigned Property until the same are sold at auction or retaken by the City.

5. **Sale of Consigned Property.** Prior to the date of the auction, the City shall designate in writing the minimum acceptable sales price for each vehicle on a form substantially similar to the attached **Exhibit "A"**. A sale shall be complete when the Auction so announces by the fall of the hammer. City shall have the final approval of a proposed sale of the Consigned Property, except that Auction shall withdraw the Consigned Property from the sale if no bid exceeds the minimum price communicated by the City to the Auction as acceptable. All sales shall be on a cash basis, due and payable on the day of the auction. All monies received by Auction shall be the property of the City. Auction shall be responsible for all collection matters relating the sale of the Consigned Property. Within three (3) days after the sale of the Consigned Property, Auction shall forward payment to the City together with a detailed accounting regarding the sale, including the date of sale, detail work and repairs required and approved by City, and the sales price.

6. **Fees.** In return for the services identified above, the City agree pay to Auction a commission in the amount of five percent (5%) of the final selling price. The City further recognizes that Auction offers various services in conjunction with the sale of the Consigned Property, which the City may choose to select at its sole discretion. The City hereby elects the following services pursuant to the Auction's fee schedule attached hereto as **Exhibit "B"**:

- Each of the Consigned Vehicles shall be towed from the City to the Auction
 - \$45 X 4 Consigned Vehicles = \$180
- The Consigned Vehicles identified above as 1.(i) and 1.(ii) shall be washed and vacuumed prior to Auction
 - \$25 X 2 Consigned Vehicles = \$50

7. **Indemnity – Theft or Conversion/Risk of Loss.** Auction shall be responsible for, and indemnify and hold City harmless from, any theft, conversion, or destruction of any vehicles or any part thereof after the same is in the physical custody of the Auction and until sold to a purchaser at auction. Value for total loss of any vehicle by theft, conversion, or destruction shall be determined by averaging the clean wholesale values of nationally accepted vehicle market guides, *e.g.*, the Black Book, NADA, Manheim Market Report, plus or minus adjustments for equipment, mileage and condition. Auction shall not be responsible for loss or damage resulting from Acts of God such as, but not limited to hail, windstorms, and lightning, or for mechanical failures not caused by Auction, its agents or employees, or for acts or omissions of City, its agents or employees.

8. **Insurance.** Auction shall maintain insurance during life of this Agreement. Auction shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers compensation coverage, Auction'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. Auction shall not commence services under this Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Auction 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 Auction for the reasonable additional costs of increased coverage.

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> Additional Coverage:	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Limits:</u> Additional Coverage:	Auto Liability Body Injury: \$100,000 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
Garage Keepers Legal Liability (Comprehensive and Collision) <u>Limits:</u>	Coverage- \$1,000,000 minimum per location	

9. **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 Auction, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Auction 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 subcontractor 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 Auction as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Auction 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 Auction shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Auction by reason of termination under this clause, the Finance Director shall pay the Auction 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 Auction is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Auction may appeal any claim to the City Council in accordance with Paragraph 20 of this contract concerning disputes.

10. 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.

11. Examination of Records

(a) The Auction 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 Auction involving transactions related to this Agreement.

(b) The Auction further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Agreement, a provision to the effect that the Auction 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 Auction 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.

12. Public Records Compliance. Auction 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 Agreement term and following completion of the Agreement if the Auction does not transfer the records to the City.

(d) Upon completion of the Agreement, Auction shall transfer to the City, at no cost, all public records in possession of the Auction 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 Auction does not comply with a public records request, the City shall deem the non-compliance a breach of this Agreement, and the Auction may be subject to penalties under Section 119.10, Florida Statutes.

AUCTION QUESTIONS RELATING TO AUCTION'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

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

14. Modifications or Changes to this Contract

(a) Change Orders. The contract administrator, 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 Auction's cost of, or time required for the performance of the work hereunder, Auction shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Auction, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Auction 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. **Contract Administration.** The Deputy City Attorney shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

17. **Liability for Loss or Damage.** Auction shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Auction, 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 Auction, his/its agents, servants and employees. Auction shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

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

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

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

19. **Disputes.** The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Auction, 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, Auction 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, Auction shall proceed diligently with the performance of this Contract in accordance with that decision.

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

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

22. **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.

23. **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: City Attorney's Office 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5525
Auction:	Manheim Central Florida Attention: Chris Clute Commercial Accounts Manager 9800 Bachman Road Orlando, FL OFC (407) 812-7974 CELL (407) 709-4413

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.

24. 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 Auction and the City until the City signs this Agreement.

25. 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.

Witnesses:

MANHEIM REMARKETING, INC., a Delaware corporation

[Signature]
Printed Name: Fabian Ortiz

By: [Signature]
Printed Name: Toni Williams
Title: Sr. AGM

[Signature]
Printed Name: Catherine Woodall

If this Contract is signed by an individual not identified as an officer 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: 5/10/16

STATE OF FLORIDA
COUNTY OF ORANGE

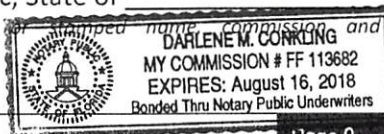
The foregoing instrument was acknowledged before me this 10th day of May, 2016, by Toni Williams, as Sr. AGM of Manheim Remarketing, Inc., a Delaware corporation, and who:

[Notary: Please select one]

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

[Signature]
Notary Public, State of _____

Printed, typed name and expiration:



Witnesses:

CITY OF PORT ORANGE,

Printed Name: _____

By: _____
Printed Name: Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__,
by Alan Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the
city, and who is personally known to me.

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

Witnesses:

ATTEST

Printed Name: _____

By: _____
Printed Name: Robin L. Fenwick, CMC, City
Clerk

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__,
by Robin L. Fenwick, CMC, 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.

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

EXHIBIT "A"

Consignment Vehicles Reserve Prices

VEHCILE 1: 1998 Lincoln Continental, VIN: 1LNFM97V2WY604577

➤ RESERVE PRICE: \$ No Reserve

VEHICLE 2: 1998 Honda CR 250R Motorcycle, VIN: JH2ME033XWM000542

➤ RESERVE PRICE: \$ No Reserve

VEHICLE 3: Baja Dirt Bike, Serial No.: LUAHYD10881997256

➤ RESERVE PRICE: \$NO RESERVE

VEHICLE 4: 4-Wheeler ATV, black front fenders/white rear fenders

➤ RESERVE PRICE: \$NO RESERVE

EXHIBIT "B"



Manheim

Daytona Beach



FEES THAT MAY ACCRUE AT THE AUCTION

Sell fee-

\$0- \$1000 =\$100

\$1001 and up \$150

FULL DETAIL- \$ 85

SHINE-\$45

W&V -\$25

SALE DAY WASH- \$5

DE-ID- TBD

Transportation- \$25 if driven by drive service

If towed -\$45

Labor Rate \$55 an hour



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Contract Amendment No 1 to the Standard Contract for Services with Kurt Benson, d/b/a K.B. Lawncare, dated January 16, 2016

DEPARTMENT: Public Utilities

GOAL: N/A

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve Contract Amendment No 1 to the Standard Contract for Services with Kurt Benson d/b/a KB Lawncare, date January 16, 2016 for an annual amount not to exceed \$24,600; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: On January 16, 2015, the City entered into a Standard Contract for Services with Kurt Benson d/b/a/ KB Lawncare for landscaping services to four (4) wet wells, one (1) Bio Augmentation station, three (3) pump stations, and thirty-four (34) lift stations. This contract was competitively bid and contains automatic renewals annual with the final renewal date ending September 30, 2019.

We are requesting the approval of a Contract Amendment No 1 to the Standard Contract for Services to add an additional twenty-one (21) lift stations. Since this is a change in scope, City Council authorization is required. The scope increase will be addressed via a contract amendment.

The current contract annual contract amount is \$18,000. This Contract Amendment will allow for a new annual contract amount not to exceed \$24,600. Staff normally mowed the areas being added. By having these areas mowed by contract staff will focus more on preventive maintenance activities. This will result in a \$6,600 annual increase for the additional locations.

We will be required to fund May 2016 - September 2016 for FY2016 for an amount of \$2,750.00. This contract will be fully funded in the Wastewater Treatment Plant Operating Account in FY2017.

Project No.: None Funding Account No.: 40106005363420

ATTACHMENTS:

1.	Amendment No 1	KB Lawncare - Amendment No 1 to the Standard Contract for Services.pdf
2.	KB Lawn - Additional Scope	KB Lawn - Additional Scope Of Service.pdf

	of Service	
3.	KB Lawn - Original Scope of Service	KB Lawn - Prior Scope of Service.pdf
4.	Current Business Tax License	KB Lawn COPO Business Tax License.pdf
5.	Standard Contract for Sev for KB Lawncare	Kurt Benson dba Lawncare 01-16-15.pdf

Julia Wiggins	Created/Initiated - 05/02/2016
Julia Wiggins	Approved - 05/02/2016
Rick Wilson	Approved - 05/02/2016
Andrew Neff	Approved - 05/03/2016
Diana Fye	Approved - 05/03/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/10/2016
M. Jake Johansson	Approved - 05/11/2016
Robin Fenwick	Final Approval - 05/11/2016

AMENDMENT NO. 1 TO STANDARD CONTRACT FOR SERVICES DATED January 16, 2015

THIS AMENDMENT NO. 1 ("Agreement") is made and entered into the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129-4144 (the "City"), and **KURT BENSON, d/b/a K.B. LAWCARE**, a Florida corporation, whose principal address is 139 Brandy Hills Drive, Port Orange, Florida 32129 (the "Contractor"). (The City and the Contractor are hereinafter collectively referred to as the "Parties.")

WHEREAS, the Parties entered into a Standard Contract for Services for landscaping services as described in Exhibit "A" on January 16, 2015 (the "Contract"); and

WHEREAS, the Contract provided for an initial term commencing on October 1, 2014 and continuing until September 30, 2015, with four (4) automatic one-year renewals through September 30, 2019, on a succeeding yearly basis unless either party notifies the other, in writing, at least ninety (90) days prior to the end of the yearly period then in effect that the Contract shall not be extended; and

WHEREAS, the Contract provides for Contractor compensation at the prices set forth in periodic written quotes and purchase orders in an amount subject to a limit up to but not to exceed \$18,000.00 per fiscal year; and

WHEREAS, the Parties desire to amend the scope of the Contract to add landscaping services for an additional twenty-one (21) lift stations, and increase the amount of Contract to an amount subject to a limit up to but not to exceed \$24,600.00 per Fiscal Year; and

WHEREAS, the Parties desire to amend the Contract to provide for updated public records compliance pursuant to Florida Statute; and

WHEREAS, the Port Orange City Council has determined that the execution of this Contract is beneficial to the citizens of the City of Port Orange.

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **Provision of Services.**

(a) The Contractor hereby agrees to provide the City of Port Orange with landscaping services for an additional twenty-one (21) lift stations as further described in Exhibit "1" attached hereto.

2. **City Obligations.** The City agrees to compensate the Contractor at the prices set forth in Exhibit "1" subject to a limit up to but not to exceed Twenty-Four Thousand Six Hundred and 00/100 Dollars (\$24,600.00) per Fiscal year. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then-current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. **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 119.10, 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

4. Counterparts. 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.

5. All other terms and conditions of the Contract shall remain in full force and effect.

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

[remainder of page intentionally left blank]

Witnesses:

KURT BENSON d/b/a K.B. LAWNCARE

[Signature]
Printed Name: Julie Gundlaugsson

By: [Signature]
Kurt A. Benson, Owner

[Signature]
Printed Name: Catherine Campbell

Date: 5-11-2016

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 11th day of May, 2016, by Kurt A. Benson, as Owner of Kurt Benson d/b/a K.B. Lawncare, a Florida corporation, and who:

[Notary: Please select one]

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

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



Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the City, and who is personally known to me.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, 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.

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

New Mowing Locations

Monthly: \$550.00

Yearly: \$6600.00

Lift Stations (21)	
#44 Brandy Hills	\$25.00
#58 City Hall	\$25.00
#30 Ravenwood	\$25.00
#12 Atlantic High	\$25.00
#39 Herbert & Nova	\$25.00
#59 Samm's	\$25.00
#19 Beacon Woods	\$25.00
#55 Glenwood Village	\$25.00
#61 Carwash	\$25.00
#18 Cambridge East	\$25.00
#82 Lowe's	\$25.00
#9 Halifax East	\$25.00
#48 Riverwood	\$25.00
#65 Falconcrest	\$25.00
#47 Hawks Ridge	\$25.00
#74 Sky Lake	\$25.00
#38 Waters Edge	\$50.00
#76 Baywood	\$25.00
#111 Seagull Landing	\$25.00
#27 Deep Forest	\$25.00
#71 Foxboro#2	\$25.00
	\$550.00

EXHIBIT "1"

KB Lawncare-Mowing

Monthly: \$1500.00 Yearly: \$18,000.00

<u>Pump Stations</u>		<u>Augmentation Stations</u>		<u>Lift Stations (34)</u>	
Cypress Head	\$100.00	Richel Street	\$200.00	Riverside Dr	\$25.00
Major Street	\$100.00			Summertree	\$25.00
Ridge Road	\$100.00			Cypress Head	\$25.00
Total:	\$300.00			Sable Creek	\$25.00
				Under Dunlawton Bridge	\$25.00
				Surside Terrace	\$25.00
				Cardinal Blvd	\$25.00
				Venetian Way	\$25.00
				Peninsula	\$25.00
				Peninsula	\$25.00
				Peninsula	\$25.00
				Peninsula Master Lift	\$100.00
				Oceans Ave	\$25.00
				Intracoastal Villas	\$25.00
				Charles St	\$25.00
				Nixon	\$25.00
				Sugar Forrest	\$25.00
				Madeline	\$50.00
				Commonwealth	\$25.00
				Walton Blvd	\$25.00
				Forrest Branch	\$25.00
				Willow Run Blvd	\$25.00
				Willow Run	\$25.00
				Oakland Park	\$25.00
				Woods	\$25.00
				Cambridge	\$25.00
				Taylor Road	\$25.00
				Taylor Road	\$25.00
				Taylor Road	\$25.00
				Bayshore	\$25.00
				Bayshore	\$25.00
				Lancewood	\$25.00
				Christancy	\$75.00
				Orange Blvd	\$25.00
				Total:	\$1,000.00

EXHIBIT "1"

New Mowing Locations

Monthly: \$550.00

Yearly: \$6600.00

Lift Stations (21)	
#44 Brandy Hills	\$25.00
#58 City Hall	\$25.00
#30 Ravenwood	\$25.00
#12 Atlantic High	\$25.00
#39 Herbert & Nova	\$25.00
#59 Samm's	\$25.00
#19 Beacon Woods	\$25.00
#55 Glenwood Village	\$25.00
#61 Carwash	\$25.00
#18 Cambridge East	\$25.00
#82 Lowe's	\$25.00
#9 Halifax East	\$25.00
#48 Riverwood	\$25.00
#65 Falconcrest	\$25.00
#47 Hawks Ridge	\$25.00
#74 Sky Lake	\$25.00
#38 Waters Edge	\$50.00
#76 Baywood	\$25.00
#111 Seagull Landing	\$25.00
#27 Deep Forest	\$25.00
#71 Foxboro#2	\$25.00
	\$550.00

KB Lawncare-Mowing

Monthly: \$1500.00 Yearly: \$18,000.00

<u>Pump Stations</u>		<u>Augmentation Stations</u>		<u>Lift Stations (34)</u>	
Cypress Head	\$100.00	Richel Street	\$200.00	Riverside Dr	\$25.00
Major Street	\$100.00			Summertree	\$25.00
Ridge Road	<u>\$100.00</u>			Cypress Head	\$25.00
Total:	\$300.00			Sable Creek	\$25.00
				Under Dunlawtion Bridge	\$25.00
				Surside Terrace	\$25.00
				Cardinal Blvd	\$25.00
				Venetian Way	\$25.00
				Peninsula	\$25.00
				Peninsula	\$25.00
				Peninsula	\$25.00
				Peninsula Master Lift	\$100.00
				Oceans Ave	\$25.00
				Intracoastal Villas	\$25.00
				Charles St	\$25.00
				Nixon	\$25.00
				Sugar Forrest	\$25.00
				Madeline	\$50.00
				Commonwealth	\$25.00
				Walton Blvd	\$25.00
				Forrest Branch	\$25.00
				Willow Run Blvd	\$25.00
				Willow Run	\$25.00
				Oakland Park	\$25.00
				Woods	\$25.00
				Cambridge	\$25.00
				Taylor Road	\$25.00
				Taylor Road	\$25.00
				Taylor Road	\$25.00
				Bayshore	\$25.00
				Bayshore	\$25.00
				Lancewood	\$25.00
				Christancy	\$75.00
				Orange Blvd	<u>\$25.00</u>
				Total:	\$1,000.00

2016 City of Port Orange Business Tax Receipt



KB LAWNCARE
139 BRANDY HILLS DR

PORT ORANGE FL 32129

ISSUE DATE: April 19, 2016
EXPIRATION DATE: September 30, 2016

OWNER NAME: BENSEN KURT A
BUSINESS ADDRESS: 139 BRANDY HILLS DR

BUSINESS TAX NUMBER: 16-00003455
CLASSIFICATION: LAWN CARE/YARD WORK HOME BASED
COMMENTS:
STATE LICENSE NUMBER:
(If Applicable)

TOTAL PAID: \$20.00

RESTRICTIONS:

This receipt represents a business tax only. It is not a competency card and is not meant to be a certificate of the holder's ability to perform the service in which he or she is licensed. The issuance of this business tax does not constitute a permit to act in violation of any city codes, regulations or ordinances.

The renewal period for Business Taxes starts July 1st and runs through September 30th. We mail the Local Business Tax renewals in July **as a courtesy reminder** to allow time for processing payments, printing, and mailing renewed Receipts. **It is the receipt holder's responsibility to renew before the expiration date to avoid penalties.**

Should a business fail to pay their business tax before January 31st, the City will enforce payment of the tax with an additional \$250.00 fee as stated in Florida Statute 205.053(3): provides any business owner who does not pay the required business tax within 150 days after the initial notice of tax due, and who does not obtain the required Receipt is subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative costs incurred as a result of collection efforts and an additional penalty of up to \$250.00.



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this 16 day of January, 2015, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **KURT BENSON, D/B/A K.B. LAWN CARE**, a Florida corporation whose principal address is 139 Brandy Hills Drive, Port Orange, Florida 32129 ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

(a) The Contractor hereby agrees to provide the following equipment, materials, labor and other such related services to the City of Port Orange:

(i) Landscaping services, as described in Exhibit "A" attached hereto.

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

Term: The initial term of this Contract shall be for a period of one (1) year, commencing on October 1, 2014 and continuing until September 30, 2015 (the "Initial Term").

Annual Renewals: This Contract may be renewed for four (4) additional periods as follows:

Renewal No. 1: October 1, 2015 through September 30, 2016

Renewal No. 2: October 1, 2016 through September 30, 2017

Renewal No. 3: October 1, 2017 through September 30, 2018

Renewal No. 4: October 1, 2018 through September 30, 2019

The term of this Contract shall be automatically extended at the end of the Initial Term for one additional year and on a succeeding yearly basis thereafter unless either party notifies the other, in writing, at least ninety (90) days prior to the end of the yearly period then in effect that the Contract shall not be extended.

The City makes no covenant or promise as to the number of orders placed, nor that the City shall place any orders for goods or services during the life of this Contract. 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.

Manner and Place: As outlined in periodic written quotes and purchase orders, in 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.

(i) Contractor warrants that he is exempt from the legal requirements for insurance coverage protection pursuant to the State of Florida, Workers' Compensation Law. Contractor shall perform the services provided herein as an independent sole

proprietor, furnishing all equipment, laborers and materials and scheduling and controlling all aspects of the performance of the scope of work. Contractor shall NOT constitute an employee of the City of Port Orange. Contractor hereby acknowledges and agrees that the City has entered into this Standard Contract for Services in reliance upon the representations of the Contractor and the terms and conditions set forth herein and that the City shall NOT provide any workers compensation insurance protection pursuant to Chapter 440 of the Florida Statutes. Contractor agrees to be solely and financially responsible for any injury or claim for compensation resulting from the Contractor's performance of any services for the City of Port Orange.

Time and Essence: Contractor acknowledges that time is of the essence for each purchase order issued hereunder.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or service or require the City to place any orders for work or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be in the form of written quotes from Contractor and written Purchase Orders issued by the City as authorized by the City Manager.

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in periodic written quotes and purchase orders issued hereunder, subject to a limit up to but not to exceed \$18,000.00 per Fiscal Year. (The term "Fiscal Year" shall be defined as that one (1) year period commencing on October 1 and expiring on the following September 30.) The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. 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 20 of this contract concerning disputes.

4. 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.

5. 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.

6. 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.

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

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

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

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

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

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

8. 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.

9. 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 Agreement until the City has received a certificate or certificates of insurance and

endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> Additional Coverage:	Coverage A – Statutory Coverage B – \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Additional Coverage:</u>	<u>Limits:</u> Auto Liability Bodily Injury: \$100,000 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

10. 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.

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

12. Modifications or Changes to this Contract

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be

performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

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

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

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

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

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

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

15. 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.

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

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

18. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

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

20. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force

Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

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

22. Additional Provisions. As may have been outlined in Exhibit "A" and any other attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work.

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Public Utilities Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5750
Contractor:	K.B. Lawncare Attention: Kurt Benson 139 Brandy Hills Drive Port Orange, Florida 32129 (386) 212-0223

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

25. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail

of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

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

[Remainder of this page intentionally left blank]

Witnesses:

K.B. LAWCARE

Elizabeth Anderson
Printed Name: Elizabeth Anderson

Olivia B. Hiter
Printed Name: Olivia B. Hiter

By: Kurt A. Benson
Printed Name: Kurt Benson
Title: K.B. Lawncare

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: 1-14-2015

STATE OF Florida
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 14 day of January, 2015, by Kurt Benson, as owner of K.B. Lawncare, a Florida corporation, and who:

[Notary: Please select one]

☐ is personally known to me; or
☒ has produced FL DR Lic as identification.



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

Witnesses:

CITY OF PORT ORANGE

Cynthia K Rivera
Printed Name: Cynthia K. Rivera

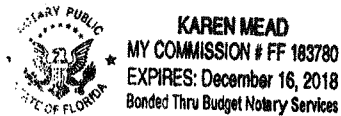
By: David T. Harden
David T. Harden, City Manager

Karen Mead
Printed Name: Karen mead

Date: 1/16/15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 16 day of Jan, 2015, by David T. Harden, as City Manager of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

Witnesses:

Theresa Gutierrez
Printed Name: Theresa Gutierrez

ATTEST:

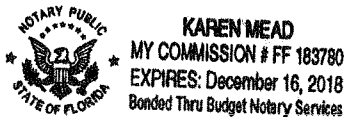
By: Robin L. Fenwick
Robin L. Fenwick, CMC, City Clerk

Karen Mead
Printed Name: Karen mead

Date: 1/16/15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 16 day of Jan, 2015, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

[CA 4484]

PROPOSAL NO.

SHEET NO.

DATE

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED AT:

NAME <i>Water Treatment Plant</i>	ADDRESS <i>Kurt Bensen</i>
ADDRESS <i>Port Orange Fl.</i>	DATE OF PLANS <i>K. B. Lawncare</i>
PHONE NO. <i>32129</i>	ARCHITECT

We hereby propose to furnish the materials and perform the labor necessary for the completion of _____

4 well stations
1 Bio Augmentation
Station
3 Pump Stations
34 Lift Stations

I will maintain all
these stations weekly
in the summer & bi-
weekly throughout
the rest of the year

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of *Fifteen Hundred*

Dollars (\$ *1500.00*) with payments to be made as follows. *Monthly*
\$ 18,000 Annual

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

K. B. Lawncare
Kurt A. Bensen

Per

WORK - 212-0223
HOME - 756-8654 (JSA)

Note — this proposal may be withdrawn by us if not accepted within _____ days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date _____

Signature _____

EXHIBIT "A"



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Change Order No 1 to Task Authorization No 3 to Wade Trim, Inc. under the Master Contract for Engineering Services, dated March 17, 2015.

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: 1 - Develop shovel ready projects in preparation for funding opportunities

RECOMMENDED MOTION: Move to approve Change Order No 1 to Task Authorization No 3 with Wade Trim, Inc. for the request to move to final complete date; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: On October 6, 2016, the City entered into Task Authorization No 3 to Wade Trim, Inc. for Spruce View Way Water Main Design and Permitting. They have designed the water main extension along Spruce View Way from the existing water main in the Taylor Road (SR 421) right-of-way to Botree Court.

Wade Trim, Inc. has requested an extension of time to add 82 days to the original task authorization. This will move the Final Complete date from March 15, 2016 to June 3, 2016. This time extension has been requested to complete the permitting process. There is no additional cost associated with this request.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Change Order No 1 to Task No 3	Change Order No 1 to Task No 3.pdf
2.	Wade Trim, Inc Extension Request	Spruce View Way WM- Change Order 1 -Time Extension Request.pdf
3.	Task Authorization - NTP	Task Authorization No 3 - NTP.pdf
4.	Task Authorization No 3 Fully executed	Wade Trim - Task Authorization No 3 fully executed.pdf

Julia Wiggins
Julia Wiggins
Rick Wilson
Andrew Neff

Created/Initiated - 05/03/2016
Approved - 05/03/2016
Approved - 05/03/2016
Approved - 05/03/2016

Margaret Roberts
M. Jake Johansson

Approved - 05/11/2016
Final Approval - 05/11/2016

CHANGE ORDER NO. 1
To Task Authorization No. 3 dated October 6, 2015
MASTER CONTRACT FOR ENGINEERING SERVICES, DATED MARCH 17, 2015
WADE TRIM, INC., Contractor

Project: Spruce View Way Water Main Design and Permitting

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$15,622	Original Contract Times Substantial Completion: ____ days Final Completion 120 days (March 15, 2016)
Net changes from previous Change Order: No. __: \$ \$0	Changes in contract time from previous Change Orders: 0 days
Contract Price prior to this Change Order: \$15,622	Contract Completion Date prior to this Change Order: Final Completion: March 15, 2016
Net Increase (decrease) of this Change Order No. 1: \$0	Changes in contract time requested this Change Order No. __: (Requires Council Approval) 83 days
Contract Price with all approved Change Orders: \$15,622	Contract Times with all approved Change Orders: Final Completion: June 6, 2016

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover the work to be performed under Task Authorization No 3 entered into by and between parties on October 6, 2015, under the Master Contract for Engineering Services dated March 17, 2015 between the City of Port Orange and Wade Trim, Inc.
- II. REQUIRED CHANGES: To provide necessary additional time to complete the specified scope of services. No goods shall be delivered nor services commenced hereunder until this Change Order has been fully executed by all parties.
- III. JUSTIFICATION: Change Order No 1 is required to change the final complete date from March 15, 2016 to June 3, 2016. This additional time is necessary to complete the permitting process. This process has taken longer than originally anticipated. This is no cost associated with this request.
- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of Task Authorization No 3 under the Master Contract for Engineering Services is subject to a limit up to but not to exceed **Fifteen Thousand Six Hundred Twenty-two dollars and no cents (\$15,622.00)**. 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.

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:
ANDREW NEFF, PUBLIC UTL DIRECTOR
Department Project Manager

By: Andrew Neff
Andrew Neff, Public Director

Date Signed: 5/3/16

ACCEPTED BY:
WADE TRIM, INC.
Contractor

By: Thomas S. Brzezinski
Thomas S. Brzezinski, Executive Vice President

Date Signed: May 3, 2016

RECOMMENDED BY:
n/a
City's Representative

By: _____
Printed Name
Title: _____

Date Signed: _____

RECOMMENDED BY:
n/a
Engineer of Record

By: _____
Printed Name: _____
Title: _____

Date Signed: _____

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: Andrew Neff
Andrew Neff, Public Utilities Director

Date Signed: 4/3/2016

City Manager

By: _____
Michael H. Johansson, City Manager

Date Signed: _____

If Council approval is required:

By: _____
Printed Name: _____
Title: _____

Affirmed:

Date Signed: _____

Robin L. Fenwick, CMC, City Clerk

Date Signed: _____



May 3, 2016

Mr. Andrew Neff
Public Utilities Director
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Re: Task Authorization No. 3
Spruce View Way Water Main Design & Permitting
Change Order No. 1: Request for Additional Contract Time

Dear Mr. Neff:

We are hereby requesting a change in contract time for the above-referenced project from the final complete day of March 14, 2016, to a final complete date of June 3, 2016. This will result in 82 additional calendar days added to the Contract.

The time extension has been requested in order to complete the permitting process. This effort has taken much longer than originally anticipated. No changes to the Contract Price have been requested.

We Trust that this Change Order is acceptable to you. Should you have any questions regarding this request, please do not hesitate to let me know.

Sincerely,

WADE TRIM, INC.

Christopher A. Little, PE
Project Manager

CAL:cl

POU2002.01L

pw:\wtpworc02.wadetrim.com:projectwise\Documents\Projects\P\Pou2002\01\Docs\Correspondence\Spruce View - CO1 - Req for Time
05.03.2016.doc

cc: Rick Wilson, Assistant Public Utilities Director, City of Port Orange
Alex Schumann, EI, Public Utilities, City of Port Orange
Julia Wiggins, Budget Analyst, City of Port Orange

Wade Trim, Inc.
3790 Dixie Highway, N.E.
Suite D
Palm Bay, FL 32905

321.728.3389
321.728.3393 fax
www.wadetrim.com





CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE (386) 506-5500
FAX (386) 756-5699

Notice to Proceed

November 16, 2015

Wade Trim.
Attention: Edward Fontanin, P.E.
3790 Dixie Highway, NE
Suite D
Palm Bay, Florida 32905

Notice to proceed on: **City of Port Orange**
 Spruce View Way Water Main Design & Permitting
 Task Authorization No.3

You are hereby notified that the Contract Time under the above contract will commence to run on November 16, 2015. On that date, you are to start performing the work and your other obligations under the Contract Documents. Based on the Contract Time stated in the Agreement, 120 days to Final Completion, we calculate that the date of Final Completion is March 15, 2016.

City's Representative:

Alexander Schumann, E.I.
Civil Engineer

Date: November 16, 2015

TASK AUTHORIZATION NO. 3
Master Contract for Engineering Services dated March 17, 2015
Between the City of Port Orange, Florida and Wade Trim, 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 WADE TRIM, INC., a Florida corporation with its principal place of business at 8010 Woodland Center Boulevard, Suite 1200, Tampa, Florida 33614 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated March 17, 2015, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to the Spruce View Way Water Main Design and Permitting as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization No 3 Exhibit "A."
3. Contractor shall complete the services to be provided herein within 120 days of the date of written notice by the City to the Contractor.
4. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Task Authorization No 1 Exhibit "A" attached hereto and made a part hereof for all purposes, subject to a limit up to but not to exceed **Fifteen Thousand Six Hundred Twenty-two dollars and no cents (\$15,622.00)**. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.
5. 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.

[Remainder of this page intentionally left blank]



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

Witnesses:

WADE TRIM, INC.

Chris Little
Printed Name: Chris Little

By: Edward G. Fontanin
Edward G. Fontanin, Vice President

Michael Horne
Printed Name: Michael Horne

Date: Aug 18/15

Witnesses:

CITY OF PORT ORANGE

Fran Gosnell
Printed Name: Fran Gosnell

By: Allen Green
Allen Green, Mayor

Alyssa Walker
Printed Name: Alyssa Walker

Date: 10/6/15

Witnesses:

ATTEST:

Fran Gosnell
Printed Name: Fran Gosnell

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

Alyssa Walker
Printed Name: Alyssa Walker

Date: 10/6/15

[CA _____]



Task Authorization No 3
Exhibit “A”

Wade Trim, Inc.
Spruce View Way
Water Main Design & Permitting

CITY OF PORT ORANGE, FLORIDA

TASK ORDER 15-03 SPRUCE VIEW WAY WATER MAIN DESIGN & PERMITTING

Section I. BACKGROUND

The City of Port Orange (City) has requested the services of Wade Trim to design and permit for a water main extension which will extend along Spruce View Way connecting into the existing water main in the State Road 421 right-of-way to Botree Court (approximately 1,000 feet). Establishing the appropriate sizing of this water main will be performed as part of the scope of work as described below.

This task order will perform the following tasks needed prior to construction:

1. Hydraulic Modeling
2. Design
3. Permitting

Details of the work to be performed are described in Section II.

Section II. SCOPE OF WORK

Wade Trim agrees to perform the following tasks:

Task A – Hydraulic Modeling

Wade Trim will perform a simple hydraulic model to establish the appropriate sizing of proposed water main along Spruce View Way. Although the proposed water main will service homeowners along Spruce View Way from SR 421 to Botree Court, there is the possibility that it could be extended in the future to service the remaining homes within the limits of the dead end streets. By performing a hydraulic model, this will establish the pipe sizing to meet the demand of the maximum connection scenario and assure that City of Port Orange fire demand requirements are met.

The hydraulic model will be established obtaining a pressure flow, provided by the City, from the nearest hydrant located on SR 421. This pressure will service as the basis of anticipated pressure to service the homeowners in the Spruce View Way neighborhood. Daily demands will be allocated for every home in the neighborhood based on the City of Port Orange standards. This analysis will service as the sizing of the proposed water main and also for information to be included in the Florida Department of Environmental Protection (FDEP) water main application.

Task B – 75% Design Services

Within this task, Wade Trim will prepare 75% level design plans for the City's review. The documents will consist of:

- 75% design plan and profile plans

- 75% level construction cost estimate

Construction documents will be submitted to City of Port Orange for review and comments. A joint meeting will be held to review and discuss any comments to be incorporated in the construction documents.

Upon receiving approval from the City of the recommended water main size extension and the alignment of the water main, Wade Trim will prepare plans to be submitted to FDEP for the water main permit and to Volusia County for the right-of-way access permit for effort within SR 421 and Spruce View Way.

Engineering plans will be submitted to City for review and comments. A joint meeting will be held to review and discuss any comments to be incorporated in the construction documents.

As part of this task the following effort will be performed in order for the 75% design plans to be completed:

Survey

A survey will be provided of a full width right-of-way from SR 421 to the intersection of Spruce View Way and Botree Court. Survey will use the NAVD 1988 vertical datum and the NAD 1983 state plane horizontal datum. The right-of-way will be established by the location of visible property irons and section corners along with the use of property deeds. The survey will obtain the following information: cross section elevation points every 100 feet, invert elevations of any storm culverts at driveways, rim and invert elevations of storm and sanitary structures, trees greater or equal to 4-inch diameter, all visible physical surface features (i.e. hydrants, valves, utility poles).

Utility Locations

Wade Trim will obtain existing utility information within the Spruce View Way right-of-way by sending notifications to private utilities for feedback of any utilities within the project limits. Upon the completion of the survey, copies will be forwarded to the utilities to allow them to review and mark-up the location of any of their known utilities. This information will be transferred to the engineering plans to show existing conditions on the site.

It is anticipated that the proposed alignment will be within the non-paved corridors along Spruce View Way right-of-way. As a result, no road improvement effort has not been included

For the effort of this task order, this project will utilize the City's standard note and detail sheets as extension of the engineering plans for bid documents. Wade Trim will not prepare a detailed project technical specification as part of this task order.

Task C – 100% Design Services

Per comments received from the City from the deliverables in Task B, Wade Trim will prepare 100% engineering documents. The documents will consist of:

- 100% design plan and profile plans
- 100% level construction cost estimate

Task D – Response for Additional Information (RAI)

Wade Trim has budgeted effort in order to address possible RAIs from the FDEP related to the water main construction application or from Volusia County related to the right-of-way permit. This effort will be based on one (1) RAI for each agency submittal and will be billed on a time and material basis.

Section III. DELIVERABLES

The following deliverables will be provided for each task mentioned above:

Task A – Hydraulic Modeling

- Model results based maximum connection and pressure readings from the City
- Memo summarizing effort and results agreed upon with City

Task B – 75% Design Services

- Plan and profile drawings (PDF)
- Construction cost estimate

Task C – 100% Design Services

- Plan and profile drawings, signed and sealed (1 - full size, PDF)
- Construction cost estimate

Task D – Response for Additional Information (RAI)

- Responses to RAIs

Wade Trim will provide the meeting agendas and meeting minutes when Wade Trim and the City meet for formal project status meetings regarding the tasks described in this task order.

Section III. OWNER'S RESPONSIBILITY

The following items are, but not limited to, required from the City of Port Orange in order to complete the above mentioned Tasks:

- Pressure information of existing water main on the SR 421 / Spruce View Way vicinity
- As-Built drawings and existing GIS data of the existing water main on SR 421
- Note and detail sheets

Section IV. ITEMS NOT INCLUDED IN WORK AUTHORIZATION

The following items are not included as part of this Task Order:

- Soft digs or ground penetrating utility locates
- Geotechnical information
- Technical specifications
- Roadway design

- Bidding assistance
- Construction services

Section V. SCHEDULE

Work will begin within 1 days of notice-to-proceed (NTP) and adhere to the attached scheduled timeline.

Section VIII. METHOD OF COMPENSATION

The total sum amount for the scope of work described above is \$ 15,622. The City shall compensate Wade Trim the fee for each task for the scope of services as specified prior in this task. The breakdown for this project is as follows:

Task A – Hydraulic Modeling (lump sum):	\$ 3,792
Task B – 75% Design Services (lump sum):	\$ 5,842
Task C – 100% Design Services (lump sum):	\$ 4,112
Task D – Response for Additional Information (time basis):	\$ 1,876

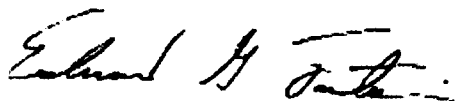
At the direction of the City of Port Orange, Wade Trim may be requested to provide additional services. These additional services will be billed at Wade Trim's standard hourly billing rates.

Section IX. ACCEPTANCE

If the above scope and fees meet your approval, please indicate by your signature in the space provided below and return one (1) signed copy which will constitute an "Agreement and Notice-to-Proceed" for the accomplishment of this work.

WADE TRIM, INC.

City of Port Orange, Florida



Edward G. Fontanin, PE
Vice President

David Harden
Interim City Manager

August 8, 2015

Date

Date



Project: Spruce View Way WM
Client: City of Port Orange
Prepared By: EGF
Date: August 8, 2015

Project Cost Estimating Sheet

WT102-01

[illegible]

PROJECT SCHEDULE **TASK ORDER 15-03: Spruce View Way WM**

Project Phase	Duration (weeks)									
	1	2	3	4	5	6	7	8	9	10
Task A - Hydraulic Model										
City to provide pressure data										
Perform model / mtg w City										
Submittal of memo										
Task B - 75% Design										
Perform survey										
Request utility locate information										
75% Design										
Submittal to City / Agencies										
Meeting w City on comments										
Task C- 100% Design										
Await response from utilities & agencies										
Revise plans / resubmit										

Note: Task D - response to RAI will be provided within 1 week of RAI receipt



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Waiver of Payment and Performance Bond (F.S. 255.05) for Bid # 16-04 by ALLAND, INC. a Florida corporation

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

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

RECOMMENDED MOTION: Move to approve the waiver of Payment and Performance Bond (F.S. Sec. 255.05) by Alland, Inc. for Scope "D" mowing services (City Well Fields) under Bid # 16-04 and authorizing the city manager to execute a contract amendment accordingly.

SUMMARY: Alland, Inc., was the sole bidder to Scope D, City Well Field mowing under Bid # 16-04 and which was awarded by City Council on March 15, 2016. Since that time, this corporation has attempted to procure a payment and performance bond required by the City to no avail Alland, Inc. is a small, closely held company that has expressed to staff they can not afford the performance bond premiums.

Further, Public Utilities staff maintains oversight of the restricted access wellfield and all facilities where the (Scope "D") mowing occurs. Upon completion of each mowing cycle Utilities Staff will be inspect the areas and will be confirming the work has been completed in a satisfactory manner in accordance with contract terms prior to payment. Therefore, staff believes a performance bond, which normally applies to construction work, is unnecessary for this contract.

Staff recommends approval of a waiver for Alland, Inc. of the requirement for a statutory payment and performance bond for the wellfield mowing services to be performed under the standard contract for services awarded by Bid #16-04 on March 15, 2016.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Waver of Payment and Performance Bond	Alland - Standard Contract 4-4-16_Fully-Executed.pdf
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Julia Wiggins	Approved - 04/28/2016
Rick Wilson	Approved - 04/28/2016
Andrew Neff	Approved - 04/28/2016
Diana Fye	Approved - 04/29/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/10/2016
M. Jake Johansson	Final Approval - 05/11/2016



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this 4 day of April, 2016, 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 **ALLAND, INC.**, a Florida corporation, whose principal address is 311 Floritam Trail, New Smyrna Beach, Florida 32168 ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

- (a) The Contractor hereby agrees to provide the City of Port Orange with Professional Landscape Maintenance Services for Scope D: City's Well Fields, which shall include Class "G" and Class "H," as more specifically described in BID No. 16-04, Addendums, and Alland, Inc. proposal, attached hereto as Exhibit "1."
- (b) The time, manner and place for performance of such services shall be:

Term: The term of this Contract shall 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 agreement of the Parties and appropriation by City Council, this Contract may be renewed for two (2) optional one-year periods. If approved by City Council, an annual Consumer Price Index (the "CPI") rate increase will be applied October 1st of each year following the first year of the Contract. The CPI rate increase will be adjusted by 75% of the CPI of the Southern States multiplied by the previous year's Contract price. This rate increase will be based on rates released in July by the United States Department of Labor, Bureau of Labor Statistics.

Manner and Place: As outlined in Exhibit "1," 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. Contractor shall not deliver goods or services without a written Purchase Order(s), signed by an authorized agent of the City of Port Orange.

Time and Essence: Contractor acknowledges that time is of the essence for Purchase Order(s) issued hereunder.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be in the form of a written Purchase Order(s) 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 prices set forth in Exhibit "1," subject to a limit up to but not to exceed Thirty-Seven Thousand Nine Hundred Twenty-Eight and 00/100 Dollars (\$37,928.00) for the annual term. (The term "Fiscal Year" shall be defined as that one (1) year period commencing on October 1 and expiring on the following September 30.) The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then-current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended. Contractor hereby acknowledges Contract performance requirements as set forth in Addendum No. 1 of BID No. 16-04.

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 Right of Way Agent, Linda Johnson, shall perform contract administration of this Contract. 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 22 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.

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

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

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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Limits:</u> <u>Additional Coverage:</u>	Auto Liability Bodily Injury: \$100,000 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
Property Insurance — Builders Risk. <u>Limits:</u> <u>Additional Coverage:</u>	Buildings — Completed value of contract. "All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
Professional Liability (Errors & Omissions) <u>Limits:</u>	Coverage — \$1,000,000 minimum	

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

23. 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.

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

25. Additional Provisions. 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.

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Linda Johnson, Right of Way Agent 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5755
Contractor:	Alland, Inc. Attention: Kevin R. Thomas, President 311 Floritam Trail New Smyrna Beach, Florida 32168 (386) 523-6957 – Telephone allandinvestments@gmail.com

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

28. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

Deborah Barker
Printed Name: Deborah Barker

Leslie Armstrong
Printed Name: Leslie Armstrong

ALLAND, INC.

By: [Signature]
Kevin R. Thomas, 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: _____

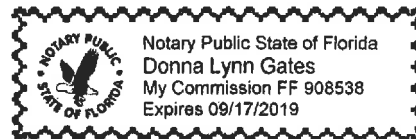
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Kevin R. Thomas, as President of Alland, Inc., a Florida corporation, and who:

[Notary: Please select one]

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

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



Witnesses:

CITY OF PORT ORANGE

Cynthia K. Rivera
Printed Name: Cynthia K. Rivera

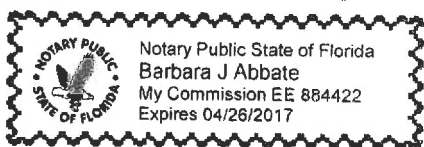
By: Allen Green
Allen Green, Mayor

Kelly McQuillen
Printed Name: Kelly McQuillen

Date: 4/4/16

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 4 day of April, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



Barbara J. Abbate
Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Barbara J. Abbate
Printed Name: Barbara J. Abbate

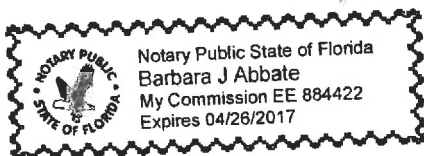
By: Robin L. Fenwick
Robin L. Fenwick, CMC, City Clerk

Kelly McQuillen
Printed Name: Kelly McQuillen

Date: 4/4/16

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 4 day of April, 2016, 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.



Barbara J. Abbate
Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

[CA 5315]

SCOPE D: WELLFIELD SITE MAINTENANCE

CLASS "G" MAINTENANCE		Square Footage	Acres	Cost Per Mow	Number of Mows Per Year	Total Annual Cost	Trimming	Edging	Total Annual Cost
6	Reservoir Lake "A"								
	South End of Bear Trail	334,620	7.68	\$ 1,750.00	6	\$ 10,500.00	N/A	N/A	\$ 10,500.00
7	Reservoir Lake "B"								
	East of Reservoir "A"	372,270	8.55	\$ 1,750.00	6	\$ 10,500.00	N/A	N/A	\$ 10,500.00

SCOPE D: WELLFIELD RIGHTS OF WAY

CLASS "H" MAINTENANCE		Square Footage	Acres	Cost Per Mow	Number of Mows Per Year	Total Annual Cost	Trimming	Edging	Total Annual Cost
8	Shunz Road Right of Way								
	County Road 415	1,267,200	29.09	\$ 795.00	4	\$ 3,180.00	N/A	N/A	\$ 3,180.00
9	Shunz Road Right of Way								
	Flow Way	361,800	7.27	\$ 195.00	4	\$ 780.00	N/A	N/A	\$ 780.00
10	Bear Trail Right of Way								
	Shunz Road (southeastward)	79,200	1.82	\$ 75.00	4	\$ 300.00	N/A	N/A	\$ 300.00
11	Flow Way Right of Way								
	Shunz Road (southward)	79,200	1.82	\$ 75.00	4	\$ 300.00	N/A	N/A	\$ 300.00
12	Campsite Road Right of Way								
	Shunz Road (northward)	20,400	0.47	\$ 30.00	4	\$ 120.00	N/A	N/A	\$ 120.00
13	Campsite Road Right of Way								
	Shunz Road (southward)	950,400	21.82	\$ 695.00	4	\$ 2,780.00	N/A	N/A	\$ 2,780.00
14	Harley Road Right of Way								
	Shunz Road (northward)	31,500	0.72	\$ 24.00	4	\$ 96.00	N/A	N/A	\$ 96.00
15	Harley Road Right of Way								
	Shunz Road (southward)	221,760	5.09	\$ 149.00	4	\$ 596.00	N/A	N/A	\$ 596.00
16	Artesian Drive Right of Way								
	Harley Road (southward)	205,800	4.72	\$ 125.00	4	\$ 500.00	N/A	N/A	\$ 500.00
17	Puddle Lane Right of Way								
	Harley Road (westward)	79,200	1.82	\$ 75.00	4	\$ 300.00	N/A	N/A	\$ 300.00
18	Drema Way Right of Way								
	Shunz Road (southward)	126,720	2.91	\$ 94.00	4	\$ 376.00	N/A	N/A	\$ 376.00
19	Pasture around Dirt Stockpile Lot								
	Shunz Road (south side)	1,089,000	25	\$ 1,900.00	4	\$ 7,600.00	N/A	N/A	\$ 7,600.00
GRAND TOTAL (Line Items 6 - 19)									\$ 37,928.00

NOTE: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.

REVISED

SECTION 00090

SPECIFICATIONS

Professional Landscape Maintenance Services

SCOPE OF WORK AND SPECIFICATIONS

STATEMENT OF RESPONSIBILITIES: The Contractor shall be responsible for providing machinery, equipment, tools, materials, labor, supervision, transportation, supplies, insurance, proper safety measures and all incidentals necessary to provide and perform grounds maintenance services as described and requested in these specifications.

MAINTENANCE CLASSES: The City has designated each location within this bid as a "class." The more location visits performed, the higher the level of finish or service is expected for the location with that designation.

Please note, while the City has provided the square footage and acre measurements on each area covered under this contract, these measurements are APPROXIMATES only. Contractor awarded bid shall be responsible for all maintenance required in each respective area. It is highly recommended that any contractor submitting a bid *personally visit each site prior to submitting a bid*. **Maps showing each area will be provided to all interested parties at the mandatory pre-bid meeting.**

Each class typically represents the frequency of turf grass mowings / cuts and other landscape related maintenance tasks. Debris cleanup, edging, blowing, string trimming, weeding, removing or adjusting tree stake kits, and others must be performed with every scheduled visit.

Rights-of-Way, Facilities and Retention Ponds

Class "A" Maintenance

Number of Site Visits: A total of thirty-nine (39) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: The first twenty-nine (29) visits of the season start April 1st thru October 31st. The final ten (10) visits start November 1st thru March 31st.

Class "B" Maintenance

Number of Site Visits: A total of thirty-six (36) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: The first twenty-six (26) visits of the season start April 1st thru October 31st. The final ten (10) visits start November 1st thru March 31st.

Class "C" Maintenance

Number of Site Visits: A total of thirty-two (32) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: The first twenty-three (23) visits of the season start April 1st thru October 31st. The final nine (9) visits start November 1st thru March 31st.

Class "D" Maintenance

Number of Visits: A total of twenty-four (24) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: All twenty-four (24) visits of the season shall be scheduled at the rate of two (2) visits per month between January 1st and December 31st.

The following maintenance activities shall occur during each scheduled site visit:

TRASH / DEBRIS CLEANUP: The Contractor shall be responsible for removing all trash and debris, regardless of its source from all turf grass areas, parking areas, sidewalks, mulch landscape areas, and shorelines. This includes, but is not limited to paper, bottles, cans, palm fronds and tree limbs from all sites covered in this bid document. The Contractor is responsible for disposal of trash and debris in accordance with all federal, state, and local laws, rules and regulations.

MOWING OF TURF GRASS AREAS: All turf grass areas within specified facilities, parks, rights-of-way (medians and shoulders) including adjacent curb gutters shall be cleaned of all trash and/or debris prior to mowing. Mowing of trash and debris to shred into smaller pieces is not allowed.

All turf grass areas shall be mowed as specified in this document. No more than one-third (1/3) of the leaf blade should be removed per mowing. The grass shall not be cut so low as to damage or stress the grass and shall not be allowed to reach a height of six (6) inches or more unless otherwise requested by the City. The minimum turf grass mowing heights shall be as follows:

St. Augustine – 2.5 inches

Argentine Bahia – 3 inches

Areas where large mowers are impractical shall be serviced using small push mowers such as the narrow median tips along Dunlawton Avenue, US1 (Ridgewood Avenue) and Nova Road. Mowing of wet turf grass shall be avoided unless permission is authorized by the City. The Contractor shall leave surrounding areas in a clean condition free of accumulated debris, including but not limited to grass clippings, after each mowing. Large clump of clippings will be distributed by mechanical blowing or collected and removed. Materials removed from grounds shall be disposed of off-site by the Contractor in a lawful manner.

EDGING OF TURF GRASS: Contractor shall edge all appropriate surfaces with suitable mechanical equipment including, but not limited to roadways, driveways, curbs, parking areas, walkways, fences, plant beds and tree wells, so that no grass, ground covers or weeds are left extending beyond or over the surface being edged. This includes edging between adjoining beds of dissimilar ground cover types.

STRING TRIMMING OF TURF GRASS: Final string trimming around permanent objects such as metal posts and concrete curbing shall be accomplished with suitable mechanical equipment and at the same cutting heights as the rest of the turf areas. Where string trimming may damage wooden posts,

decorative light poles or other City property, other non-mechanical means must be performed.

BLOWING OF DEBRIS AND TURF GRASS CUTTINGS: Contractor shall blow all appropriate surfaces with suitable mechanical equipment including, but not limited to roadways, driveways, curbs, parking areas, walkways, turf grass areas, plant beds and tree wells as required to leave the area clean and free of debris. Grass clipping and other organic debris shall not be blown into the roadway or disposed of in storm sewer drains.

ADJUSTING AND REMOVING TREE STAKE KITS: Contractor is required to maintain all newly planted trees in a straight vertical position by adjusting tree stake kits as needed. The contractor shall also be responsible to completely remove all stake kits approximately six (6) months to one (1) year after initial planting.

PRUNING OF ORNAMENTAL SHRUBS AND GROUNDCOVERS: Contractor shall prune and shape all ornamental shrubs and ground cover to maintain the natural form of the plant material and maintain its growth within the limitations of the plant bed, to eliminate damaged or diseased wood, and to provide sight distance requirements.

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

CREPE MYRTLE TREES: Crepe Myrtle trees shall not be pruned. However, the Contractor shall be responsible to remove all crisscross, dead, or broken branches and Contractor shall remove all sucker growth that occurs between the root ball and bottom of the tree canopy to maintain a minimum clear truck height of 7 feet 6 inches where applicable. Crepe Myrtles shall not be cut back or tipped.

WEEDING OF LANDSCAPE PLANTING BEDS: Weeds, grasses, and other unwanted plant growth shall be removed from all mulched planting areas by hand pulling to remove the entire root system or by herbicide spraying to effectively kill the entire root system. Herbicide shall not be applied in close proximity to existing ornamental shrubs, groundcovers or near the root system of any palm tree, with no exceptions. Herbicides shall not be applied on windy days as the drift will likely kill untargeted plant materials or turf grasses. String trimming around tree trunks with mechanical devices is prohibited. Weeding of all planting beds (including pavement and sidewalk areas) shall take place during each and every scheduled service to ensure the overall aesthetics of the landscape is not adversely affected by weed growth.

REMOVING DEAD PLANT MATERIAL: Contractor shall remove and dispose of all dead ornamental trees, shrubs, and ground cover during each scheduled visit. The contractor is responsible to notify the City to determine if a replacement is necessary.

FERTILIZATION, DISEASE AND INSECT CONTROLS: All landscaped areas shall be treated as outlined below to maintain all trees, palms, shrubs, groundcovers, and turf grass in good, healthy appearance and color. An application schedule along with the specified products must be submitted and approved by the City prior to applications.

TURF GRASS FERTILIZATION: St Augustine turf grass and Argentine Bahia grass shall receive two (2) pounds of nitrogen per 1,000 square feet during the growing season. Turf grass shall be fertilized two (2) times per year and no more than one (1) pound of nitrogen per 1,000 square feet shall be applied during each scheduled visit. In addition, a complete fertilizer shall be granular in composition and contain thirty to fifty percent (30% - 50%) or more of the nitrogen in a slow release form. The ratio of nitrogen to potash shall be 1:1 or 2:1. A complete fertilizer shall be applied twice per year in March and October.

PALM TREE FERTILIZATION: All mature palms in the landscape shall receive a complete granular fertilizer formulated for palms ("palm special") two (2) times per year at a rate of eight (8) pounds per application. Fertilizer shall be applied in March and October. Fertilizer shall be broadcast under the canopy of the palm but not up against the trunk where newly emerging roots may be injured.

SHRUB AND GROUNDCOVER FERTILIZATION: All shrubs and ground covers plantings shall be fertilized one (1) time per year in March with a heavy application of a balanced, slow release fertilizer. Each planting bed shall receive one (1) pound of nitrogen per 1,000 square feet of bed area. The mulch is to be pulled back and the fertilizer shall be applied directly near the rootball of each plant. Broadcasting fertilizer on top of mulch is not allowed unless approved by the City.

DISEASE & INSECT CONTROL: Contractor shall be responsible for the immediate control and identification of any insect or disease causing organisms that may arise in any landscape area. Root drench and bud drench all Medjool Palms with City approved fungicide/insecticide at the rate recommended by the manufacturer up to two (2) times per year. Upon confirmation of a specific problem requiring treatment, pesticides shall be applied as needed on a spot treatment basis, whenever possible using the least toxic, effective pesticide. All applications of pesticides and fertilizations shall be performed when temperatures are below 90 degrees and wind drift is negligible. All applicators shall have a State licensed, certified, operator on staff or use a City approved sub-contractor that is licensed and certified for pest control.

Records shall be kept on pests identified and treatment(s) rendered for control, shall be submitted to the City. All service costs related to pest control are to be included in the "total cost", as listed in the Bid Schedule. The Contractor or subcontractor shall be in strict accordance with all state and local regulations concerning licensing and safety requirements and be registered with the City of Port Orange.

HERBICIDES: Herbicide(s) shall be used only with the prior written approval of the City and only in those areas authorized by the City. Pre-emergence herbicide shall be applied for control of winter annual weeds and herbicide shall be applied when night-time temperatures drop to fifty-five to sixty degrees Fahrenheit for several consecutive days from late October 20th to early November 7th. Contractor shall be responsible for the identification of weeds and recommendations of appropriate selective herbicides. Selective herbicides shall be used to manage weed outbreaks throughout the growing season. All herbicide applicators must be licensed by the State of Florida to apply herbicides, and a copy of the State license shall be provided to the City.

LANDSCAPE PLANTING BED MULCHING: All mulched areas shall be replenished once a year between the winter months of November to March. The Contractor shall properly prepare all planting beds by cutting new bed edges, adjusting tree rings sizes, raking out or removing excess mulch, digging new edges along concrete curbs and sidewalks and removing all weeds and dead plant materials prior to top-coating existing mulch areas with the same type of mulch. Depth of mulch shall be a minimum of 3 inches and a maximum of 4 inches.

IRRIGATION SYSTEMS: Contractor shall be required to repair/replace any irrigation parts that are damaged due to contractor negligence. The City will be responsible for the costs to replace any irrigation parts that are stolen, damaged by acts of vandalism, vehicular damage or other unforeseen or unpreventable causes. All non-functional irrigation heads shall be reported to the City after each mow.

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

The following are additional requirements of this maintenance contract:

EQUIPMENT: The Contractor shall have on hand at all times and in good working order such equipment as shall permit the Contractor to adequately and efficiently perform its contractual duties. All equipment shall be kept in good repair, appearance, and in a sanitary and clean condition at all times.

Equipment shall have the name of the Contractor, business telephone number and the number of the vehicle in letters not less than three (3) inches high on each side of the vehicle. The contractor may also place its corporate logo on the vehicles; however, no other form of advertising shall be permitted on vehicles. The Contractor shall supply the City with a listing of the vehicle numbers normally assigned to performance of duties and shall keep the list current.

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

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

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

CONTRACTOR SCHEDULE: Contractor shall submit a calendar schedule of all work, including a fertilizer timetable, specifying fertilizer manufacturer and formulary, to be performed for one (1) year. A copy of the yearly calendar shall be submitted to the City. Contractor shall update the schedule on a monthly basis as needed. The use of noise making equipment is restricted to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday and from 10:00 a.m. to 6:00 p.m. on Sundays.

FREEZE DAMAGE: Any freeze damaged plant material shall have dead growth removed as soon as it is deemed safe by the Contractor through appropriate means.

REPLACEMENT OF PLANT MATERIALS: The City will be responsible to replace all plant materials that are frozen, stolen, vandalized, or otherwise destroyed by unforeseen or unpreventable circumstances. However, if the City determines that the poor condition of plant materials is due to improper maintenance, the Contractor shall be responsible for replacing such plant material at the Contractor's sole expense. The City shall be notified of plants or areas in distress. These areas need to be evaluated for plan of action and monitored by Contractor. No dead plant material shall remain in landscaping. All replacements shall be done within one (1) week of notification. The City shall approve all plant replacements, sizes and specifications.

TRAFFIC REGULATION: The Contractor shall conform to Florida Department of Transportation Manual on Traffic Controls and Safe Practices for street and highway construction, maintenance and utility operations.

The Contractor shall provide and maintain adequate barricades, construction signs, torches, flashers, guards and flagmen as required on pedestrian and vehicular traffic areas.

Lane closure to traffic is not permitted. Upon completion of work, contractor shall remove all debris, excess materials and barricades leaving medians and roadways clear of all obstructions.

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

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

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

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

Based on limited funds, the City may eliminate certain contracted areas or groups in order to stay within the budget. Therefore, the City reserves the right to reject any and all the bids, eliminate areas from the contract and/or reduce maintenance to any given area when it is in the City's best interest.

SAFETY CONSIDERATIONS AND MAINTENANCE OF TRAFFIC (MOT): During mowing/maintenance operations, "MOWING" or "CAUTION MOWING OPERATIONS" signs must be placed on or near affected walkways and other traffic areas. All highway equipment used on right-of-ways must be properly signed and equipped with working safety lights. The Contractor is responsible for being in compliance with all FDOT and OSHA rules and regulations at all times. Within DOT rights-of-way, Maintenance of Traffic Plan (MOT) shall be prepared and implemented by the Contractor when required. All work shall be performed according to FDOT safety and signage recommendations as outlined in their Utility Accommodation Guide, Document Number 710-020-001-b

Contract Time and Renewal and CPI Rate Adjustment: Contract will be for two (2) years from date of acceptance. Contract will be renewable for up to 2 years in annual increments, upon agreement of both parties.

If approved by Council, an annual CPI rate increase will be applied October 1st of each year following the first year of the contract. The CPI rate increase will be adjusted by 75% of the Consumer Price Index of the Southern States multiplied by the previous year's contract price. This rate increase will be based on rates released in July by the United State Department of Labor, Bureau of Labor Statistics.

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

The Contractor shall comply with all City regulations.

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

CONTACT PERSON: The Contractor shall provide the name and telephone number of a contact person in case of an emergency.

The Contractor shall provide the name and telephone number of a representative to meet periodically with the City.

The City reserves the right to accept or reject any employee of the Contractor

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

SCOPE A – FACILITIES MAINTENANCE LEVELS: Class "A", Class "B", and Class "C" maintenance will be provided for locations identified under Scope A – Facilities Maintenance Levels in Section 95 – Schedule of Unit Prices.

SCOPE B – RETENTION PONDS MAINTENANCE LEVELS: Class "D" maintenance will be provided for locations identified under Scope B – Retention Ponds Maintenance Levels in Section 95 – Schedule of Unit Prices.

SCOPE C – RIGHTS – RIGHTS OF WAY MAINTENANCE LEVELS: Class "A", Class "C", and Class "D" maintenance will be provided for locations identified under Scope B – Retention Ponds Maintenance Levels in Section 95 – Schedule of Unit Prices.

SCOPE D – WELLFIELD SITE MAINTENANCE: Class "E", Class "F", Class "G", and Class "H" maintenance will be provided for locations identified under Scope B – Retention Ponds Maintenance Levels in Section 95 – Schedule of Unit Prices.

City's Well Fields

Access, scheduling, maintenance activities, inspections and reporting shall be conducted through the City's Public Utilities Department.

Access is restricted based on U.S. Department of Homeland Security requirements. Prior to entering these areas, all persons must be pre-approved by the City of Port Orange Public Utilities Water Department. Contractor shall provide:

- Complete written list of all persons entering this area
- Color copy of each individual's driver's license or other government issued identification

Instruction for entering this City property will be provided from time to time as deemed appropriate.

Class "E" Maintenance

Number of Visits: A total of eighteen (18) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: The first twelve (12) visits of the season start April 1st thru October 31st the final six (6) visits start November 1st thru March 31st.

Class "F" Maintenance

Number of Visits: A total of twelve (12) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: All twelve (12) visits of the season start April 1st thru October 31st.

Class "G" Maintenance

Number of Visits: A total of six (6) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: All visits of the season start April 1st thru October 31st.

Class "H" Maintenance

Number of Visits: A total of four (4) maintenance visits shall be provided between January 1st and December 31st.

Maintenance Frequency: All visits of the season start April 1st thru October 31st.

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SECTION 95
SCHEDULE OF UNIT PRICES

Professional Landscape Maintenance Services Bid # 16-04

SCOPE A

CLASS "A" MAINTENANCE										TURF MAINTENANCE				TREE & SHRUB MAINTENANCE				PALM TREE			
SITE	SQUARE FOOTAGE	ASRES	COST PER MOW	Number of MOWS Per Year	Mowing TOTAL ANNUAL COST	MULCH COST PER APPLICATION	GRANULAR FERTILIZER LBS PER YEAR	Granular Fertilizer TOTAL ANNUAL COST	PSTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	GRANULAR FERTILIZER LBS PER YEAR	PSTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	Granular Fertilizer "PALM SPECIAL" LBS PER YEAR	Palm Tree Fertilizer TOTAL ANNUAL COST	Total Annual Cost ALL APPLICATIONS					
1	City Hall Building Site	344,655	7.91		39																
2	Gymnasium Site	179,450	4.12		39																
3	Amphitheater/Lakeside Community Center Site	61,705	1.42		39																
4	Old Police Department Site	65,721	1.51		39																
5	Fire Station #73 Site	16,770	0.39		39																
6	City Center Sports Complex	578,082	13.27		39										N/A						
7	City Hall Access Rights of Way	183,345	4.2		39										N/A						
8	Gateway park	5,451	0.13		39										N/A						
9	Coraci Sports Fields	474,750	10.9		39										N/A						
10	Riverwalk Properties	599,335	13.53		39			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
CLASS "B" MAINTENANCE																					
11	Public Works Facility Site	48,561	1.11		36																
12	Adult Activity Center Site	51,172	1.17		36																
13	Fire Station #71 Site	30,204	0.69		36																
14	Parks Department Facility Site	37,502	0.87		36																
15	Fire Station #72 Site	55,124	1.27		36										N/A						
16	Fire Station #74 Site	18,655	0.43		36										N/A						
17	Fire Station #75 Site	50,579	1.17		36										N/A						
18	Police Department Site	138,140	3.17		36																
19	Causeway Park	293,290	7.48		36																
20	Riverside Park/Chamber of Commerce	95,438	2.19		36																
21	Bushman Park	235,675	5.41		36			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
22	Spruce Creek Recreational Facility	79,291	1.82		36																
23	Willow Run Park	26,481	0.61		36			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
24	Airport Road Park	87,064	2		36																
25	Memorial Park	54,150	1.24		36			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
CLASS "C" MAINTENANCE																					
26	Art Haus	23,467	0.54		32																
27	White Place Baseball Field	81,771	1.48		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
28	Horizon Elementary Sports Field	195,624	4.49		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
29	Seminole Street Park	9,000	0.21		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
30	Oak Street Park	7,000	0.16		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
31	Main Street Park	6,000	0.14		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
32	Cedar Street Park	3,366	0.08		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
33	Riverside Drive Park	2,940	0.07		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
34	Cedar Street Median	6,104	0.14		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
35	Cedar Street Park (along canal)	17,075	0.39		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
36	East Bayshore Drive Park	33,880	0.75		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
37	Bretts Street Park	11,250	0.28		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
38	Harms Way Park	32,500	0.75		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
39	Southwinds Sports Fields	51,577	1.18		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
40	Devon Street Park	3,400	0.08		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
41	Dawnview Square	151,000	3.47		32			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
GRAND TOTAL																					

NOTE: "N/A" Indicates a specific task is NOT performed; therefore, no cost figure should be entered.

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RETENTION PONDS MAINTENANCE LEVELS

SCOPE B

NAME	Class "D" Maintenance				TURF MAINTENANCE				TREE & SHRUB MAINTENANCE				PALM TREES			
	FOOTAGE	ACRES	COST PER MOW	Number of Mows Per Year	TOTAL ANNUAL COST	MULCH APPLICATION COST PER	FERTILIZER 2X PER YEAR APPLICATION COST PER	Turf Granular Fert. TOTAL ANNUAL COST	PESTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	FERTILIZER 1X PER YEAR TOTAL ANNUAL COST	PESTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	GRANULAR FERTILIZER "PALM SPECIAL" 2X PER YEAR APPLICATION COST PER	Palm Trees Fertilizer TOTAL ANNUAL COST	Total Annual Cost ALL APPLICATIONS
1 Commonwealth Boulevard Retention Pond	30,488	0.7		24				N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
2 Frederick Avenue Retention Pond	95,931	2.2		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
3 Westridge Avenue Retention Pond	42,821	0.98		24				N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
4 Farmbrook Road Retention Pond	47,000	1.08		24				N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
5 Nova Road Retention Pond #1	60,040	1.38		24				N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
6 Nova Road Retention Pond #2	90,125	2.07		24				N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
7 Nova Road Retention Pond #3 (2 Ponds)	125,200	2.87		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
8 Nova Road Retention Pond #4 (2 Ponds)	61,700	1.42		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
9 Nova Road Retention Pond #5	65,075	1.49		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
10 Whipoorwill Drive Retention Pond	61,348	1.41		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
11 Devon Street Retention Pond	47,060	1.08		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
12 Tumblebrook Drive Retention Ponds (2 Ponds)	23,258	0.53		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
13 Taylor Woods Retention Pond	125,550	2.88		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
14 Harms Way Retention Pond	25,000	0.57		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
15 Tompkins Drive Retention Pond	40,316	0.93		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
16 Squirrel Nest Lane Retention Pond	20,000	0.46		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
17 Canal View Boulevard Retention Pond	65,574	1.51		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
18 Ruth Street Retention Ponds (3 Ponds)	119,520	2.74		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
19 Causeway Retention Ponds (east end) (2 Ponds)	26,310	0.6		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
20 Causeway Retention Pond (west end)	4,784	0.11		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
21 Cambridge Pump Station Retention Pond	228,300	5.24		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
22 Spruce Creek Estates Swale Areas (2)	58,160	1.33		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
23 Public Utilities Easement	15,210	0.35		24		N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
GRAND TOTAL																

NOTE: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.

RIGHTS OF WAY MAINTENANCE LEVELS

Turf Maintenance Scope C													
Class "A" Maintenance													
Road Name	Square Footage	Acres	Cost Per Mow	Total Mows Per Year	Total Annual Cost	Turf Maintenance				Tree & Shrub Maintenance			
						Granular Fertilizer 2x per year Application	Mulch Cost per Application	Granular Fertilizer 2x per year Application	Pesticide Treatment Annual Cost	Herbicide Treatment Annual Cost	Granular Fertilizer 1x per year Application	Pesticide Treatment Annual Cost	Herbicide Treatment Annual Cost
1 Causeway and High Rise Bridge	32,427	0.72		39									
2 Ridgewood Avenue Medians	140,852	3.23		39									
3 Ridgewood Avenue Roadside	78,510	1.81		39		N/A		N/A	N/A	N/A	N/A	N/A	N/A
4 Dunlawton Avenue Medians	338,744	7.78		39									
5 Dunlawton Avenue Roadside	791,044	18.16		39		N/A		N/A	N/A	N/A	N/A	N/A	N/A
6 Nova Road Medians	90,208	2.07		39									
7 Nova Road Roadside	404,895	9.26		39		N/A		N/A	N/A	N/A	N/A	N/A	N/A
8 Hockney Court	69,200	1.44		39									
Grand Total													

Note: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.

RIGHTS OF WAY MAINTENANCE LEVELS

SCOPE C

Class "C" Maintenance

Turf Maintenance										Tree & Shrub Maintenance										Palm Trees																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
Road Name	Square Footage	Acres	Mow	Cost Per Mow	Total Mows Per Year	Total Annual Cost	Turf			Granular Fertilizer			Pesticide Treatment			Herbicide Treatment			Granular Fertilizer			Pesticide Treatment			Herbicide Treatment			Granular Fertilizer			Pesticide Treatment			Herbicide Treatment			Total Annual Cost	All Applications																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
							Mulch Application	Granular Fertilization	Total Annual Cost	Application	2x Per Year	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost	Treatment	Total Annual Cost																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
9 Williamson Boulevard Medians	154,138	3.54			32		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A		N/A	

Note: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.
Professional Landscape Maintenance Services Bid # 16-04

RIGHTS OF WAY MAINTENANCE LEVELS

SCOPE C

TURF MAINTENANCE

TREE & SHRUB MAINTENANCE

PALM TREE MAINTENANCE

Class "D" Maintenance

ROAD NAME	SQUARE FOOTAGE	ACRES	COST PER MOW	Total Mows Per Year	TOTAL ANNUAL COST	TURF MAINTENANCE				TREE & SHRUB MAINTENANCE				PALM TREE MAINTENANCE			
						MULCH COST PER APPLICATION	GRANULAR FERTILIZER 2X PER YEAR COST PER APPLICATION	Turf Granular Fertilization TOTAL ANNUAL COST	PESTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	GRANULAR FERTILIZER 1X PER YEAR TOTAL ANNUAL COST	PESTICIDE TREATMENT TOTAL ANNUAL COST	HERBICIDE TREATMENT TOTAL ANNUAL COST	GRANULAR FERTILIZER "PALM SPECIAL" 2X PER YEAR COST PER APPLICATION	Palm Trees Fertilizer TOTAL ANNUAL COST	TOTAL ANNUAL COST	All Applications
36 Taylor Road	233,277	5.35		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
37 Spruce Creek Road	558,400	12.81		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
38 Madeline Avenue	609,850	14		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
39 Canal View Boulevard	145,050	3.33		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
40 Central Park Boulevard	295,396	6.78		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
41 Clyde Morris Boulevard	203,940	4.68		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
42 Hensel Road	97,435	2.24		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
43 Yorktown Boulevard Median	1,290	0.03		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
44 Yorktown Boulevard Roadside	207,520	4.76		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
45 Avon Court Triangle Median	2,500	0.06		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
46 Herbert Street	155,611	3.57		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
47 Train Depot Building (Herbert Street)	41,725	0.96		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
48 Commonwealth Boulevard	41,285	0.95		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
49 Oak Street	33,678	0.77		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
50 Jackson Street	20,686	0.47		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
51 Victoria Gardens Boulevard Medians	1,240	0.03		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
52 Victoria Gardens Boulevard Roadside	28,510	0.65		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
53 Sweetwater Boulevard	23,010	0.53		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
54 Stewart Avenue	12,550	0.29		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
55 Hidden Lake Drive	12,736	0.29		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
56 Old Hammock Road	14,268	0.33		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
57 Pepper Hill Road	6,779	0.16		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
58 Highpoint Drive	8,000	0.18		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
59 Renner Road	4,272	0.1		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
60 Dafford Road	7,226	0.17		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
61 Gladys Street	4,610	0.11		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
62 Newton Road	6,336	0.15		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
63 Bay Ridge Lane Median	9,184	0.21		24		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Grand Total																	

NOTE: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.

SCOPE D

WELLFIELD SITE MAINTENANCE

CLASS "E" MAINTENANCE

SITE DESCRIPTION	FROM	TO	SQUARE FOOTAGE	ACRES	Cost Per MOW	Number of Mows Per Yr	Total Annual Cost	STRING TRIMMING	EDGING	Total Annual Cost All Applications
1 Pumping Station & Tank Facility	South End of Bear Trail		94,525	2.17		18			N/A	
2 Maintenance Building	Shunz Road & Flow Way		9,893	0.23		18			N/A	
3 Well Buildings (27 Sites)	SEE MAP FOR LOCATIONS		59,475	1.37		18			N/A	
4 Generators (5)	Located at Well Buildings		10,890	0.25		18			N/A	
CLASS "F" MAINTENANCE										
5 Solar Array	South Campsite Road		13,350	0.31		12			N/A	
CLASS "G" MAINTENANCE										
6 Reservoir Lake "A"	South End of Bear Trail		334,620	7.68		6		N/A	N/A	
7 Reservoir Lake "B"	East of Reservoir "A"		372,270	8.55		6		N/A	N/A	

WELLFIELD RIGHTS OF WAY

CLASS "H" MAINTENANCE

8 Shunz Road Right of Way	County Road 415	Flow Way	1,267,200	29.09		4		N/A	N/A	
9 Shunz Road Right of Way	Flow Way	Interstate 4 (I-4)	361,800	7.27		4		N/A	N/A	
10 Bear Trail Right of Way	Shunz Road (southeastward)	The Reclaimed Storage Tank	79,200	1.82		4		N/A	N/A	
11 Flow Way Right of Way	Shunz Road (southward)	Road End	79,200	1.82		4		N/A	N/A	
12 Campsite Road Right of Way	Shunz Road (northward)	Road End	20,400	0.47		4		N/A	N/A	
13 Campsite Road Right of Way	Shunz Road (southward)	Road End	950,400	21.82		4		N/A	N/A	
14 Harley Road Right of Way	Shunz Road (southward)	Road End	31,500	0.72		4		N/A	N/A	
15 Harley Road Right of Way	Harley Road (southward)	Road End	221,760	5.09		4		N/A	N/A	
16 Artesian Drive Right of Way	Harley Road (westward)	Road End	205,800	4.72		4		N/A	N/A	
17 Puddle Lane Right of Way	Harley Road (southward)	Road End	79,200	1.82		4		N/A	N/A	
18 Drema Way Right of Way	Shunz Road (southward)	Puddle Lane	126,720	2.91		4		N/A	N/A	
19 Pasture around Dirt Stockpile Lot	Shunz Road (south side)		1,089,000	25		4		N/A	N/A	
GRAND TOTAL										

NOTE: "N/A" indicates a specific task is NOT performed; therefore, no cost figure should be entered.

Exhibit “2”

Payment and Performance Bond

(Exhibit “2” includes a total of 4 pages)

RETURN RECORDED DOCUMENT TO:

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

FRONT PAGE FOR BOND REQUIRED BY SECTION 255.05, F.S.**PAYMENT AND PERFORMANCE BOND**

(Public Works)

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

BOND NO. _____

PRINCIPAL:

Developer or Contractor: Alland, Inc.
Principal Business Address: 311 Floritam Trail
New Smyrna Beach, Florida 32168
Contact Person: Kevin R. Thomas, President
Phone Number: (386) 523-6957

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: \$40,687.96

City Case/ Bid 16-04 Professional Landscape Maintenance Services

Description of Work: Bid 16-04 Professional Landscape Maintenance Services

Project Location: City of Port Orange Well Fields, Volusia County, Florida
Port Orange, Volusia County, Florida

Legal Description: City of Port Orange Well Fields, Volusia County, Florida
See Exhibit "A" attached

Front Page

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

City of Port Orange Well Fields

Legal Description:

Generally a portion of Section 20, Township 16 South, Range 32 East, less and except the Southerly 615 feet +/- (80 acres) and the Easterly 875 feet +/- of said Section 20, with access off Shunz Road located in Volusia County, Florida.

EXHIBIT "A"

RETURN RECORDED DOCUMENT TO:

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

Alland, Inc.

Bid 16-04 Professional Landscape Maintenance Services

Bond No. _____

Space Reserved for Recording Data

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

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

BY THIS BOND, We, **Alland, 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 THOUSAND SIX HUNDRED EIGHTY-SEVEN AND 96/100 DOLLARS (\$40,687.96)**, 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 _____, 2016, entered into by and between the Principal and the City, for Professional Landscape Maintenance Services, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and
3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.05(2), (8) and (10), Florida Statutes.

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

IN WITNESS WHEREOF, this performance and payment bond is executed in duplicate originals, each of which shall be deemed an original, this _____, day of _____, 2016.

Attest:

ALLAND, INC.
(Principal)

(As to Corporate Principal) Secretary

By: _____
Kevin R. Thomas, President

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

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

(Corporate Seal)

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

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



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Approval for Final Payment and close out of the Agreement for Construction with Sawcross, Inc., dated March 9th, 2015 for Bid B15-09 Reclaimed Water Reservoir Outfall and Filtration Project.

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: 3 - Finish reclaimed lakes in order to increase capacity for water filtration and disposal

RECOMMENDED MOTION: Move to approve final close out of the Agreement for Construction with Sawcross, Inc., dated March 9, 2015 for a total reduction amount of \$3,968.24; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: On March 3rd, 2015 City Council authorized award of the Reclaimed Water Outfall and Filtration Project to Sawcross, Inc. for \$2,070,000. Subsequently, on March 9, 2015, the City entered into an Agreement for Construction with Sawcross, Inc. This project provides reclaimed water augmentation and an alternative means to discharge exceeds reclaimed water from the 175 acres reclaimed water reservoir lakes. The construction was completed on February 19, 2016.

Consistent with General Administrative Policy 1-23, this agenda item updates the city council and requests approval on the completed Reclaimed Water Reservoir Outfall and Filtration Project. The following change orders have been processed resulting in a net change of \$3,968.24 for the contract amount in favor of the city.

Change Order No 1, approved by staff on July 2, 2015. This change order was for the driveway alignment adjustments for better truck traffic flow around the vicinity of the new filtration structures. This was a no cost, not time, and no change of project scope.

Change Order No 2, approved by Council on December 1, 2015. This change order was for a time extension request from the contractor. The contractor negotiated with the City for a thirty-five (35) day extension for a new final completion date of January 20, 2016.

Change Order No 3, approved by Council on February 16, 2016. This change order was for an additional 30 days to allow the contractor to complete all final inspection punch list items. This moved the final completion date from January 20, 2016 to February 19, 2016.

Change Order No 4 – Final, was approved by staff. This change order provided for a reduction in project cost of \$3,968.24. This was the result of field changes agreed upon by both parties for a total cost of \$5,115.40 and provided for the permit allowance of \$20,000 to be reduced to the actual cost of \$10,916.36, for a decrease of \$9,083.64. The remaining balance due to the City of \$9,083.64 was reduced by the \$5,115.40 for a net remaining savings of \$3,968.24.

The revised final contract amount is \$2,066,031.76.

Staff recommends approval to close out the purchase order and return of the remaining balance of \$3,968.24 to the utility fund.

Project No.: RMI005 Funding Account No.: 40504005356397

ATTACHMENTS:

1.	Project Tracking Document	Bid 15-09 Sawcross Const Prj Detail Summary.pdf
2.	Memo of Justification	Memo - CO No 1 Justification Memo.pdf
3.	Change Order No 4 - fully executed	Sawcross - Change Order No 4 - fully executed.pdf
4.	Sawcross Payment Application No 8 Final	Sawcross - Application No 8 Final.pdf
5.	Contractors Statement of Oath to City	Sawcross - Contractors Oath to Owner.pdf
6.	Receipt and Release of Lien	Sawcross - Receipt and Release.pdf
7.	Consent of Surety to Final Payment	Sawcross - Consent of Surety to Final Payment.pdf

Julia Wiggins	Created/Initiated - 05/04/2016
Julia Wiggins	Approved - 05/04/2016
Rick Wilson	Approved - 05/04/2016
Andrew Neff	Approved - 05/04/2016
Diana Fye	Approved - 05/04/2016
Tracey Riehm	Approved - 05/06/2016
Margaret Roberts	Approved - 05/12/2016
M. Jake Johansson	Final Approval - 05/12/2016

CONSTRUCTION PROJECT DETAILED SUMMARY

Project: Reclaimed Water Reservoir Outfall **Bid #15-09**
Contractor: Sawcross, Inc **PO# 070125** **\$ 2,070,000.00**
Engineer of Record: Quentin L Hampton & Assoc. PO#070138 \$ -
Contract Mgmt: Quentin L Hampton & Assoc. PO# 070138 \$ 45,450.00 Task Auth No 1
COPO Prj Manager: Kenny Ho, PU Engineer

		Original Contract				Revised Contract
		Amount	Payment	Change Orders		Amount
April 21, 2015	Approved by Council - McMahan	\$ 2,070,000.00				
Change Order No 1				\$ -	\$ -	
Reason:	Driveway alignment adju for better truck traffic flow. No cost increase, no time or scope changed.					
	complation date for punch list items					
	Contract date has not changed					
	Accepted by: Dan Stoneberger. Sawcross Prg Mgr					
Recomm. By:	Fred Griffith, PU Engineer					
Approved by:	Andy Neff, PU Director					
Approved by:	Brad Blais, QLH					
Approved by:	Approved @ Dept level, not CC required					
Pay Request No 1			\$ (170,034.81)	\$ -	\$ -	1,899,965.19
Application No 1 - June 30, 2015						
-Sent to fin 7/14/15						
Pay Request No 2			\$ (171,293.71)	\$ -	\$ -	1,728,671.48
Application No 2- August 27, 2015						
-Sent to fin 10/6/15						
Pay Request No 3			\$ (255,026.80)	\$ -	\$ -	1,473,644.68
Application No 3 - Sept 2015						
-Sent to fin 10/14/15						
Pay Request No 4			\$ (784,532.71)	\$ -	\$ -	689,111.97
Application No 4 - October 30,2015						
-Sent to fin 12/3/15						
December 1, 2015	Change Order No 2			\$ -	\$ -	689,111.97
Reason:	Moving final complete date by 35 days, now will be 1/20/2016					
	Accepted by: Dan Stoneberger. Sawcross Prg Mgr	11/19/15				
	Recomm. By: Kenny Ho, PU Engineer	11/19/15				
	Approved by: Brad Blais, QLH	11/19/15				
Approved by:	Andy Neff, PU Director	11/19/15				
Approved by:	MH Johansson, City Manager	11/20/15				
Approved by:	Council approved	12/1/15				
Pay Request No 5-Revised			\$ (399,665.00)	\$ -	\$ -	289,446.97
Application No 5 - November 30,2015						
-Sent to fin 1/18/16						
Pay Request No 6			\$ (173,517.50)	\$ -	\$ -	115,929.47
Application No 6 - January 29, 2016						
-Sent to fin 2/15/16						
February 16, 2016	Change Order No 3			\$ -	\$ -	115,929.47
Reason:	Moving final complete date by 30 days, now will be 2/19/16					
	Accepted by: Dan Stoneberger. Sawcross Prg Mgr	2/2/16				
	Recomm. By: Kenny Ho, PU Engineer	2/4/16				
	Approved by: Brad Blais, QLH	2/3/16				
Approved by:	Andy Neff, PU Director	2/4/16				
Approved by:	MH Johansson, City Manager	2/6/16				
Approved by:	Council approved	2/16/16				

Pay Request No 7		\$	(111,961.22)	\$	-	\$	3,968.25
Application No 7 - ending 2/29/16 -Sent to fin 4/6/16							
Change Order No 4						\$	(3,968.24)
Reason A:	Additional cost to Xylem Inc			\$	1,049.40		
Reason B:	Additional cost to Economy Elec			\$	2,575.00		
Reason C:	Additional cost to Data Flow			\$	1,491.00		
Reason D:	Reduction of Permit Allowance Cost			\$	(9,083.64)		
Accepted by:	Dan Stoneberger. Sawcross Prg Mgr	4/21/2016					
Recomm. By:	Andy Neff, PU Director	4/22/2016					
Approved by:	Brad Blais, QLH	4/21/2016					
Approved by:	Andy Neff, PU Director	4/22/2016					
Approved by:	MH Johansson, City Manager	4/25/2016					
Approved by:	Council approved	n/a					
Pay Request No 8 - FINAL		\$	3,968.24	\$	-	\$	-
Final payment application will result in close out of the active purchase order and the funds remaining (\$3,968.24) will be liquidated back into the system							
Council Approval:	Set for 5/17/16 Meeting						



CITY OF PORT ORANGE

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

MEMORANDUM

To: Mr. Johansson, City Manager *J 4-25-16*

From: Andrew Neff, Public Utilities Director *AN 4/22/16*

Re: Justification for Change Order 4, Final Project Closeout—Reduction in Cost

Date: April 22, 2016

The Reclaimed Water Reservoir Outfall and Filtration Project is complete and being processed for final financial closeout. This project provides reclaimed water augmentation and an alternative means to discharge exceeds reclaimed water from the 175 acres reclaimed water reservoir lakes. Change Order No 1 was approved at the department level.

On July 2, 2015 – Change Order No. 1 was approved by staff for driveway alignment adjustment for better truck traffic flow around the vicinity of the new filtration structures. This was a no cost, no time extension, and no change of project scope change order.

On December 1, 2015 - Change Order No. 2 was approved by City Council for time extension requests from the contractor. The contractor negotiated with the City a thirty five (35) days' time extension to the original contract for the following reasons:

- 1) Ten (10) days additional time due to rain delays.
- 2) Ten (10) days is needed due to equipment delivery delay.
- 3) Delivery delay of the filter and mixer panel created the need for additional time as this activity is on the critical path. Fifteen (15) days was negotiated.

The total time extension for this change order is thirty five (35) days and the new final completion date was January 20, 2016.

On February 16th City Council approved Change Order #3 adding 30 days to allow the contractor sufficient time to complete all final inspection punch list items. Thirty (30) days is added to the total contract time and no cost is added to the contract. The total net increase to the final construction contract time to date for these three (3) change orders is sixty five (65) days and the new final contract completion date will be February 19, 2016.

This final close out Change Order #4 provides for a reduction in project cost of \$3,968.24. This is required to authorize field changes agreed upon by both parties to install a starter omitted from the pump manufacturer's panel. These field changes are evenly split between both parties to resolve this oversight. Change Order No 4 also allows for the permit allowance reduction from \$20,000.00 to an actual expense of \$10,916.36.

The City's cost share of this field change is \$5,115.64 as outlined below. Funding is sourced from the remaining balance in the permit allowance. The original permit allowance was \$20,000 and the actual permit costs were \$10,916.36. The remaining balance due to the City of \$9,083.64 is hereby reduced by the \$5,115.40 for a net remaining to be returned to the City of \$3,968.24 for a revised contract amount of \$2,066,31.76. The Purchase Order will be reduced by \$3,968.24 before closed out.

a.) Xylem Water Solution total cost to City:	\$1,049.40
b.) Economy Electric Company, total cost to the City:	\$2,575.00
c.) Data Flow Systems, total cost to the City:	<u>\$1,491.00</u>
Total to the City:	\$5,115.40

CHANGE ORDER NO. 4 Final
To the Agreement for Construction, dated March 9, 2019
Sawcross, Inc., Contractor

Project: Bid B15-09 Reclaimed Water Reservoir Outfall and Filtration Project

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ 2,070,000.00	Original Contract Times Substantial Completion: 210 days Final Completion 240 days
Net changes from previous Change Order: \$0	Changes in contract time from previous Change Orders: 65 days
Contract Price prior to this Change Order: \$ 2,070,000.00	Contract Completion Date prior to this Change Order: Final Completion: Feb 19,2016
Net Increase (decrease) of this Change Order No 1: \$ 0 Change Order No 2: \$ 0 Change Order No 3: \$ 0 Change Order No 4: - \$3,968.24 (See Section III for detail)	Changes in contract time requested this Change Order No 1: No time/\$/scope Change Order No 2: 35 days Change Order No 3: 30 days Change Order No 4: 0 days
Contract Price with all approved Change Orders: \$ 2,066,031.76	Contract Times with all approved Change Orders: Final Completion: February 19,2016

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover the work to be performed under the Agreement for Construction entered into by and between parties on March 9, 2015.
- II. REQUIRED CHANGES: Change Order No 4 is required to authorize field changes agreed upon by both parties to install a starter omitted from the pump manufacturer's panel. These field changes are evenly split between both parties to resolve this oversight. Change Order No 4 also allows for the permit allowance reduction from \$20,000.00 to an actual expense of \$10,916.36.
- III. JUSTIFICATION: The City's cost share of this field change is \$5,115.64 as outlined below. Funding is sourced from the remaining balance in the permit allowance. The original permit allowance was \$20,000 and the actual permit costs were \$10, 916.36. The remaining balance due to the City of \$9,083.64 is hereby reduced by the \$5,115.40 for a net remaining to be returned to the City of \$3,968.24 for a revised contract amount of \$2,066,31.76. The Purchase Order will be reduced by \$3,968.24 before closed out.

a.) Xylem Water Solution total cost to City:	\$1,049.40
b.) Economy Electric Company, total cost to the City:	\$2,575.00
c.) Data Flow Systems, total cost to the City:	<u>\$1,491.00</u>
Total to the City:	\$5,115.40
- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the Piggyback Agreement subject to a limit up to but not to exceed **Two Million Sixty-six Thousand Thirty-one dollars and Seventy-six cents. (\$2,066,031.76)**. 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:
ANDREW NEFF, PUBLIC UTL DIR
Department Project Manager

By: Andrew Neff
Andrew Neff, Public Utilities Director

Date Signed: 4-22-16

ACCEPTED BY:
SAWCROSS, INC.
CONTRACTOR

By: Dan Stoneberger
Dan Stoneberger, Project Manager

Date Signed: 4-21-16

RECOMMENDED BY:

City's Representative

By: N/A
Printed Name
Title: _____

Date Signed: _____

RECOMMENDED BY:

Quentin L. Hampton Associates, Inc.
Engineer of Record

By: Brad Blais
Brad Blais, President

Date Signed: 4/21/16

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: Andrew Neff
Andrew Neff, Public Utilities Director

Date Signed: 4.22.16

City Manager

By: Michael H. Johansson
Michael H. Johansson, City Manager

Date Signed: 4.25.16

If Council approval is required:

By: N/A
Printed Name: _____
Title: _____
Date Signed: _____

Affirmed:

N/A
Robin L. Fenwick, CMC, City Clerk

Date Signed: _____

BRAD T. BLAIS, P.E.
DAVID A. KING, P.E.
ANDREW M. GIANNINI, P.E.
KEVIN A. LEE, P.E.

Quentin L. Hampton Associates, Inc.
Consulting Engineers
P.O. DRAWER 290247
PORT ORANGE, FLORIDA 32129-0247

TELEPHONE: (386) 761-6810
FAX: (386) 761-3977
EMAIL: qlha@qlha.com

March 16, 2016

Mr. Andrew Neff
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

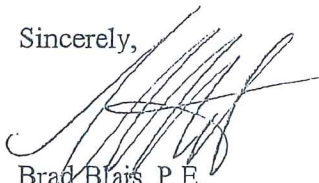
RE: Reclaimed Water Reservoir Outfall and Filtration System
Bid No. B-15-19

Mr. Neff,

For the above referenced project, it was determined/approved by Kenny Ho that the additional Field Changes, that incurred additional cost from Xylem, Economy Electric and Data Flow, would be split 50/50 between the City and Sawcross, Inc. (contractor). This split cost is reflected in Sawcross, Inc.'s final pay application #5, which is enclosed.

Please let me know if you have any further questions, or need any additional information.

Sincerely,



Brad Blais, P.E.
President/Project Manager

BTB:kg

SECTION 00844

QLHA, INC
 DATE 4/7/16
 REC'D BY B. Ginter
 PROJ# P0241

APPLICATION AND CERTIFICATE FOR PAYMENT FORM

Application No. Eight Progress _____ Final X

Engineer's Project No.: PO 241

Project: Bid 1509 Reclaimed Water Reservoir Outfall and Filtration Project

City of Port Orange, FL P.O. # 070125

Contractor: Sawcross Inc. Contract Date: June 16, 2015

Contract for : Reclaimed Water Reservoir Outfall and Filtration Project

Application Date: 4/6/2016 For Period Ending 3/31/16

Change Order Summary			
Change Orders approved in previous months by OWNER		ADDITIONS	DEDUCTIONS
TOTAL		\$ 0.00	\$ 0.00
Approved this month			
Number	Date Approved		
TOTALS		\$ 0.00	\$ 0.00
Net Change by Change Orders		\$ 0.00	

1.	ORIGINAL CONTRACT SUM	\$ 2,070,000.00
2.	Final Reconciliation of Contract \$.	\$ -3,968.24
3.	CONTRACT SUM TO DATE (Line 1 and 2)	\$ 2,066,031.76
4.	TOTAL COMPLETED AND STORED TO DATE	\$ 2,066,031.76
5.	RETAINAGE: (Column I & N, Forms 00845 and 00846)	
	a. <u>0</u> % of Completed Work	\$
	b. <u>0</u> % of Stored Material	\$ 0.00
	Total Retainage (Line 5a and 5b)	\$ 0.00
6.	TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$ 2,066,031.76
7.	LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$ 2,066,031.76
8.	AMOUNT DUE THIS APPLICATION	\$ 0.00
9.	BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	\$ 0.00
	Final Reconciliation of Contract \$.	

00844-1

APPROVED BY
 Division Manager

Date

5-2-16

Contractor's Certification

The undersigned Contractor hereby swears under penalty of perjury that (1) all previous progress payments received from the Owner on account of Work performed under the contract referred to above have been applied by the undersigned to discharge in full all obligations of the undersigned incurred in connection with Work covered by prior Applications for Payment numbered 1 through 7 inclusive; and (2) all materials and equipment incorporated in said Project or otherwise listed in or covered by this Application for Payment are free and clear of all liens, claims, security interest and encumbrances; (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective as that term is defined in the Contract Documents.

Dated 4-6-16

Sawcross, Inc.

(Contractor)

By: [Signature]

(Name)

Project Manager

(Title)

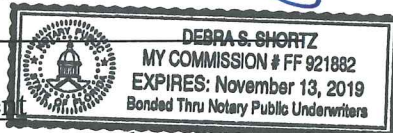
COUNTY OF Duval
STATE OF Florida

Before me on this 6th day of April, 2016, personally appeared Dan Stoneberger
(s)he is the Project Manager of the Contractor above mentioned; that s(he) executed the above Application for Payment and statement on behalf of said Contractor; and that all of the statements contained therein are true, correct and complete.

[Signature]
Notary Public

(Notary Seal)

My commission Expires



Engineer's Certificate of Payment

In accordance with Contract Documents, based on on-site observation and the data comprising the application, the Engineer certifies to the owner that to the best of the Engineers knowledge, information and belief the work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED.....\$ 0.00

(Attach explanation if amount certified differs from the amount applied, initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified)

By: [Signature]

Date: 4/7/16

Brad B. S. P.E. - QUA

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

00844-2

Owner's Approval

By: _____

(Title)

Acct No. _____

Date: _____

END OF SECTION

SECTION 00844

Application Date: 4/6/2016
Period Ending: 4/6/2016
Contractor: Sawcross, Inc.

[illegible]

SECTION 00670

CONTRACTOR'S STATEMENT UNDER OATH, TO OWNER

To: City of Port Orange

The undersigned as Contractor, has heretofore, on the 29 day of February, A.D., 20 16, has been awarded a Contract by you, as Owner, to furnish all the materials and labor in the construction of a project entitled: Reclaimed Water Reservoir Outfall and Filtration Project for the Contract Price of \$2,070,000.00 in accordance with plans and specifications therefore as prepared by Quentin L. Hampton Associates, Inc., P.O. Drawer 290247, 3881 South Nova Road, Port Orange, Florida 32129-0247.

Said project has been completed and the Contract and Plans therefore fully complied with and all of the Contract Price has been paid by you, except the Final Payment thereon, which is now due, but is being withheld until a sworn statement is furnished, as required by The City of Port Orange showing whether there are any unpaid and outstanding bills in connection with said Project.

The undersigned hereby certified, under oath, that all lienors contracting directly with or directly employed by the undersigned, on said Contract, have been paid in full, and further certifies, under oath, that there are no outstanding or unpaid bills for labor performed, or materials furnished in connection with said work or improvements.

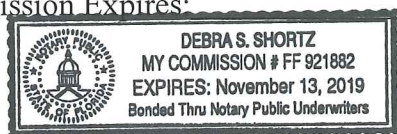
Dated this 29 day of February, A.D., 20 16.

Sawcross, Inc.
Contractor
By [Signature]
Title President

State of: Florida
County of: Duval

Sworn to and subscribed before me this 29 day of February A.D., 20 16.

My Commission Expires:



Notary Public, State of

Debra S Shortz

SECTION 00680

RECEIPT AND RELEASE

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Mark Hickinbotham of Sawcross, Inc. was heretofore, on March 3, 20 15, award a Contract by City of Port Orange for the Contract Price of (\$2,070,000.00) to furnish all the materials and labor in the construction of a project entitled: **"Reclaimed Water Reservoir Outfall and Filtration Project"** in accordance with the plans and specifications therefore, as prepared by Quentin L. Hampton Associates, Inc., Engineers, and the undersigned has completed said work and fully complied with said Contract and has heretofore received the sum of \$ 2,066,031.76 as payment thereon.

That the undersigned has this date received from City of Port Orange the sum of \$ 2,066,031.76, representing the full balance due Sawcross, Inc., as Contractor, under the terms of said Contract, and certified that said Contract has been fully performed in accordance with the terms thereof, and that Sawcross, Inc. has paid in full all persons furnishing labor and/or materials in connection therewith, including all subcontractors and suppliers, and that there are no unpaid bills for labor performed or materials furnished in connection with said work or improvements.

That the undersigned, for value received, does hereby forever release and discharge the said as described in the said Contract, from any and all liens, claims or demands whatsoever that has or may have for work performed or materials furnished thereon by any subcontractor or supplier and that Sawcross, Inc. will hold harmless the City of Port Orange from any and all loss and liability arising or to arise by reason of any unpaid bills for labor performed or materials furnished on said project in connection with said work or improvements. This document is only binding upon receipt of a check for the above balance due.

IN WITNESS WHEREOF, the undersigned has hereto set my hand and seal this 6th day of April, A.D., 2016.

Witnessed by:

Marie Baker

Sawcross, Inc.
CONTRACTOR

By Dan Stoneberger
Dan Stoneberger

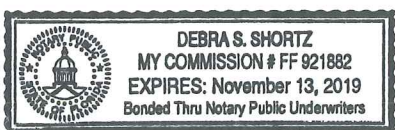
Title Project Manager

State of: Florida
County of: Duval

Before me, the undersigned authority, personally appeared Mark Hickinbotham, to me well known and known to me to be the person described in and who executed the foregoing instrument, and he acknowledged before me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 6th day of April, A.D., 20 16.

My Commission Expires:



Debra S. Shortz
Notary Public, State of Florida

END OF SECTION
Section 00690

Consent of Surety to Final Payment

AIA DOCUMENT G707

OWNER ☒
ARCHITECT ☐
CONTRACTOR ☐
SURETY ☐
OTHER ☐

TO OWNER: City of Port Orange, FL, a chartered municipal corporation
(Name and address) 1000 City Center
Port Orange, FL 32129-4144

ARCHITECT'S PROJECT NO.:
CONTRACT FOR:
Sawcross, Inc.
10970 New Berlin Road
Jacksonville, FL 32226

PROJECT: City Case No. B-15-09
(Name and address) Reclaimed Water Reservoir Outfall
and Filtration System

BOND # 58722612

CONTRACT DATED:
March 9, 2015

In accordance with the provisions of the Contract between the Owner and the Contractor as included above, the Western Surety Company, 333 S. Wabash Ave, 41st Floor, Chicago, IL 60604

(Insert name and address of Surety)

SURETY, on bond of Sawcross, Inc.

(Insert name and address of Contractor)

10970 New Berlin Road, Jacksonville, FL 32226-2270, CONTRACTOR,
hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the
Surety of any of its obligations to City of Port Orange, FL., a chartered municipal corporation

(Insert name and address of Owner)

100 City Center Circle, Port Orange, FL 32129-4144, OWNER,
as set forth in the said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: February 25, 2016
(Insert in writing the month followed by the numeric date and year.)

Attest:
(Seal):

Betsy Bryant

Western Surety Company
(Surety)

Michelle B O'Steen
(Signature of authorized representative)

Michelle B O'Steen, Attorney-in-Fact
(Printed name and title)

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

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

David L Cain, Juanita W Bowditch, James J Pedoulas, Michelle B O'Steen, Individually

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

- In Unlimited Amounts -

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

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

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 8th day of July, 2015.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 8th day of July, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

February 12, 2021



S. Eich, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 25th day of February, 2016.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Acceptance of Work Notification per the Joint Participation Agreement (JPA) between Pioneer Community Development District (PCDD) and the City of Port Orange for utility relocations on Williamson Blvd.

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

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

RECOMMENDED MOTION: Move to approve Acceptance of Work Notification per the JPA between Pioneer Community Development District and the City of Port Orange and to accept the remaining fund balance of \$53,132.10 to be returned to the City; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY:

On October 6, 2015, the City Council approved a Joint Participation Agreement (JPA) between Pioneer Community Development District (PCDD) and the City for the relocation of the City's utilities as part of the Williamson Blvd Widening Project in an amount not to exceed \$181,274.60.

Hazen Construction, LLC has substantially completed the utility relocation work for the PCDD on April 20, 2016 and the City has received the contractor's "Guarantee / Warranty Letter" dated April 21, 2016.

On April 22, 2016, the City acknowledged the PCDD notification and requested that the remaining fund balance of \$53,132.10 be returned to the City to close out the JPA. This cost reduction was due to a change in the original design of the roadway which called for a gravity wall with a hand rail along a portion of the existing roadway. The gravity wall required that we relocate a portion of our water main to the other side of the road. When the gravity wall was removed from the plans this portion of the relocation work was no longer needed.

Public Utilities staff has received and reviewed all documents needed to close this project.

On April 29, 2016, the Finance Department received Check No 1524 dated April 27, 2016 for the amount of \$53,132.10. These funds were deposited on May 3, 2016. The final cost to the utility for these relocations is \$128,142.50.

Project No.: URL010
URL010

Funding Account No.: 40304005356397
40308005336397

ATTACHMENTS:

1.	PCDD Final Acceptance & Warranty	PCDD Final Acceptance 4 22 2016.pdf
2.	Check From PCDD	Pioneer Community Development District Check.pdf
3.	Payment Processing Slip - Deposit	PCDD JPA Agreement Receipt.pdf
4.	JPA Agreement - fully executed	JPA Agreement with PCDD.pdf
5.	PCDD - Completed Payable Packet	PCDD Payable Packet - complete.pdf
6.	Change Order Log	Pioneer CDD JPA Change Order Log.pdf
7.	Change Order Detail	Pioneer CDD Change Order Documentation.pdf

Julia Wiggins
Julia Wiggins
Rick Wilson
Andrew Neff
Tracey Riehm
Margaret Roberts
M. Jake Johansson

Created/Initiated - 05/04/2016
Approved - 05/04/2016
Approved - 05/04/2016
Approved - 05/05/2016
Approved - 05/06/2016
Approved - 05/12/2016
Final Approval - 05/12/2016



CITY OF PORT ORANGE

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

April 22, 2016

Michelle Borton, P.E.
England, Thims & Miller, Inc.
14775 Old St. Augustine Road
Jacksonville, Florida 32258

Re: Acceptance of Work Notification
Per Joint Project Agreement Bt PCDD and City Port Orange

Dear Mrs. Borton:

The City has received and accepted the signed and sealed as-built plans from the Contractor for the utility work and we have inspected and accepted the completed work performed in accordance with the ETM project Plans and the Joint Project Agreement dated October 6, 2015.

Further, the Contractor has provided the City with the required warranty and maintenance documents for this work.

We understand final retainage pay application is in process to be paid to the Contractor by the PCDD in early May, 2016. Since there is a remaining fund balance of \$53,132.10 please return it to the City upon final payment to the Contractor within 60 days consistent with our Agreement (D. City Funding).

It has been a pleasure doing business with the PCDD project team.

Sincerely,


Andrew Neff
Public Utilities Director
City of Port Orange

CC. Tracey Riehm, Finance Director
Julia Wiggins, Public Utilities Budget Analyst
Kelly McCarrick, Chairperson PCDD
Scott Stagg, DRMP – project CEI
Dwight Durant, P.E. , PCDD Engineer

HAZEN CONSTRUCTION, LLC

Guarantee / Warranty Letter

Project Name: S. Williamson Blvd. – JPA work (water, reuse and forcemain)

Owner: City of Port Orange

General Contractor: Halifax Paving, Inc

Date of Substantial Completion: April 20, 2016

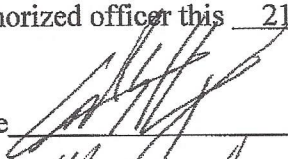
Hazen Construction, LLC hereby warrants to the Owner and the Contractor that all materials furnished under the subject Subcontract is of good quality, free from defaults and defects and in conformance with the Contract Documents.

Furthermore, if within one (1) year after the Date of Substantial Completion any of the work (as defined in the Subcontract Agreement) is found to be defective or not in accordance with the Contract Documents, the Subcontractor hereby agrees to correct it promptly after receipt of written notice of such condition. All such defective or non-conforming work shall be removed from the site, if necessary, and the work shall be corrected to comply with the Contract Documents.

This Warranty and Guarantee shall not apply to work that has been abused or neglected by the Owner, or subject to any other use beyond that for which it was intended by the Contract Documents.

In WITNESS WHEREOF the said subcontractor has caused this instrument to be executed by its duly authorized officer this 21 day of April, 2016

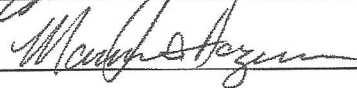
Signature



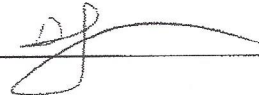
Title

President

Witness



Witness



For Warranty Work, contact:

Person/Department Marc Hazen

Phone: Business Hours 386-322-8700 After Hours 386-566-1193

**Pioneer
Community Development District**

12051 Corporate Blvd.
Orlando, FL 32817
(407) 382-3256



BAYONNE OFFICE
522 BROADWAY
BAYONNE, NEW JERSEY 07002

55-138/212

125



1524
1524

04/27/2016

PAY TO THE
ORDER OF

City of Port Orange

\$

53,132.10

* FIFTY-THREE THOUSAND ONE HUNDRED THIRTY-TWO AND 10 / 100 *

DOLLARS

City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

AUTHORIZED SIGNATURE

MEMO

⑈001524⑈ ⑆021201383⑆ ⑈000041821025⑈

**Pioneer
Community Development District**

1524

Date	Invoice Number	Invoice Description	Invoice Amount	Discount Taken	Amount Paid
04/27/16	JPAREMAININGBALANCE	PA Remaining Balance Fund	\$53,132.10	\$0.00	\$53,132.10

Vendor: COPO

Check #: 1524

Check Date: 04/27/16

\$53,132.10

\$0.00

\$53,132.10

MISCELLANEOUS CASH RECEIPTS - PAYMENT PROCESSING SLIP

DATE: 5/3/16

REQUESTED BY: m Burton

PAYMENT CODE: _____ OR GM CREDIT 403-0400-535-63-97
DEBIT 403-0000-104-00-00

AMOUNT \$ 26,566.05

PAYMENT CODE: _____ OR GM CREDIT 403-0800-533-63-97
DEBIT 403-0000-104-00-00

AMOUNT \$ 26,566.05

TOTAL \$ 53,132.10

NAME: PCDD Project URL010 (1st Line)
Pioneer Community Development District

**Pioneer
Community Development District**

1524

Date	Invoice Number	Invoice Description	Invoice Amount	Discount Taken	Amount Paid
04/27/16	JPAREMAININGBALANCE	PA Remaining Balance Fund	\$53,132.10	\$0.00	\$53,132.10

Vendor: COPO

Check #: 1524

Check Date: 04/27/16

\$53,132.10

\$0.00

\$53,132.10

W CITY OF PORT ORANGE
*** CUSTOMER RECEIPT ***
Oper: IKALISIAK Type: OC Drawer: 1
Date: 5/04/16 03 Receipt no: 209871

Description	Quantity	Amount
GM GENERAL MISC (FINANCE)	1.00	\$26566.05
Trans number:		6361410
G/L account number:		4030400536397
40300001040000		
GM GENERAL MISC (FINANCE)	1.00	\$26566.05
Trans number:		6361411
G/L account number:		4030800536397
40300001040000		

PCDD PROJECT URL010(1ST LINE)
PIONEER COMMUNITY DEVELOPMENT
DISTRICT

Tender detail	1524	\$53132.10
CK CHECK		\$53132.10
Total tendered		\$53132.10
Total payment		\$53132.10

Trans date: 5/03/16 Time: 15:34:23

**JOINT PROJECT AGREEMENT BETWEEN PIONEER
COMMUNITY DEVELOPMENT DISTRICT AND THE
CITY OF PORT ORANGE FOR UTILITY LINE
ADJUSTMENT; AND CONTRUCTION ON THE
PROPOSED EXTENSION OF WILLIAMSON BOULEVARD
IN THE CITY OF PORT ORANGE**

THIS JOINT PROJECT AGREEMENT (AGREEMENT) is made and entered into by and between the Pioneer Community Development District (DISTRICT), an independent special district of the State of Florida, and the City of Port Orange (CITY), a municipal corporation of the State of Florida, for adjustments to the CITY's potable water lines, reclaimed water lines and force main to avoid conflicts within the DISTRICT'S construction work on the southerly extension of Williamson Boulevard in Port Orange, Florida. Each of the above individually may be referred to as Party, and collectively as Parties.

WITNESSETH:

WHEREAS, the DISTRICT is constructing, reconstructing, improving or otherwise changing a portion of South Williamson Boulevard in Port Orange between Taylor Road and Pioneer Trail (EXTENSION), a part of the Volusia County right-of-way system and pursuant to the approval of Volusia County; and

WHEREAS, the DISTRICT has prepared design drawings and specifications for the construction of the EXTENSION; and

WHEREAS, the DISTRICT has entered into a construction contract with Halifax Paving, Inc. for the DISTRICT RIGHT-OF-WAY WORK; and

WHEREAS, the CITY is required to make adjustments to the CITY's existing potable water lines, reclaimed water lines and force main (CITY UTILITY WORK) within the County of Volusia right-of-way to avoid conflicts with the DISTRICT RIGHT-OF-WAY WORK; and

WHEREAS, the DISTRICT and the CITY have determined that it would be in the best interest of the general public to perform construction of the CITY UTILITY WORK during and coincident with the DISTRICT RIGHT-OF-WAY WORK; and

WHEREAS, the CITY, by this AGREEMENT, agrees to pay all costs incurred for the CITY UTILITY WORK as set forth in this Joint Project Agreement (AGREEMENT); and

WHEREAS, the DISTRICT, by this AGREEMENT, agrees to assume all costs incurred for the DISTRICT RIGHT-OF-WAY WORK.

NOW, THEREFORE, in consideration of the mutual covenants, promises, warranties and undertakings of the Parties contained herein and other good and valuable consideration given

by each Party to the other, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto stipulate and agree as follows:

A. MUTUAL COOPERATION

The DISTRICT and CITY shall mutually participate in this AGREEMENT and shall work cooperatively to coordinate and accomplish all aspects of both the DISTRICT RIGHT-OF-WAY WORK and the CITY UTILITY WORK. The DISTRICT and CITY agree to endeavor to fulfill the responsibilities and complete the work set forth in this AGREEMENT, and any amendment, modification, supplement or change order, which may be approved by the DISTRICT and the CITY subsequent to execution of this AGREEMENT, as expeditiously as possible.

B. CITY UTILITY WORK

1. UTILITY PLANS AND DOCUMENTS

The City may use the DISTRICT Engineer's utility adjustment plans for the CITY UTILITY WORK, provided however, that the City shall remain solely responsible for the design of the CITY UTILITY WORK.

2. PLAN COORDINATION

The CITY has reviewed the DISTRICT Engineer's plans for the CITY UTILITY WORK and coordinated with the DISTRICT to avoid delays.

3. CONFLICTS

The Parties expressly agree that the DISTRICT RIGHT-OF-WAY WORK shall take priority over the CITY UTILITY WORK. The CITY UTILITY WORK shall be designed, located or relocated to avoid conflict between the CITY UTILITY WORK and the DISTRICT RIGHT-OF-WAY WORK. Any conflicts between the existing or proposed facilities in the DISTRICT RIGHT-OF-WAY WORK and the CITY UTILITY WORK shall be adjusted or relocated to adequately accommodate the DISTRICT RIGHT-OF-WAY WORK at the CITY'S sole expense for the water line relocation.

4. CITY REPRESENTATIVES

- a. At its own expense, the CITY shall provide, as needed, one inspector/representative to observe the construction and shall be responsible for testing of the CITY UTILITY WORK and to respond to any CITY UTILITY WORK related questions during the performance of the CITY UTILITY WORK.

C. PROJECT PROCESS

1. NOTIFICATION & AWARD

The DISTRICT has awarded the construction contract for the Extension and entered into a construction contract with Halifax Paving, Inc. The CITY UTILITY WORK was included in the original bid as bid Alternate No. 1 for a lump sum.

2. CHANGE ORDERS

For any other change to the CITY UTILITY WORK, a change order shall be requested in writing by the CITY. Any such request shall include a written description of the changed work and a sketch in a form acceptable to the DISTRICT. The DISTRICT shall review the change order documents only for their effect on the DISTRICT RIGHT-OF-WAY WORK and the overall cost of the contract. An authorized CITY representative shall sign the change order documents prior to submittal to the DISTRICT. The CITY shall be responsible for the cost of change orders relating to the potable water line.

3. CONSTRUCTION

All services and work under the construction contract shall be performed to the satisfaction of the DISTRICT Engineer. All questions, difficulties and disputes of whatever nature which may arise under the construction contract including, but not limited to, the prosecution and fulfillment of the services thereunder and the character, quality, amount and value thereof, shall be decided by the District's Engineer after consultation with the CITY. The decision of the District's Engineer upon all such questions, difficulties and disputes thereunder shall be final. The CITY shall be provided the contractor's monthly pay requests for the amount of the CITY UTILITY WORK for review and acceptance as to the percentage or quantities, as applicable, of work completed prior to the DISTRICT issuing payment to the contractor.

4. OWNERSHIP

Upon completion and acceptance of the work and receipt by the CITY of as-built drawings of the completed work, the CITY shall own, control, maintain and be responsible for all of the CITY'S utility facilities according to the COUNTY'S standard use permit conditions for occupancy of public rights-of-way. The CITY agrees that it shall:

- (a) Maintain and keep in good repair, or cause to be maintained and kept in good repair, all such facilities or utilities within the right-of-way of the COUNTY; and
- (b) Comply with all provisions of law and the COUNTY'S manual with amendments and specifications for traffic control routing and parking; and

- (c) Conform with all other regulations of the COUNTY pertaining to occupancy of public rights-of-way.

D. CITY FUNDING

The CITY agrees to provide a cash payment to the DISTRICT, in advance of the award of the contract, to fully fund the CITY UTILITY WORK, in the amount of One Hundred Eighty-One Thousand Two Hundred Seventy-four and 60/100 Dollars (\$181,274.60) in accordance with the terms of this AGREEMENT.

Upon final completion of all construction, the DISTRICT will conduct a true-up of all bid quantities, including change orders, whether increasing or decreasing the costs of the CITY UTILITY WORK, and a final reconciliation of all CITY UTILITY WORK costs will be prepared by the DISTRICT and provided to the CITY for review and acceptance. If the CITY's initial cash payment to the DISTRICT for the CITY UTILITY WORK is less than the final amount of the CITY UTILITY WORK based on the final reconciliation, the DISTRICT will invoice the CITY for the shortfall amount. The CITY, within sixty (60) days of receipt of the invoice and final reconciliation, shall pay to the DISTRICT any shortfall amount. Conversely, if the CITY'S initial cash payment to the DISTRICT for the CITY UTILITY WORK is more than the final CITY UTILITY WORK costs based on the final reconciliation, the DISTRICT shall pay to the CITY the amount overpaid within sixty (60) days after the CITY'S acceptance of the final reconciliation.

E. INDEMNIFICATION

Each Party shall be responsible for its sole negligence, breach of contract, or breach of this AGREEMENT, subject to the limitations in Section 768.28, Florida Statutes (2013).

F. MISCELLANEOUS

1. NOTICES

Any notice, statement, demand or other communication required or permitted to be delivered, served or given by either Party to the other shall be deemed delivered, served or given, if mailed in any general or branch United States Post Office (USPS) enclosed in a registered or certified envelope addressed to the respective Party, as follows:

TO DISTRICT: ENGLAND, THIMS & MILLER, INC.
DISTRICT ENGINEER

TO CITY: ANDREW NEFF, PUBLIC UTILITES DIRECTOR
PUBLIC UTILITIES DEPT.
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE FLORIDA 32129

2. LAW/VENUE

The applicable laws of the State of Florida shall govern the validity, interpretation, construction and performance of this AGREEMENT. Venue for any suit involving this AGREEMENT shall be Volusia County, Florida.

3. AGREEMENT TERM

This AGREEMENT shall be effective on the executed date of the DISTRICT and shall continue in full force and effect until final reconciliation and payment in full by the CITY under this AGREEMENT is received by the DISTRICT and the completion of all other terms as provided herein.

5. FORCE MAJEURE

Neither the DISTRICT nor the CITY shall be liable to the other for any failure to perform under this AGREEMENT to the extent such performance is prevented by an act of God, war, riot, natural catastrophe, or other event beyond the control of the non performing Party and which could not have been avoided or overcome by the exercise of due diligence; providing that the Party claiming the excuse from performance has (a) promptly notified the other Party of the occurrence of the event and its estimated duration; (b) promptly remedied or mitigated the effect of the event to the extent possible; and (c) resumed performance as soon as possible.

6. ASSIGNMENT

No assignment, delegation, transfer or novation of this AGREEMENT or any part thereof shall be made unless approved in writing by the Parties.

7. HEADINGS

All section headings contained herein are included for convenience only and shall not affect in any manner the construction or interpretation of the AGREEMENT.

8. SEVERABILITY

In the event that any provision of this AGREEMENT shall for any reason be determined invalid, illegal or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements to this AGREEMENT or such other appropriate actions as shall implement and give effect to the intentions of the Parties reflected herein. All other provisions of this AGREEMENT, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

9. AMENDMENT

The AGREEMENT may only be amended, modified or supplemented in writing which must be duly executed by the DISTRICT and CITY.

10. ENTIRE AGREEMENT

All negotiations, proposals and draft agreements prior to the date of execution of this AGREEMENT are hereby superseded by this AGREEMENT. This AGREEMENT shall constitute the entire AGREEMENT of the DISTRICT and CITY with respect to the DISTRICT'S RIGHT-OF-WAY WORK and the CITY UTILITY WORK.

11. SUCCESSORS AND ASSIGNS

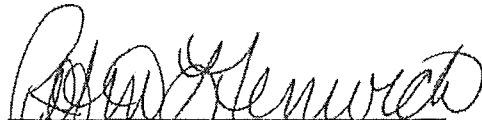
This AGREEMENT shall be binding upon and inure to the benefit of the respective successors, assigns, administrators and managers of the DISTRICT and the CITY.

12. EXECUTION OF DOCUMENTS

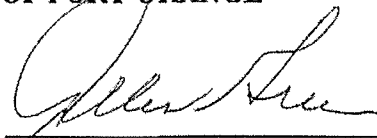
This AGREEMENT shall be executed in two (2) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument. The DISTRICT shall retain one (1) fully executed copy and the CITY shall retain one (1) fully executed copy.

IN WITNESS WHEREOF, the Parties hereto have made and executed this AGREEMENT as of the last execution date written below.

ATTEST:


ROBIN L. FENWICK, CMC,
CITY CLERK

CITY OF PORT ORANGE

BY: 
ALLEN GREEN, MAYOR

DATE: October 6, 2015

**PIONEER COMMUNITY
DEVELOPMENT DISTRICT**

BY: Kelly McCarrick

DATE: 9-29-15



CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129-4144

CHECK NO.

174495

INVOICE NUMBER	P.O. NO.	DATE	AMOUNT
JPA1	070614	10/27/15	90,637.30
JPA1	070614	10/27/15	90,637.30

Picked up by:

Doug Ross

Print

[Signature]

Sign

11/10/15

Date

THIS CHECK IS VOID WITHOUT A BLUE AND GREEN BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW.



CITY OF PORT ORANGE
WORKING ACCOUNT
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129-4144
STATE TAX EXEMPT # 85-8012621673C-3

SunTrust

SunTrust Bank, East Central Florida
Port Orange Office

64-79
611

DATE

CHECK NO.

11/10/2015

174495

PAY:

ONE HUNDRED EIGHTY ONE THOUSAND TWO HUNDRED
SEVENTY FOUR AND 60/100 DOLLARS

PIONEER COMMUNITY DEVELOPMENT DIS
2379 BEVILLE ROAD
DAYTONA BEACH FL 32119

\$****181,274.60

Void after 90 days

Allen Green
[Signature]

BORDER CONTAINS MICROPRINTING



174495 10611007901653053090001811



CITY OF PORT ORANGE

PURCHASE ORDER

PAGE 1

P.O. NUMBER

070614

PLEASE SEND INVOICE IN DUPLICATE TO:

ACCOUNTS PAYABLE

P.O. BOX 291759

PORT ORANGE, FL 32129-1759

TELEPHONE 386-506-5500

FAX 386-506-5711

THIS NUMBER MUST APPEAR ON ALL
PACKING LISTS, LABELS, BILL OF LADING
CORRESPONDENCE.

DATE: 10/14/15

STATE TAX EXEMPT #85-8012621673C-3

FED. EXCISE TAX #59-80-0185K

REQUISITION #

VENDOR:

PIONEER COMMUNITY DEVELOPMENT

2379 BEVILLE ROAD

DAYTONA BEACH FL 32119

SHIP TO:

CITY OF PORT ORANGE

PUBLIC UTILITIES

ADMINISTRATION

1000 CITY CENTER CIR

PORT ORANGE FL 32129

(407) 382-3256 FAX: (407) 382-3254

VENDOR#: 259279		DATE NEEDED: 9/30/16		FOB:		
#	QTY	UOM	COMMODITY # / DESCRIPTION	ACCOUNT #	UNIT PRICE	TOTAL COST
181274		BLK	BLANKET PURCHASE ORDER FOR THE JPA AGREEMENT FOR THE WILLIAMSON BLVD UTILITY RELOCATION APPROVED BY CC 10/6/15	SEE BELOW	1.00	181274.60
COMPLETED 10/28 Please issue payment and return check to Pub. Ut Adm. <i>ju</i>						
REMARKS JPA AGREEMENT CC APPROVED 10/6/15						TOTAL 181274.60

CONDITIONS:

1. The right is reserved to cancel this order if not filled within the contract time.
2. The conditions of this order are not to be modified by any verbal understanding.
3. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions as stated.
4. The purchase order number must appear on ALL packages, invoices, and correspondence.
5. The CITY ASSUMES NO RESPONSIBILITY FOR GOODS DELIVERED WITHOUT THE AUTHORITY OF A PROPERLY EXECUTED PURCHASE ORDER.
6. Please forward all invoices to Accounts Payable at the above listed address.
7. As per additional terms and conditions on vendor application.

PURCHASING

X *MRH*

DATE

10/14/15

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES AND SHIPPING LABELS MUST SHOW PURCHASE ORDER NUMBER & DATE



CITY OF PORT ORANGE

PURCHASE ORDER

PAGE 2

P.O. NUMBER

070614

PLEASE SEND INVOICE IN DUPLICATE TO:
ACCOUNTS PAYABLE
P.O. BOX 291759
PORT ORANGE, FL 32129-1759
TELEPHONE 386-506-5500
FAX 386-506-5711

THIS NUMBER MUST APPEAR ON ALL
PACKING LISTS, LABELS, BILL OF LADING
CORRESPONDENCE.

DATE: 10/14/15

STATE TAX EXEMPT #85-8012621673C-3

FED. EXCISE TAX #59-80-0185K

REQUISITION #

VENDOR:
PIONEER COMMUNITY DEVELOPMENT

SHIP TO:
CITY OF PORT ORANGE

(407) 382-3256

VENDOR#: 259279			DATE NEEDED: 9/30/16		FOB:		
#	QTY	UOM	COMMODITY # / DESCRIPTION		ACCOUNT #	UNIT PRICE	TOTAL COST
		REQ. NBR	DATE	ACCOUNT NUMBER	PROJECT	AMOUNT	
		0000135447	10/08/00	40304005356397	URL010	90637.30	
		PU ADMIN					
		0000135447	10/08/00	40308005336397	URL010	90637.30	
		PU ADMIN					
REMARKS						TOTAL	
JPA AGREEMENT CC APPROVED 10/6/15							

REMARKS

JPA AGREEMENT CC APPROVED 10/6/15

CONDITIONS:

1. The right is reserved to cancel this order if not filled within the contract time.
2. The conditions of this order are not to be modified by any verbal understanding.
3. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions as stated.
4. The purchase order number must appear on ALL packages, invoices, and correspondence.
5. The CITY ASSUMES NO RESPONSIBILITY FOR GOODS DELIVERED WITHOUT THE AUTHORITY OF A PROPERLY EXECUTED PURCHASE ORDER.
6. Please forward all invoices to Accounts Payable at the above listed address.
7. As per additional terms and conditions on vendor application.

PURCHASING

X MPH

DATE

10/14/15

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES AND SHIPPING LABELS MUST SHOW PURCHASE ORDER NUMBER & DATE

RECEIVED

OCT 28 2015

CITY OF PORT ORANGE
PUBLIC UTILITIES

Invoice

Pioneer Community Development District
S. Williamson Blvd. Extension - FIN 435892-1

Date: October 27, 2015
Statement #: JPA-1

Bill to: City of Port Orange
Public Utilities Administration
1000 City Center Circle
Port Orange, FL 32129

Comments: This invoice # JPA-1 is to fund the the
Joint Project Agreement between the
Pioneer Community Development
District & the City of Port Orange. JPA
executed October 6, 2015. Purchase Order
070614 and JPA attached.

Date	Description	Balance	Amount
10/27/15	Project Funding for JPA between City & PCDD - P.O. 070614	-	\$ 181,274.60

Remittance	
Statement #	JPA-1
Date	10/27/2015
Amount Due	\$181,274.60
Amount Enclosed	

OK FOR PAYMENT

DATE OCT 28, 2015

PO # 070614

SIGNATURE [Signature]

APPROVED FOR PAYMENT

Date: 10/28/15

PCDD Representative: [Signature]

Make all checks payable to Pioneer Community Development District

Thank you!

JPA CHANGE ORDER TRACKING LOG

Description: S. Williamson Blvd. Extension

FIN ID #: 435892-1-58-01 / P-5672

Contract #: P-5672

County: Volusia

Updated through: 5/6/2016

Contractor: Halifax Paving Inc.

CEI: DRMP, Inc.

CO No.	JPA CHANGE ORDER DESCRIPTION	CO AMOUNT	DAYS ADDED BY CO	DATE CO ISSUED	DATE SUBMITTED FOR EXECUTION	DATE CO RECEIVED FROM CONTRACT OR	STATUS	REMARKS
1	Relocation of existing force main at sta. 236+80 & 234+00 to avoid conflict with storm drain	\$15,525.00	2	11/25/2015	11/25/2015	11/25/2015	Approved	Kenny Ho / City of Port Orange approved quote and issued authorization to proceed on 10/27/15
2	Plan Revision #3 deducted various items (227 LF of 16" DIP, Relocate Flushing Assembly, Connect to existing)	(\$30,015.00)	0	1/22/2016	1/28/2016	1/26/2016	Approved	
2	Plan Revision #4 , Added Flushing Assembly Cap & Plug	\$4,500.00	0	1/22/2016	1/28/2016	1/26/2016	Approved	
2	Plan Revision #6 deducted 1195 LF of 12" DIP Water Main	(\$53,775.00)	0	1/22/2016	1/28/2016	1/26/2016	Approved	
3	Additional work-remove 10" valve & plug the line, remove 16" butterfly valve & repair line, adjust fire hydrants / valves	\$16,982.90	0	2/24/2016	3/1/2016	2/25/2016	Approved	
4	Revision #7 added Flushing assembly. Per City of Port Orange-deduct (1) Fire Hydrant removal & (3) Fire Hydrany Assemblies & added (2) Fire Hydrant relocates	(\$6,350.00)	0	3/30/2016	3/30/2016	3/30/2016	Approved	

ORIGINAL CONTRACT AMOUNT \$ 181,274.60

ORIGINAL CONTRACT DAYS 380

TOTAL PRESENT CONTRACT VALUE \$ 128,142.50

DAYS ADDED BY C.O. 49 (JPA CO#1=2 days, weather=41 days, CO#4=6)

days)

CHANGE ORDER

PROJECT NAME: SOUTH WILLIAMSON BLVD JPA

CHANGE ORDER #: 1

OWNER: PIONEER CDD

CONTRACT DATE: 5/28/2015

TO: HALIFAX PAVING, INC

C.E.I. DRMP, INC.

Gentlemen:

You are hereby authorized and directed to make the following itemized changes in this contract:

NOTE:

Add:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Install offsets to the existing force main that is in conflict with the proposed storm drainage at stations 236+80 and 234+00	n/a	1	LS	\$15,525.00	\$15,525.00
2					\$1.00	\$0.00
3					\$1.00	\$0.00
Sub-TOTAL						\$15,525.00

Delete:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1					\$1.00	\$0.00
2					\$1.00	\$0.00
3					\$1.00	\$0.00
Sub-TOTAL						\$0.00

TOTAL

☒ Increase

☐ Decrease

\$15,525.00

The original Contract Sum was	\$181,274.60
Net change by previous Change Orders	\$0.00
The Contract Sum prior to this Change Order was.	\$181,274.60
The amount of this Change Order is.	\$15,525.00
The Contract Sum including this Change Order will be.	<u>\$196,799.60</u>

The Contract Time will be: unchanged **increased by 2 calender days**

All other conditions in your original Contract Agreement remain the same.

ACCEPTED:

HALIFAX PAVING, INC

DRMP, INC.

By: [Signature] PRES.
Signature & Title

11-25-15
Date

By: Scott Stagg P.A.
Signature & Title

11/25/15
Date

PIONEER CDD
By: [Signature]
Signature & Title

11/25/15
Date

RE: S. Williamson Blvd. Port Orange, Fl.
VOLUSIA COUNTY PROJECT NO.: P-5672
FIN PROJECT NO.: 435892- 1-58-01
Volusia County
Change Order No. 1

November 24, 2015

JPA CHANGE ORDER BACK-UP DOCUMENTATION

Description of Issue: Along S. Williamson Blvd., the existing City of Port Orange 8" Force main is in direct conflict with the installation of the new 18" storm drain crossings from structure P-8 to P-2A at station 234+00 LT and structure P-5 to P-9 at station 236+80 LT. The City of Port Orange has requested the relocation of the existing 8" Force Main to allow the new storm drain to maintain its alignment and elevation.

Entitlement Analysis: The relocation of the existing 8" force main at station 234+00 LT and 236+80 LT is additional work not originally considered by the contract Plans. Therefore, the contractor is due compensation for the additional cost associated with this work.

Engineer's Estimate: The contractor submitted a quote of \$15,525.00 for relocation of the existing 8" force main at station 234+00 LT and 236+80 LT. The City of Port Orange reviewed and approved the price submittal in the amount of \$15,525.00. Based on approval by the City of Port Orange, the Contractor's price of \$15,525.00 is acceptable.

Engineers Cost Estimate: \$16,736.00

Contractors Cost: \$15,525.00

Negotiated Cost: \$15,525.00

Engineers Time Analysis

The accepted CPM schedule shows all crews are dedicated to mainline drainage & roadway construction and cannot be completed concurrently with the shown Critical Activity. The proposed relocation of the existing force main will impact the Critical Path Activities of Roadway reconstruction, and will therefore extend the completion date of the project.

Engineers Estimate of work activities:

- Day 1: Survey and lay out area, mobilize equipment, coordinate with the City of Port Orange to shut down the lift station and have a vacuum truck to clean and maintain any residual waste left in the existing force main line. Excavate & install 8" DIP offsets on the existing force main line at station 234+00 and backfill / compact the pipe trench, clean up the area.
- Day 2: Survey and lay out the area, coordinate with the City of Port Orange to shut down the lift station and have a vacuum truck clean out and maintain any residual waste left in the existing force main line. Excavate & install 8" DIP offsets on the existing force main line at station 236+80. Backfill and compact the pipe trench, clean up area.

The Contractor has requested two days (2 days) for this activity.

The Engineers Estimate indicates two (2) days are needed.

Therefore: Two (2) days (Non-compensable) have been negotiated based on the information above.

Basis for Estimate

Engineer's Entitlement Analysis
Volusia County Project No. P-5671

FDOT Project No. 435892-1-58-01

The comparison of historical costs, engineers cost estimate and the contractors Lump Sum Price is favorable.

Summation

Additional \$: \$ 15,525.00

Additional Contract Time: 2 days

Scott Stagg

Scott Stagg, Project Administrator
DRMP, Inc.

sstagg@DRMP.com

Cell: 407-319-7460

CHANGE ORDER

PROJECT NAME: SOUTH WILLIAMSON BLVD UTILITIES **CHANGE ORDER #:** 2
OWNER: PIONEER CDD **CONTRACT DATE:** 5/28/2015
TO: HALIFAX PAVING, INC **C.E.I.** DRMP, INC.

Gentlemen:

You are hereby authorized and directed to make the following itemized changes in this contract:

NOTE: JPA Change Order #2 is for Plan Revisions #3, #4 and #6 (attached). See attached back up documentation.

Add:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Revision #4-Flushing Assembly Cap and Plug	n/a	1	EA	\$4,500.00	\$4,500.00
2					\$2.00	\$0.00
3					\$3.00	\$0.00
Sub-TOTAL						\$4,500.00

Delete:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Revision #3-Relocate (1) Flushing Assembly, Connect to Existing (1 EA)	n/a	1	LS	\$8,450.00	\$8,450.00
2	Revision #3-Deleted 227 LF of 16" DIP Reuse Main	n/a	227	LF	\$95.00	\$21,565.00
3	Revision #6-Deleted 1195 LF of 12" DIP Water Main	n/a	1195	LF	\$45.00	\$53,775.00
Sub-TOTAL						(\$83,790.00)

TOTAL ☐ Increase ☒ Decrease (\$79,290.00)

The original Contract Sum was	\$181,274.60
Net change by previous Change Orders	\$15,525.00
The Contract Sum prior to this Change Order was	\$196,799.60
The amount of this Change Order is	(\$79,290.00)
The Contract Sum including this Change Order will be	\$117,509.60

The Contract Time will be: X unchanged increased decreased by calendar days

Waiver: This Change Order constitutes full and mutual accord and satisfaction for the adjustment of Contract Price and Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the change. Acceptance of this Waiver constitutes an agreement between PCDD and Contractor that the Change Order represents an equitable adjustment to the Agreement and that Contractor shall waive all rights to file a Contract Claim of any nature on this Change Order. Execution of this Change Order shall constitute Contractor's complete acceptance and satisfaction that it is entitled to no more costs or time (direct, indirect, impact, etc.) pursuant to this Change Order.

Acknowledgements: The aforementioned change, and work affected thereby, is subject to all provisions of the original Agreement not specifically changed by this Change Order; and it is expressly understood and agreed that the approval of the Change Order shall have no effect on the original agreement other than matters expressly provided herein.

ACCEPTED:

HALIFAX PAVING, INC

By: [Signature]
Signature & Title
January 22, 2016
Date

DRMP, INC.

By: [Signature] SPG
Signature & Title
1/27/16
Date

PIONEER CDD

By: [Signature] Chair
Signature & Title
1/27/16
Date

RE: S. Williamson Blvd. Port Orange, Fl.
VOLUSIA COUNTY PROJECT NO.: P-5672
FIN PROJECT NO.: 435892- 1-58-01
Volusia County
Change Order No. 2

January 12, 2016

JPA Change Order #2 Entitlement Analysis

Description of Issue: The Engineer of Record determined the need to revise the JPA plans and issued plan revision #3, #4 and #6. Plan revision #3 deleted the relocation of the Flushing assembly (1EA), Connect to existing utility (1EA) and 227 LF of 16" Ductile Iron Pipe reuse main. Plan revision #4 added the Flushing assembly cap and plug (1EA). Plan revision #6 deleted 1195 LF of 12" Ductile Iron Pipe water main.

Entitlement Analysis: Plan revision #3 deleted the relocation of the Flushing assembly (1ea), connect to existing utility (1ea) and 227 LF of 16" Ductile Iron Pipe reuse main. Plan revision #6 deleted 1195 LF of 12" Ductile Iron Pipe water main. The deleted items will be deducted from the total Change Order cost based on the unit prices in the approved schedule of values. Plan revision #4 added the Flushing assembly cap and plug (1ea) which is additional work not originally considered by the JPA contract plans and the contractor is due compensation for the additional cost associated with this work.

Engineer's Estimate: The contractor submitted a quote of -\$30,015.00 for Revision #3. The contractor submitted a quote of \$4,500.00 for Revision #4. The contractor submitted a quote of -\$53,775.00 for Revision #6. For a total of -\$79,290.00 for all additions and deductions in plan revision #3, #4 and #6. Based on the engineers cost estimate, the contractor's price of -\$79,290.00 is comparable to the Engineers Estimate, therefore the price is acceptable.

Engineers Cost Estimate: Total Additions=\$ 5,822.71, Total Deductions=-\$83,790.00

Engineers Final Cost Estimate: -\$78,967.29

Contractors Cost Estimate: Total Additions=\$4,500.00, Total Deductions=-\$83,790.00

Contractors Final Cost Estimate: -\$79,290.00

Negotiated Cost: -\$79,290.00

Engineers Time Analysis

This agreement will not change the contract duration. No additional time will be granted.

Basis for Estimate

The additions have been evaluated using rental rates, estimated man-hours and the 4-3.2 specification worksheet showing allowable mark ups.

Summation

Amount of Change Order: -\$79,290.00

Additional Contract Time: 0 Days

Scott Stagg

Scott Stagg, Project Administrator

DRMP, Inc.

ssagg@DRMP.com

Cell: 407-319-7460

CHANGE ORDER

PROJECT NAME: SOUTH WILLIAMSON BLVD UTILITIES **CHANGE ORDER #:** 3

OWNER: PIONEER CDD **CONTRACT DATE:** 5/28/2015

TO: HALIFAX PAVING, INC **C.E.I.** DRMP, INC.

Gentlemen:

You are hereby authorized and directed to make the following itemized changes in this contract:

NOTE: JPA Change Order #3 is for additional work requested by City of Port Orange. See back up documentation.

Add:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Remove 10" gate valve and plug line, Remove 16" butterfly valve / repair line	n/a	1	LS	\$7,781.40	\$7,781.40
2	Adjust existing fire hydrants and gate valves to new grade	n/a	1	LS	\$9,201.50	\$9,201.50
3						
Sub-TOTAL						\$16,982.90

Delete:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1						
2						
3						
Sub-TOTAL						\$0.00

TOTAL ☒ **Increase** ☐ **Decrease** **\$16,982.90**

The original Contract Sum was.						\$181,274.60
Net change by previous Change Orders						(\$63,765.00)
The Contract Sum prior to this Change Order was.						\$117,509.60
The amount of this Change Order is.						\$16,982.90
The Contract Sum including this Change Order will be.						\$134,492.50
The Contract Time will be: <u> X </u> unchanged <u> </u> increased <u> </u> decreased by <u> </u> calendar days						

Waiver: This Change Order constitutes full and mutual accord and satisfaction for the adjustment of Contract Price and Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the change. Acceptance of this Waiver constitutes an agreement between PCDD and Contractor that the Change Order represents an equitable adjustment to the Agreement and that Contractor shall waive all rights to file a Contract Claim of any nature on this Change Order. Execution of this Change Order shall constitute Contractor's complete acceptance and satisfaction that it is entitled to no more costs or time (direct, indirect, impact, etc.) pursuant to this Change Order.

Acknowledgements: The aforementioned change, and work affected thereby, is subject to all provisions of the original Agreement not specifically changed by this Change Order; and it is expressly understood and agreed that the approval of the Change Order shall have no effect on the original agreement other than matters expressly provided herein.

ACCEPTED:

HALIFAX PAVING, INC

DRMP, INC.

By: [Signature] VP
Signature & Title
Date: 2-25-16

By: [Signature] SP6
Signature & Title
Date: 2/25/16

PIONEER CDD

By: [Signature]
Signature & Title CHAIR
Date: 3/11/16

RE: S. Williamson Blvd. Port Orange, Fl.
VOLUSIA COUNTY PROJECT NO.: P-5672
FIN PROJECT NO.: 435892- 1-58-01
Volusia County
Change Order No. 3

February 22, 2016

JPA Change Order #3 Entitlement Analysis

Description of Issue: The City of Port Orange Utilities Engineering and Construction Manager Kenny Ho, requested additional work to be performed. The additional work consisted of four (4) different items. Item #1 was the request to remove an existing 10" water main gate valve and plug the line at sta. 220+75. Item #2 was the request to remove an existing 16" reuse butterfly valve and install a repair sleeve at sta. 213+00. Item #3 was the request to adjust all existing fire hydrants. Item #4 was the request to adjust all existing valves to the new grade and replace valve cans.

Entitlement Analysis: The City of Port Orange requested additional work to be performed on four (4) separate occasions. The contractor submitted quotes for this additional work and Kenny Ho, City of Port Orange Utilities Engineering and Construction Manager reviewed and approved the quotes and gave the contractor authorization to proceed. The additional work was not originally considered by the JPA contract plans and the contractor is due compensation for the additional cost associated with this work.

Engineer's Estimate: The contractor submitted four (4) quotes for the additional work. Quote #1 for \$1,819.40 was for the removal of the 10" water main gate valve and plugging the line. Quote #2 for \$5,962.00 was for the removal of the 16" reuse butterfly valve and repairing the line. Quote #3 for \$5,075.40 was for the adjusting of the fire hydrants. Quote #4 for \$4,126.10 was for the adjusting of the valves to new grade and valve can replacement. For a total of \$16,982.90 for all additional requested work by the City of Port Orange. Based on the City of Port Orange reviewing and approving the contractor's quotes, the contractor's price of \$16,982.90 is acceptable.

Engineers Cost Estimate: N/A, cost approved directly by City of Port Orange

Contractors Cost Estimate: \$16,982.90

Negotiated Cost: \$ 16,982.90

Engineers Time Analysis

This agreement will not change the contract duration. No additional time will be granted.

Basis for Estimate

The cost for the additional work was approved directly by the City of Port Orange.

Summation

Amount of Change Order: \$ 16,982.90

Additional Contract Time: 0 Days

Scott Stagg

Scott Stagg, Project Administrator
DRMP, Inc.

sstagg@DRMP.com

Cell: 407-319-7460

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, FL 32173

DATE: 2/10/2016

Phone 386-676-0200 Fax 386-676-0803

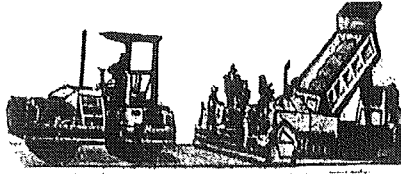
TIME: 9:21 AM

E-mail; halifaxpaving@cfl.rr.com

TO: Pioneer Community Development District
 12051 Corporate Boulevard
 Orlando, FL 32817

ATTN:
 PHONE: 407-385-3256

FAX:



JOB NAME: S. Williamson Boulevard Extension

LOCATED AT: Port Orange, FL

PLANS BY: ETM

DATE OF PLANS: 9/1/2015

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL.
 MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
----------	----------	------	------------	-------

REMOVE 10" GATE VALVE AND PLUG LINE JPA CITY OF PORT ORANGE

Remove 10" Gate Valve And Plug Line	1	LS	\$ 1,654.00	\$ 1,654.00
-------------------------------------	---	----	-------------	-------------

Overhead On First \$50,000	10%	\$	165.40
Overhead On Amount Over \$50,000	5%		

We propose to execute the above scope of work for the sum of:	\$ 1,819.40
--	--------------------

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
 ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL
 THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL.
 Permit Applications, Permit Fees, Impact Fees, or Other Fees of any kind are NOT INCLUDED in this Proposal.
 This Proposal may be withdrawn by us if not accepted within 30 days.
 All work is guaranteed to be as specified.
 All work is to be completed in a workmanlike manner according to standard construction practices.
 Any alteration or deviation from the above scope of work, will be executed only upon written orders.
 Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal.
 Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
 Our Workers are fully covered by Workmen's Compensation Insurance.

Acceptance of Proposal -

The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
 Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, FL 32173

DATE: 2/10/2016

Phone 386-676-0200 Fax 386-676-0803

TIME: 9:26 AM

E-mail; halifaxpaving@cfl.rr.com

TO: Pioneer Community Development District
12051 Corporate Boulevard
Orlando, FL 32817



ATTN:

PHONE: 407-385-3256

FAX:

JOB NAME: S. Williamson Boulevard Extension

LOCATED AT: Port Orange, FL

PLANS BY: ETM

DATE OF PLANS: 9/1/2015

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL.
MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
----------	----------	------	------------	-------

REMOVE EXISTING BUTTERFLY VALVE AND INSTALL SLEEVE JPA CITY OF PORT ORANGE

Labor	1	LS	\$ 1,657.00	\$ 1,657.00
Equipment	1	LS	\$ 1,680.00	\$ 1,680.00
Materials	1	LS	\$ 1,157.00	\$ 1,157.00
Subcontractor	1	LS	\$ 926.00	\$ 926.00
Total				\$ 5,420.00

Overhead On First \$50,000	10%	\$	542.00
Overhead On Amount Over \$50,000	5%		

We propose to execute the above scope of work for the sum of: \$ 5,962.00

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL.
THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL.
Permit Applications, Permit Fees, Impact Fees, or Other Fees of any kind are NOT INCLUDED in this Proposal.
This Proposal may be withdrawn by us if not accepted within 30 days.
All work is guaranteed to be as specified.
All work is to be completed in a workmanlike manner according to standard construction practices.
Any alteration or deviation from the above scope of work, will be executed only upon written orders.
Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal.
Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
Our Workers are fully covered by Workmen's Compensation Insurance.

Acceptance of Proposal -

The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, FL 32173

DATE: 2/10/2016

Phone 386-676-0200 Fax 386-676-0803

TIME: 9:24 AM

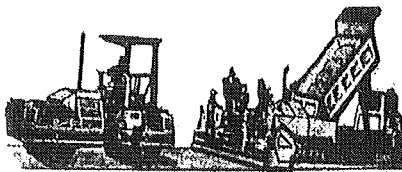
E-mail: halifaxpaving@cfl.rr.com

TO: Pioneer Community Development District
12051 Corporate Boulevard
Orlando, FL 32817

ATTN:

PHONE: 407-385-3256

FAX:



JOB NAME: S. Williamson Boulevard Extension

LOCATED AT: Port Orange, FL

PLANS BY: ETM

DATE OF PLANS: 9/1/2015

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL.
MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
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ADJUST FIRE HYDRANTS JPA CITY OF PORT ORANGE

Labor	1	LS	\$ 1,053.00	\$ 1,053.00
Equipment	1	LS	\$ 1,344.00	\$ 1,344.00
Materials	1	LS	\$ 1,816.00	\$ 1,816.00
Subcontractor	1	LS	\$ 401.00	\$ 401.00
Total				\$ 4,614.00

Overhead On First \$50,000	10%	\$	461.40
Overhead On Amount Over \$50,000	5%		

We propose to execute the above scope of work for the sum of: \$ 5,075.40

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL
THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL.
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This Proposal may be withdrawn by us if not accepted within 30 days.
All work is guaranteed to be as specified.
All work is to be completed in a workmanlike manner according to standard construction practices.
Any alteration or deviation from the above scope of work, will be executed only upon written orders.
Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal:
Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
Our Workers are fully covered by Workmen's Compensation Insurance.

Acceptance of Proposal -

The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, FL 32173

DATE: 2/17/2016

Phone 386-676-0200 Fax 386-676-0803

TIME: 10:36 AM

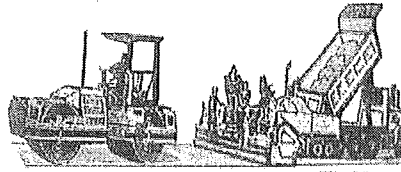
E-mail; halifaxpaving@cfl.rr.com

TO: Pioneer Community Development District
12051 Corporate Boulevard
Orlando, FL 32817

ATTN:

PHONE: 407-385-3256

FAX:



JOB NAME: S. Williamson Boulevard Extension

LOCATED AT: Port Orange, FL

PLANS BY: ETM

DATE OF PLANS: 9/1/2015

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL.
MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
----------	----------	------	------------	-------

VALVE EXTENSION AND VALVE CANS JPA CITY OF PORT ORANGE

Labor	1	LS	\$ 1,135.00	\$ 1,135.00
Equipment	1	LS	\$ 717.00	\$ 717.00
Materials	1	LS	\$ 1,498.00	\$ 1,498.00
Subcontractor	1	LS	\$ 401.00	\$ 401.00
Total				\$ 3,751.00

Overhead On First \$50,000	10%	\$	375.10
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Overhead On Amount Over \$50,000	5%		
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We propose to execute the above scope of work for the sum of:	\$	4,126.10
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EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL.
THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL.
Permit Applications, Permit Fees, Impact Fees, or Other Fees of any kind are NOT INCLUDED in this Proposal.
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All work is to be completed in a workmanlike manner according to standard construction practices.
Any alteration or deviation from the above scope of work, will be executed only upon written orders.
Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal.
Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
Our Workers are fully covered by Workmen's Compensation Insurance.

Acceptance of Proposal –

The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

CHANGE ORDER

PROJECT NAME: SOUTH WILLIAMSON BLVD UTILITIES

CHANGE ORDER #: 4

OWNER: PIONEER CDD

CONTRACT DATE: 5/28/2015

TO: HALIFAX PAVING, INC

C.E.I. DRMP, INC.

Gentlemen:

You are hereby authorized and directed to make the following itemized changes in this contract:

NOTE: JPA Change Order #4 is for plan revision #7 & additional work requested by City of Port Orange. See back up documentation.

Add:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Install Flushing Assembly (revision #7)	n/a	1	LS	\$3,000.00	\$3,000.00
2	Relocate two (2) existing fire hydrants and install new gate valves and pipe	n/a	2	EA	\$3,950.00	\$7,900.00
3						
Sub-TOTAL						\$10,900.00

Delete:	Description	Pay Item #	Qty	Units	Unit Price	Amount
1	Delete three (3) fire hydrant assemblies	n/a	3	EA	\$5,500.00	\$16,500.00
2	Delete one (1) fire hydrant removal	n/a	1	EA	\$750.00	\$750.00
3						
Sub-TOTAL						(\$17,250.00)

TOTAL Increase ☒ Decrease (\$6,350.00)

The original Contract Sum was	\$181,274.60
Net change by previous Change Orders	(\$46,782.10)
The Contract Sum prior to this Change Order was	\$134,492.50
The amount of this Change Order is	(\$6,350.00)
The Contract Sum including this Change Order will be	\$128,142.50

The Contract Time will be: X unchanged increased decreased by calendar days

Waiver: This Change Order constitutes full and mutual accord and satisfaction for the adjustment of Contract Price and Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the change. Acceptance of this Waiver constitutes an agreement between PCDD and Contractor that the Change Order represents an equitable adjustment to the Agreement and that Contractor shall waive all rights to file a Contract Claim of any nature on this Change Order. Execution of this Change Order shall constitute Contractor's complete acceptance and satisfaction that it is entitled to no more costs or time (direct, indirect, impact, etc.) pursuant to this Change Order.

Acknowledgements: The aforementioned change, and work affected thereby, is subject to all provisions of the original Agreement not specifically changed by this Change Order; and it is expressly understood and agreed that the approval of the Change Order shall have no effect on the original agreement other than matters expressly provided herein.

ACCEPTED:

HALIFAX PAVING, INC

By: [Signature] NP
Signature & Title

Date

DRMP, INC.

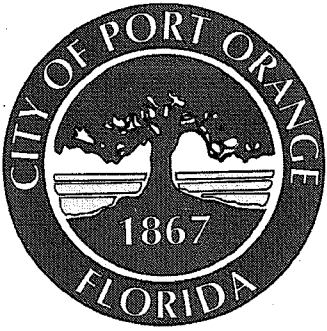
By: [Signature] SPC
Signature & Title

Date

PIONEER CDD

By: [Signature] Chair
Signature & Title

Date



CITY OF PORT ORANGE

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

April 22, 2016

Michelle Borton, P.E.
England, Thims & Miller, Inc.
14775 Old St. Augustine Road
Jacksonville, Florida 32258

Re: Acceptance of Work Notification
Per Joint Project Agreement Bt PCDD and City Port Orange

Dear Mrs. Borton:

The City has received and accepted the signed and sealed as-built plans from the Contractor for the utility work and we have inspected and accepted the completed work performed in accordance with the ETM project Plans and the Joint Project Agreement dated October 6, 2015.

Further, the Contractor has provided the City with the required warranty and maintenance documents for this work.

We understand final retainage pay application is in process to be paid to the Contractor by the PCDD in early May, 2016. Since there is a remaining fund balance of \$53,132.10 please return it to the City upon final payment to the Contractor within 60 days consistent with our Agreement (D. City Funding).

It has been a pleasure doing business with the PCDD project team.

Sincerely,


Andrew Neff
Public Utilities Director
City of Port Orange

CC. Tracey Riehm, Finance Director
Julia Wiggins, Public Utilities Budget Analyst
Kelly McCarrick, Chairperson PCDD
Scott Stagg, DRMP – project CEI
Dwight Durant, P.E., PCDD Engineer

HAZEN CONSTRUCTION, LLC

Guarantee / Warranty Letter

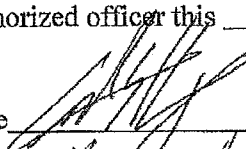
Project Name: S. Williamson Blvd. – JPA work (water, reuse and forcemain)
Owner: City of Port Orange
General Contractor: Halifax Paving, Inc
Date of Substantial Completion: April 20, 2016

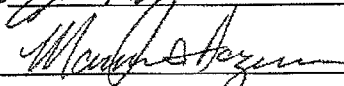
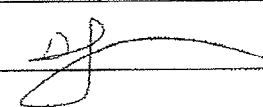
Hazen Construction, LLC hereby warrants to the Owner and the Contractor that all materials furnished under the subject Subcontract is of good quality, free from defaults and defects and in conformance with the Contract Documents.

Furthermore, if within one (1) year after the Date of Substantial Completion any of the work (as defined in the Subcontract Agreement) is found to be defective or not in accordance with the Contract Documents, the Subcontractor hereby agrees to correct it promptly after receipt of written notice of such condition. All such defective or non-conforming work shall be removed from the site, if necessary, and the work shall be corrected to comply with the Contract Documents.

This Warranty and Guarantee shall not apply to work that has been abused or neglected by the Owner, or subject to any other use beyond that for which it was intended by the Contract Documents.

In WITNESS WHEREOF the said subcontractor has caused this instrument to be executed by its duly authorized officer this 21 day of April, 2016

Signature  Title President

Witness  Witness 

For Warranty Work, contact:

Person/Department Marc Hazen
Phone: Business Hours 386-322-8700 After Hours 386-566-1193

1599 Tionia Road
New Smyrna Beach, Florida 32168

Phone: 386 322-8700
Fax: 386 756-0000



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Approval of Settlement - Urquhart v. BDW Land Holdings and City of Port Orange

DEPARTMENT: City Attorney

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: To approve the Settlement Agreement and authorize the Mayor and City Clerk to execute the same.

SUMMARY: The City was named as a defendant in a boundary dispute between the Urquhart's and BDW Land Holdings (owner of the new Atlantic Marine site on Dunlawton). The City was included in the action due to an easement granted by BDW to the City pursuant to the Atlantic Marine MDA which was located within a disputed area.

BDW and the Urquhart's have agreed to the attached settlement which has no impact on the City's easement. The settlement agreement also includes a release of any and all future claims related to this dispute. The City Attorney's Office expended minimal resources in defending the suit, and each party is responsible for its own attorney's fees.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Settlement Agreement	Signed Settlement Agreement.pdf
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Matthew Jones
Margaret Roberts
M. Jake Johansson

Created/Initiated - 05/10/2016
Approved - 05/10/2016
Final Approval - 05/11/2016

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into by and between FREDERIC C. URQUHART, JR. and DRUCILLA H. URQUHART and their heirs, executors, administrators, successors and assigns (collectively "Urquharts"), B.D.W. LAND HOLDINGS, LLC, a Florida limited liability corporation, and/or parent companies, affiliates, officers, directors, employees, shareholders, members, subsidiaries, assignees, predecessors in interest and successors in interest ("BDW"), and the CITY OF PORT ORANGE, a Florida Municipal Corporation (the "City") ("Urquharts", "BDW", and the "City" are individually referred to herein as "Party" and collectively referred to herein as the "Parties").

RECITALS

WHEREAS, the Urquharts own two parcels of real property located in Port Orange, Volusia County, Florida and more particularly described as: 511 Powers Avenue, Port Orange, Volusia County, Florida 32127 with a legal description of: *The Westerly 20 feet of Lot 22, all of Lot 23 and the Easterly 10 feet of Lot 24, Power's Subdivision, as per map recorded in Map Book 10, page 138, Public Records of Volusia County, Florida* ("Parcel 1"), and 513 Powers Avenue, Port Orange, Volusia County, Florida 32127 with a legal description of: *The Westerly 30 feet of Lot 24 and all of Lot 25, POWERS SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 10, Page 138, Public Records of Volusia County, Florida* ("Parcel 2") (collectively the "Urquharts' Property").

WHEREAS, BDW owns that certain unimproved real property located at 619 Lemon Street, Port Orange, Volusia County and more particularly described as *Lot 3, except the Easterly 200 feet of the Southerly 100 feet, Block "O", WILSON'S PORT ORANGE, according to the plat thereof as recorded in Map Book 1, Page 154, of the Public Records of Volusia County, Florida* (the "BDW Property").

WHEREAS, the Urquharts' Property and BDW's Property share a common boundary line, and a dispute has arisen between the Urquharts and BDW as to the location of the common boundary line, with each claiming an ownership of the real property generally described as: *an area commencing with the north corner of Lot 5 and running adjacent to and abutting the northerly property lines of Lots 24, 23 and the westerly twenty feet of Lot 22* (hereinafter the "Disputed Property"). The Disputed Property is depicted in the cross-hatched area on the survey attached to this Agreement as Exhibit A and is described as follows: *Beginning with the southeast corner of Lot 28, Powers Subdivision, as per map recorded in Map Book 10, Page 138, Public Records of Volusia County, Florida, as a Point of Beginning, run thence N82°06'35"E a distance of 100.78 feet, run thence S17°03'53"E for a distance of 14.00 feet, run thence S72°18'44"W to the easterly boundary line of said Lot 29, run thence N04°06'33"E along the easterly boundary of said Lot 29, a distance of 21.33 feet to the Point of Beginning.*

WHEREAS, BDW as grantor executed on March 16, 2015, in favor of the City, and the City accepted as grantee, an easement pertaining to part or all of the Disputed Property (the "City's Easement"). The City's Easement was recorded on March 20, 2015, in Official Records Book 7096, Page 329 of the Public Records of Volusia County, Florida, which created a dominant perpetual easement interest in part of all of the Disputed Property for landscaping, storm water drainage, maintenance, and access.

WHEREAS, the Urquharts filed suit against BDW and the City to quiet title, to declare the rights amongst the parties as to the Disputed Property, ejectment, and trespass in the case styled as *Frederic C. Urquhart, Jr. and Drucilla H. Urquhart v. B.D.W. Land Holdings, LLC, and the City of Port Orange*, Case No.: 2014-30395 CICI pending in the Circuit Court of the Seventh Judicial Circuit, in and for Volusia County, Florida (the "Lawsuit").

WHEREAS, BDW filed a counterclaim against the Urquharts to quiet title to the Disputed Property, for adverse possession, slander of title, and abuse of process.

WHEREAS, the Parties mutually desire to resolve such disputes as set forth below.

AGREEMENT

1. **Recitals.** The Recitals set forth above are hereby acknowledged by the Parties and incorporated herein.

2. **Settlement Amounts:**

(a) The Urquharts agree that the boundary line between the Urquharts' Property and BDW's Property is the common boundary line shared by the parties as set forth in the survey of Upham, Inc., attached hereto as Exhibit B. The boundary line commences at the corner of Lot 25 and 24 and runs east to the westerly twenty (20) feet of Lot 22 of the Powers Subdivision. The boundary line is noted on Upham Inc.'s survey as the bolded line separating Powers Subdivision from BDW's Property.

(b) In consideration for the Urquharts accepting the boundary line as described in Exhibit B, BDW covenants to do the following:

(1). BDW plans to erect an eight (8') foot vinyl screening fence 5 feet from the boundary line (the "BDW fence") as set forth in Composite Exhibit C. The BDW fence will run the length of BDW's Property line that borders the Powers Subdivision. BDW has obtained all of the necessary permits for BDW from the City of Port Orange. The portion of the BDW fence that runs parallel to the northerly boundary of the Urquharts' Property and interior to the southern boundary of BDW's Property shall be tan or brown. The remainder of the BDW fence beyond the Urquhart property may be any color selected by BDW.

(2). BDW, at its sole expense, will purchase and plant certain plants and bushes, such as evergreen bushes, on the outside of the fence that fronts the Urquharts' Property. The plants and bushes are intended to serve as a visual barrier between the Urquharts' Property and the BDW fence. When fully grown, the plants and bushes will screen the view of the BDW vinyl screening fence from the Urquharts' Property. The plants and bushes will be located on the south side of BDW's fence and north of the Urquharts' northerly boundary line. BDW shall plant plants and/or evergreen bushes within fourteen (14) days of the completion of the BDW fence.

(3). BDW will obtain from the City a fence permit and construct, at its own expense, a 4 foot chain link fence along the Urquhart's north property line as shown on Composite Exhibit D attached to this Agreement. The chain link fence will encroach upon BDW's southerly boundary as depicted on Composite Exhibit D. BDW will maintain the portion of the chain link fence that encroaches on its property. BDW will complete the installation of the 4 foot chain link fence within 30 days of the issuance of the fence permit by the City of Port Orange.

(4). BDW will execute a license agreement as authorization for Urquhart and their successors to, at their own risk, enter into the planted area between the Urquhart's north line and the BDW fence. Urquhart, for themselves and their successors, agree to hold BDW harmless from any claims by Urquhart or any of their successors or assigns. The document shall be in the form of Exhibit E attached to this Agreement. The license or other document will be executed within five (5) days of the execution of this Agreement.

3. **Mutual Releases:** The Urquharts on their own behalf, and on behalf of their heirs, executors, administrators, successors and assigns hereby waive, remise, acquit, satisfy, relinquish, discharge, and release BDW and the City and their heirs, beneficiaries, successors, assigns, parent, subsidiary, affiliates and related companies, officers, directors, employees, agents, attorneys, insurers and sureties of and from any and all claims, liens, demands, debts, suits, damages, contracts, controversies, agreements, judgments obligations, liabilities, and causes of action, in law or in equity, known or unknown, whether patent or latent, which the Urquharts ever had, now have and/or may hereafter have against any other Party related to the claims, counterclaims, and cross-claims raised in Case No.: 2014-30395 CICI, including those which were raised, or could have been raised, as a claim in the Lawsuit.

BDW, on its own behalf, on behalf of its predecessors-in-interest, successors, assigns, officers, directors, shareholders, members, employees, agents, consultants, insurers, sureties, and attorneys-in-fact or at law, hereby waive, remise, acquit, satisfy, relinquish, discharge, and release the Urquharts and the City and their heirs, beneficiaries, successors, assigns, parent, subsidiary, affiliates and related companies, officers, directors, employees, agents, attorneys, insurers and sureties of and from any and all claims, liens, demands, debts, suits, damages, contracts, controversies, agreements, judgments obligations, liabilities, and causes of action, in law or in equity, known or unknown, whether patent or latent, which BDW ever had, now have and/or may hereafter have against any other Party relating to the claims, counterclaims, and cross-claims raised in Case No.: 2014-30395 CICI, including those which were raised, or could have been raised, as a claim in the Lawsuit.

The City on its own behalf, on behalf of its predecessors-in-interest, successors, assigns, officers, directors, shareholders, members, employees, agents, consultants, insurers, sureties, and attorneys-in-fact or at law, hereby waive, remise, acquit, satisfy, relinquish, discharge, and release the Urquharts and BDW their heirs, beneficiaries, successors, assigns, parent, subsidiary, affiliates and related companies, officers, directors, employees, agents, attorneys, insurers and sureties of and from any and all claims, liens, demands, debts, suits, damages, contracts, controversies, agreements, judgments obligations, liabilities, and causes of action, in law or in equity, known or unknown, whether patent or latent, which the City ever had, now have and/or may hereafter have against any other Party relating to the claims, counterclaims, and cross-claims raised in Case No.: 2014-30395 CICI, including those which were raised, or could have been raised, as a claim in the Lawsuit.

4. **Stipulated Final Judgment:** The eight (8') foot vinyl screening fence referenced in Section 2(b)(1) will be erected as part of BDW's construction plan. In order to assure the Urquharts that the plants will be planted as required above, BDW shall place the sum of Two Thousand Five Hundred (\$2,500.00) Dollars in escrow with Cobb Cole located at 149 S. Ridgewood Ave., Suite 700, Daytona Beach, Florida 32114 within three business days of the execution of this Agreement. In the event BDW fails to plant the plants as required by Paragraph 2(b)(2) above, the Urquharts may have the Two Thousand Five Hundred (\$2,500.00) Dollars released from escrow and, pursuant to the License Agreement, place the plants as set out above. Within ten (10) days of completion of the erection of the fence as outlined in Section 2(b)(3), the receipt of the \$2,500.00 in escrow, and the

execution of the license attached as Exhibit E all as outlined in Section 2 of this Agreement, the Parties shall submit a stipulation and proposed stipulated final judgment to the Court that (1) quiets title to the Disputed Property; (2) declares the common boundary between the Urquharts' Property and BDW's Property as the boundary line established by the Upham, Inc.'s survey attached hereto as Exhibit B; (3) dismisses all remaining claims, counterclaims, and cross-claims with prejudice; (4) requires that the Parties each bear their own attorneys' fees and costs; and (5) retains jurisdiction to enforce the terms of the stipulated final judgment which will incorporate this Agreement.

5. **Entire Agreement; Modifications:** Except as expressly set forth herein, this Agreement contains all of the understandings and agreements between the Parties, supersedes any prior understandings or agreements between them, whether written or oral, express or implied, and none of the Parties are relying on any promises, representations, communications, statements, declarations, agreements or understandings that are not fully expressed herein. Further, this Agreement may only be amended or modified by a writing signed by the Parties.

6. **Acknowledgment:** The Parties acknowledge that they have read the terms of this Agreement and understand its provisions, that they have discussed or had the opportunity to discuss its terms and conditions with their respective attorneys, and that this Agreement has been fully explained to them. The Parties represent to one another that neither has sold or transferred any claim which is the subject matter of this Agreement to any person, natural or otherwise, not a party hereto.

7. **Counterparts:** This Agreement may be executed in multiple original counterparts, each of which shall be enforceable against the Party signing it. This Agreement is binding and enforceable only after all Parties have executed it. A facsimile or electronic copy of this Agreement and any signatures hereon shall be considered for all purposes as originals.

8. **Choice of Law and Venue:** This Agreement will be construed under Florida Law. Venue for any action brought by any party to declare, enforce or construe this Agreement shall lie solely and exclusively in Volusia, Florida.

9. **Further Assurances:** The Parties hereby agree to cooperate fully and to execute any and all supplementary documents and take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

10. **Severability:** If any provision of this Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect.

11. **Attorneys' Fees, Costs, and Expenses:** In the event that it shall become necessary for any Party to this Agreement to take action of any type whatsoever to declare, construe, or enforce the terms of this Agreement, the prevailing Party shall be entitled to recover all reasonable and necessary attorneys' fees, costs, and expenses, including all out-of-pocket expenses that are not taxable as costs, incurred in connection with any such action, including any negotiations, mediations, arbitrations, litigation, on appeal, or in bankruptcy.

12. **No Ambiguity Construed Against Drafter:** The Parties agree that all Parties have reviewed this Agreement and had their attorneys review it, or have had the opportunity to have their attorneys review it, and that any rule of construction to the effect that ambiguities are to be resolved against the drafter shall not apply to the interpretation of this Agreement.

13. **No Admissions:** The Parties acknowledge that neither they, nor any of their respective agents, servants or employees has admitted any liability in this matter whatsoever. The Parties further acknowledge that this has been a contested matter in all respects. The Parties further agree that the execution of this Agreement shall not be deemed as an admission of liability by any party.

14. **No Waiver:** The failure of either party to insist upon the strict performance of the terms, covenants, and agreements herein shall not be construed as a waiver or relinquishment of the parties' rights thereafter to enforce any such term, covenant, or condition, but the same shall continue in full force and effect.

15. **Authorization:** Each Party hereto represents and expressly warrants that the person whose signature appears below on its behalf has full power and authority to execute this Agreement on its behalf.

(SIGNATURES ON THE FOLLOWING PAGES)

IN WITNESS WHEREOF, DRUCILLA H. URQUHART has caused this Agreement to be executed this 29th day of March, 2016.

DRUCILLA H. URQUHART

BY: Drucilla H. Urquhart

[Signature]
WITNESS
Bonnie L. Rubino
WITNESS

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing Agreement was subscribed and sworn to before me, a Notary Public, in and for Volusia County, Florida, by, Drucilla H. Urquhart who is personally known to me or produced FD-616 # 6606 168-57-605-0 as identification, for the purposes therein contained this 29th day of March 2016.



Bonnie L. Rubino (Seal)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 9/1/19

IN WITNESS WHEREOF, FREDERIC C. URQUHART, JR. has caused this Agreement to be executed this 29 day of March, 2016.

FREDERIC C. URQUHART, JR.

BY: Frederic C. Urquhart

Melissa M...
WITNESS
Bonnie L. Rubino
WITNESS

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing Agreement was subscribed and sworn to before me, a Notary Public, in and for Volusia County, Florida, by Frederic C. Urquhart who is personally known to me or produced FL DL # 11626-243-56134-0 as identification, for the purposes therein contained this 29th day of March 2016.



Bonnie L. Rubino (Seal)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 9/1/19

IN WITNESS WHEREOF, B.D.W. LAND HOLDINGS, LLC has caused this Agreement to be executed this 6th day of April, 2016.

[Signature]
WITNESS
[Signature]
WITNESS

B.D.W. LAND HOLDINGS, LLC

BY [Signature]
Printed Name:
Title:

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing Agreement was subscribed and sworn to before me, a Notary Public, in and for Volusia County, Florida, by, Brad Wiles who is personally known to me or produced _____ as identification, for the purposes therein contained this 6th day of April 2016.



[Signature] (Seal)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires:

IN WITNESS WHEREOF, the CITY OF PORT ORANGE has caused this Agreement to be executed this ____ day of _____, 2016.

CITY OF PORT ORANGE

WITNESS

BY: _____
Printed Name:
Title:

WITNESS

STATE OF FLORIDA

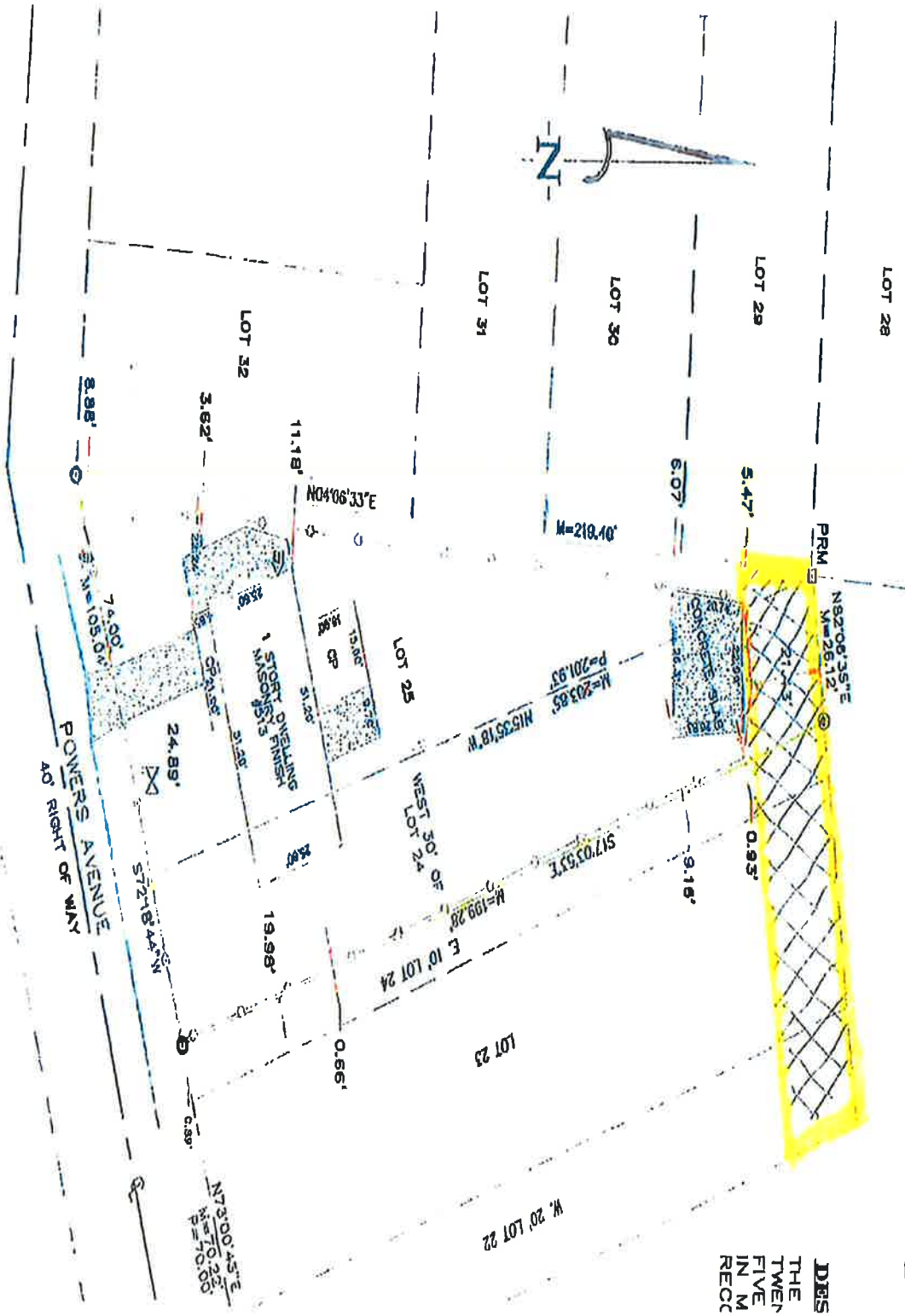
COUNTY OF _____

The foregoing Agreement was subscribed and sworn to before me, a Notary Public, in and for _____ County, Florida, by, _____ who is personally known to me or produced _____ as identification, for the purposes therein contained this _____ day of _____ 2016.

(Seal)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires:

MAP OF BC

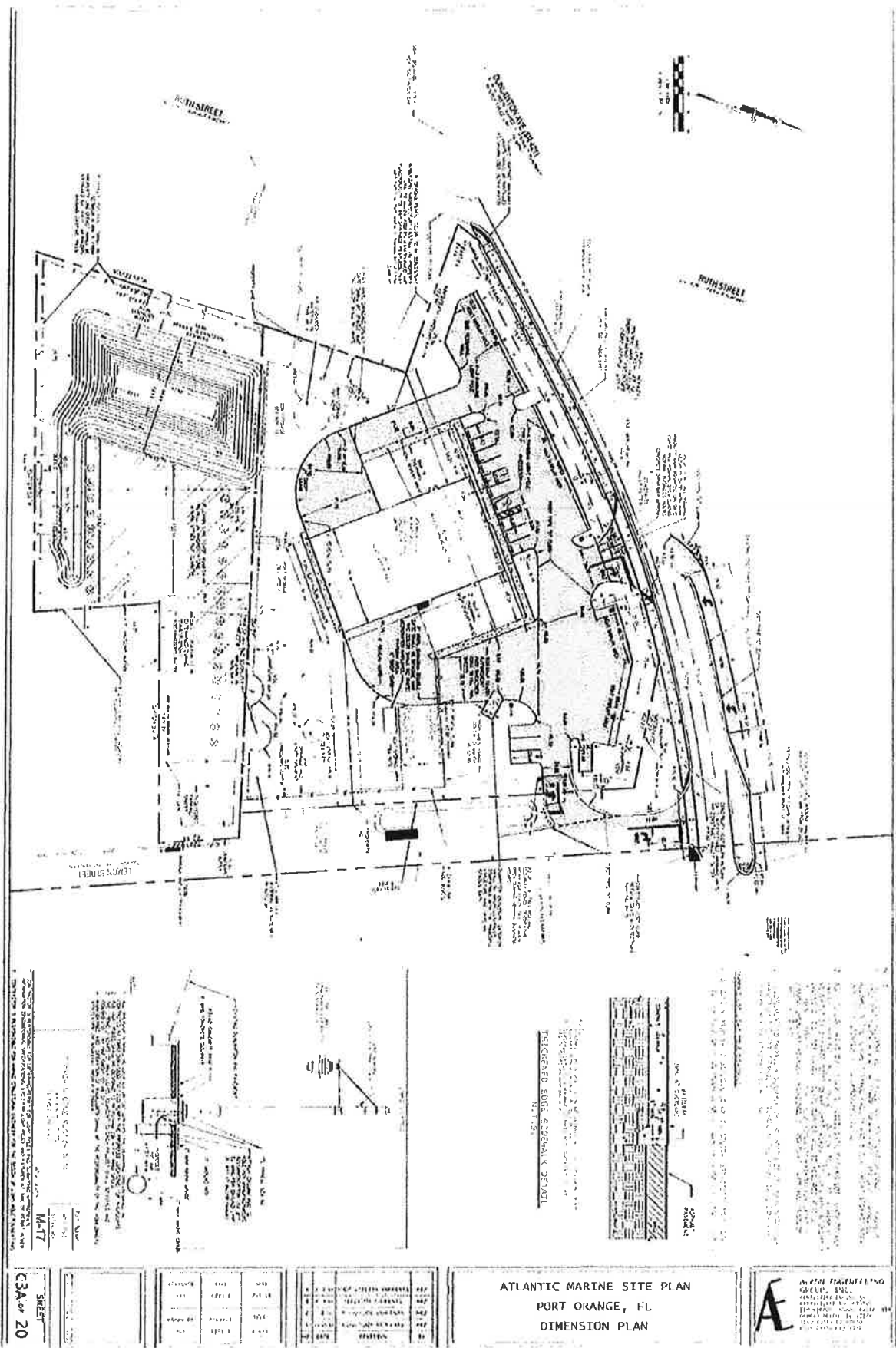
DES THE
TWO
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REC



LAST FIELD DAY: 3/04/11
 DRAWN BY: JUSTIN
 DATE DRAWN: 3/05/11
 CHECKED BY: E.L.R.
 SCALE: 1" = 30'
 NO. 11-015

- CERTIFIED TO:**
1. MET LIFE HOME LOANS, A I
 2. ITS SUCCESSORS AND/OR ASS
 3. FREDERIC C. URGUHART, JR
 4. TITLE CHAIN, INC.
 4. WESTCOAST LAND TITL. INSUR

Exhibit A



Composite Exhibit C

BEARING STRUCTURE IN 1873-84 TO STATE PLANE, FLORIDA EAST ZONE, ALONG THE NORTH LINE POWERS AVE.
LEGAL DESCRIPTIONS NOT PROVIDED BY CLIENT. TOWNSHIPS FROM OFFICIAL RECORDS BOOK 3814, PAGE 624
RECORD DIMENSIONS ARE GIVEN IN PACE/INCHES (1) WHEN OFFERS FROM MEASURED
ACCURACY STATEMENT, THE EXPECTED ACCURACY OF THE CONTROL. TO ESTABLISH THE BOUNDARY OF THE
SUBJECT PROPERTY IS.
THE CLOSURE OF THE TRAVERSE FOR THIS PROJECT IS 1: 165.37

DATA SOURCES: NONE REQUESTED FOR THIS BOUNDARY SURVEY.
VERTICAL DATA:

MEASUREMENT METHODS: HORIZONTAL AND VERTICAL MEASURES MADE BY ONE OR MORE OF THE FOLLOWING
INSTRUMENTS: TOPCON INSTRUMENTS: OPT-300W, JONKOL SIX-1 GPS INSTRUMENTS, VAL-2 (UPON STEEL TAPE, LAST STEEL TAPE
STEEL HOUGHT CHAIN, CANT & LUPHON MEASURING TAPE FOR TIME EXPOS FOR BUILDINGS.

HISTORY REFERENCE TO PREVIOUS SURVEY OR HELPER SURVEYS:
A) BOUNDARY SURVEY BY MOHENTHAU DATED FEBRUARY 4, 1947, OF LOT 3, BLOCK 2, WILSON'S MAP OF
PORT ORANGE SHOWING AN OLD FENCE ALONG THE SOUTH LINE OF LOT 3
POWERS SUBDIVISION STOPPING AN OLD FENCE ALONG THE NORTH LINE OF AN UNRECORDED LOT 3.
C) VARIOUS SURVEYS BY STEPHEN AL. ALONG RALPH STREET IN THE 1880'S
D) VARIOUS SURVEYS BY OTHERS OF LOTS ALONG POWERS AVE.
E) SURVEY BY CUNAN SURVEYING AND MAPPING, INC DATED 11-23-2013
F) POWERS AVE. OLD FENCE AND OLD WOODEN FENCE POST ALONG THE COMMON BOUNDARY
FURNISHING INFORMATION ON THE BOUNDARY. SEE LOTUM INC. FILE 25-181 FOR MORE
INFORMATION ON THE NORTH BOUNDARY LINE

LINEAGE OF DATA HORIZONTAL DATA REFERENCES: DATE OF ORIGINAL PLAT:
A) WILSON'S MAP OF PORT ORANGE, MAP BOOK #, PAGE 54, ALSO RECORDED IN MAP BOOK 16, PAGE 4, DATED
FEBRUARY 1904.
B) WEST PARK IN PORT ORANGE, MAP BOOK #, PAGE 54, ALSO RECORDED IN MAP BOOK 15, PAGE 3, DATED
FEBRUARY 1904.
C) POWERS SUBDIVISION, MAP BOOK 10, PAGE 106, DATED DECEMBER 29, 1825

- A) THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAN OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY, OR UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS SHOWN. IF LOCATION OF ENDEAVORS ON RIGHT-OF-WAY OR RECORD, OR WITHIN OR ON OR OFF ROAD RIGHT-OF-WAY IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR IMMEDIATELY. PER FLORIDA STATUTE 90.15 (3)(a)(2)(b)(ii)
- B) IT IS UNDERSTOOD TO BE THE PROFESSIONAL OPINION OF THE SURVEYOR AND THE FAIR, FROM BENEFITS FURNISHED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AND AS SUCH, DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED, FURTHERMORE, THE SURVEYOR AND FIRM DOES NOT WARRANT THAT THE INFORMATION IS COMPLETELY ACCURATE, OR THAT CLAIM ARISING FROM ENDEAVORS OR IMPROVEMENT INFORMATION FURNISHED BY THE OWNER, LESSEE, OR OTHERS' CONTRACTORS OR OTHERS, BEING USED AS A BASIS TO FULFILL THE SURVEYOR'S OBLIGATION.
- C) ADDITIONS OR DELETIONS TO SURVEY MAPS OR RECORDS BY OTHER THAN THE SIGNING PARTY IS PROMOTED WITHOUT WRITTEN CONSENT OF THE PARTY. PER FLORIDA STATUTES CHAPTER 901, S.47, 61 AND 62, THE ACCEPTANCE OF THIS SURVEY IS CERTIFIED FOR THE EXCLUSIVE USE OF JAMES SHOWN HEPSON SHALL BE FOR THE FULFILLMENT OF ANY CONTRACTUAL OBLIGATION. ADDITIONAL REVEALED ORIGINALLY MAY BE PROVIDED TO THE SURVEYOR BY THE SURVEYOR'S CLIENT, BUT THE SURVEYOR'S OBLIGATION IS LIMITED TO THE SIGNED AND SEALED GRAPHIC REPRESENTATION OF THE FIELD SURVEY. CAD FILES ARE NOT THE SURVEY, AND THESE WILL BE A SURCHARGE FOR THEM.
- E) TAX PARCELS IDENTIFICATION NUMBERS, ADJACENT OWNERS' NAMES AND ADDRESS WHEN SHOWN SHOWN IS EITHER SUPPLIED TO CLIENT, EITHER TAKEN FROM COUNTY APPROXIMATES INTEREST WEB PAGE, AND MAY NOT BE THE MOST CURRENT.
- F) SPECIAL PURPOSES WHEN IDENTIFIED AS TYPE OF SURVEY:
1) WHEN TREES AS SHOWN ON THE SURVEY IS FOR THE LOCATION OF THE TREES 5" INCHES DIAMETER AND ABOVE TREES TAKEN APPROXIMATELY 2" TO 4 1/2 FEET ABOVE GROUND LEVEL. THESE IDENTIFICATION OTHER THAN LOCATION AND SIZE, SEE AN ARBORIST.
2) WHEN IDENTIFICATION WITH SHOWN WERE LOCATED FROM PLASMA MARKERS BY BOLDQUEST'S ENVIRONMENTAL AND METEOROLOGICAL OF FURNISHED BY ONE OF THE EMPLOYEES OF THIS SURVEYOR'S FIRM AND MAPPER.
3) ARCHAEOLOGICAL FEATURES WHEN SHOWN WERE LOCATED FROM OBJECTS IDENTIFIED BY OTHERS AND THE DETERMINATION OF WHAT THEY CONSTITUTE IS AN ARCHAEOLOGICAL FEATURES IS OUT OF THE EXPERTISE OF THIS SURVEYOR AND MAPPER.
4) THE DETERMINATION OF WHAT THEY CONSTITUTE IS AN ARCHAEOLOGICAL FEATURES IS OUT OF THE EXPERTISE OF THIS SURVEYOR AND MAPPER.
5) SECT TECHNICAL BOUNDING, AS MARKED AND FIELD LOCATED.

[illegible]

THE WESTERLY 20 FEET OF LOT 22, ALL OF LOT 23, AND THE EASTERLY 10 FEET OF LOT 24, POWER'S SUBDIVISION, AS PER MAP RECORDED IN MAP BOOK 10, PAGE 138, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

[illegible]

BEARING STRUCTURE IN 87°56'43" STATE PLANE FLORIDA EAST ZONE, ALONG THE NORTH LINE POWERS AVE. 1.

LEGAL DESCRIPTIONS NOT PROVIDED BY CLIENT TAKEN FROM OFFICIAL RECORDS BOOK 187A, PAGE 324 2.

RECORD DIMENSIONS ARE SHOWN IN PARENTHESES (), WHEN DIFFERS FROM MEASURED 3.

ACCURACY STATEMENT: THE EXPECTED ACCURACY OF THE CONTROL, TO ESTABLISH THE BOUNDARY OF THE 4.

SUBJECT PROPERTY IS 5.

THE CLOSURE OF THE TRAVERSE FOR THIS PROJECT IS 1: 166,307 6.

DATA SOURCE: NONE REQUESTED FOR THE BOUNDARY SURVEY. 7.

VERTICAL DATA: 8.

MEASUREMENT METHOD: HORIZONTAL AND VERTICAL MEASURES MADE BY ONE OR MORE OF THE FOLLOWING 9.

TOPCON INSTRUMENTS: OPT-3000, SOKKIA GRA-1 GPS INSTRUMENTS, FA-2 LURION STEEL TAPE, CMT STEEL TAPE, 10.

STEEL HOLOGRAPHIC CANT, CTS 3 LURION PEGELAS TAPE FOR DIMENSIONS FOR BUILDINGS. 11.

NOTARY REFERENCE TO PREVIOUS SURVEY OR HELPER SURVEYS: 12.

A) BOUNDARY SURVEY BY MONTEPANTE FEBRUARY 6, 1947, OF LOT 3, BLOCK G, WILSONS MAP OF 13.

PORT CHARLIE, SHOWING AN OLD FENCE ALONG THE SOUTH LINE OF LOT 1. 14.

A) BOUNDARY SURVEY BY STEPP INC. ON SEPTEMBER 2, 1984, OF LOTS 4 THROUGH 28 INCLUSIVE, 15.

IN LOT 1, SHOWING AN OLD FENCE ALONG THE SOUTH LINE OF LOT 1. 16.

C) VARIOUS SURVEYS BY STEPP INC. ALONG BAY STREET IN THE 1950'S. 17.

D) VARIOUS SURVEYS BY OTHERS OF LOTS ALONG POWERS AVE. 18.

E) SURVEY BY RUIVAR SURVEYING AND MAPPING, LC DATED 11-14-2013 19.

I FOUND REMAINS OF OLD BAUM WIRE FENCE AND OLD WOODEN FENCE POST ALONG THE COMMON BOUNDARY 20.

SUPPORTING THE BOUNDARY BOUNDARY AS INDICATED. SEE UPLINK INC. FILE 28-151 FOR MORE 21.

INFORMATION ON THE NORTH BOUNDARY LINE. 22.

LIFELINE OF DATA HORIZONTAL DATA, REFERENCE, DATE OF ORIGINAL PLAT: 23.

- BEARING STRUCTURE IN 87°56'43" STATE PLANE FLORIDA EAST ZONE, ALONG THE NORTH LINE POWERS AVE. 1.
- LEGAL DESCRIPTIONS NOT PROVIDED BY CLIENT TAKEN FROM OFFICIAL RECORDS BOOK 187A, PAGE 320A 2.
- RECORD DIMENSIONS ARE SHOWN IN PARENTHESES (), WHEN DIFFERS FROM MEASURED.
- ACCURACY STATEMENT: THE EXPECTED ACCURACY OF THE CONTROL, TO ESTABLISH THE BOUNDARY OF THE 3.
- SUBJECT PROPERTY IS
- THE CLOSURE OF THE TRAVERSE FOR THIS PROJECT IS 1: 166,307
- DATA SOURCE: NONE REQUESTED FOR THE BOUNDARY SURVEY.
- VERTICAL DATA:
- MEASUREMENT METHOD: REDUCED TITL AND VERTICAL MEASURES MADE BY ONE OR MORE OF THE FOLLOWING 4.
- TOPCON INSTRUMENTS: OPT-3000, SOKKIA GRA-1 GPS INSTRUMENTS, FA-2 LURNON STEEL TIE, CAST STEEL, TAPERED 5.
- STEEL, HORIZONTAL CANT, LOT 5 LURNON PREDICABLE TAPE FOR DIMENSIONS FOR BUILDINGS.
- HISTORY REFERENCE TO PREVIOUS SURVEY OR HELPER SURVEYS:
- A) BOUNDARY SURVEY BY MONTEPANTE DATED FEBRUARY 6, 1947, OF LOT 3, BLOCK Q, WILSONS MAP OF 6.
- PORT CHARLIE, SHOWING AN OLD FENCE ALONG THE SOUTH LINE OF LOT 1.
- B) A BOUNDARY SURVEY BY STEPP INC. DATED SEPTEMBER 2, 1988, OF LOTS 4 THROUGH 28 INCLUSIVE 7.
- C) A BOUNDARY SURVEY BY STEPP INC. DATED SEPTEMBER 2, 1988, OF LOTS 1 THROUGH 3 INCLUSIVE 8.
- D) VARIOUS SURVEYS BY STEPP INC. ALONG BAY STREET IN THE 1950'S.
- E) VARIOUS SURVEYS BY OTHERS OF LOTS ALONG POWERS AVE 9.
- F) SURVEY BY RUIVAR SURVEYING AND MAPPING, LC DATED 11-14-2013
- I FOUND REMAINS OF OLD BAUMS WHERE FENCE AND OLD WOODEN FENCE POST ALONG THE COMMON BOUNDARY 10.
- SUPPORTING THE BOUNDARY BOUNDARY AS UNIMPAIRED. SEE UPLINK INC. FILE 28-151 FOR MORE INFORMATION ON THE NORTH BOUNDARY LINE
- LIFELINE OF DATA HORIZONTAL DATA, REFERENCE, DATE OF ORIGINAL PLAT:

AJ. THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAN OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY, AND UNRECORDED INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS SHOWN. IF LOCATION OF UNRECORDED OR PART-OF-WAY OF UNRECORDED INSTALLATIONS OR IMPROVEMENTS IS KNOWN, THE INFORMATION MUST BE PLANNED TO THE SURVEYOR AND MAPPER PER FLORIDA STATUTES RULES 617.27-617.28(4)(F)(H).

B1 IT IS UNDERSTOOD BY THE SURVEYOR AND THE PUBLIC FROM WHICH IS FORWARDED TO HIM BEST KNOWLEDGE, INFORMATION AND BELIEF, AND AS SUCH, DOES NOT CONSTITUTE A WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, THAT THE INFORMATION ON THIS SURVEY AND PLAN DOES NOT CONTAIN ANY ERRORS OR OMISSIONS, AND THAT THE INFORMATION IS COMPLETELY ACCURATE AND NOT IN ANY MANNER MISLEADING OR INADEQUATELY DISCLOSED. THE USER OF THIS SURVEY AND PLAN ASSUMES ALL LIABILITY FOR ANY AND ALL INADEQUATE INFORMATION FURNISHED BY THE OWNER, LEASER, OR OWNERS, CONTRACTORS OR OTHERS, WHICH IS USED AS A BASIS TO FORMULATE THIS SURVEY AND PLAN.

- AJ. THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAN OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY, AND UNRECORDED INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS SHOWN. IF LOCATION OF UNRECORDED OR PART-OF-WAY OF UNRECORDED INSTALLATIONS OR IMPROVEMENTS IS KNOWN, THE INFORMATION MUST BE PLANNED TO THE SURVEYOR AND MAPPER PER FLORIDA STATUTES RULES 617.27-617.28(4)(F)(a)(b)(c)(d)(e)(f)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p)(q)(r)(s)(t)(u)(v)(w)(x)(y)(z).

[illegible]

- C. ADDITIONS OR DELETIONS TO SURVEY MAPS OR RECORDS BY THE SIGNING PARTY IS PROHIBITED UNLESS THE ADDITION OR DELETION IS MADE IN ACCORDANCE WITH THE FOLLOWING: (1) THE ADDITION OR DELETION MUST BE MADE BY THE SIGNING PARTY OR AN AGENT OF THE SIGNING PARTY; (2) THE ADDITION OR DELETION MUST BE MADE IN THE PRESENCE OF TWO OTHER PERSONS WHOSE NAMES SHALL BE CONSIDERED PART OF THE SURVEY; (3) THE ADDITION OR DELETION MUST BE MADE IN THE ORIGINAL UNSEALED ORIGINALS; (4) THE ADDITION OR DELETION MUST BE MADE WITHIN SIX MONTHS AFTER THE DATE OF THE INVOICE. "ORIGINAL" AS DEFINED HEREON REFERS TO PURCHASED UP TO SIX MONTHS AFTER THE DATE OF THE INVOICE. ORIGINALS AND FILES ARE NOT THE SURVEY AND THERE WILL BE A SURCHARGE FOR THEM.
- E.1.1. PARCEL IDENTIFICATION NUMBERS, ADJACENT OWNERS' NAMES AND ADDRESS WHEN SHOWN SHALL BE CONSIDERED PART OF THE SURVEY. ADJACENT OWNERS' NAMES AND ADDRESS WHEN SHOWN SHALL BE CONSIDERED PART OF THE SURVEY. ADJACENT OWNERS' NAMES AND ADDRESS WHEN SHOWN SHALL BE CONSIDERED PART OF THE SURVEY. ADJACENT OWNERS' NAMES AND ADDRESS WHEN SHOWN SHALL BE CONSIDERED PART OF THE SURVEY.

[illegible]

- [illegible]

[illegible]

THE WESTERLY 30 FEET OF LOT 24 AND ALL OF LOT 25,
POWERS SUBDIVISION, ACCORDING TO THE PLAT THEREOF,
RECORDED IN MAP BOOK 10, PAGE 138, PUBLIC RECORDS OF
VOLusia COUNTY, FLORIDA

100 JOURNAL OF DOCUMENTATION

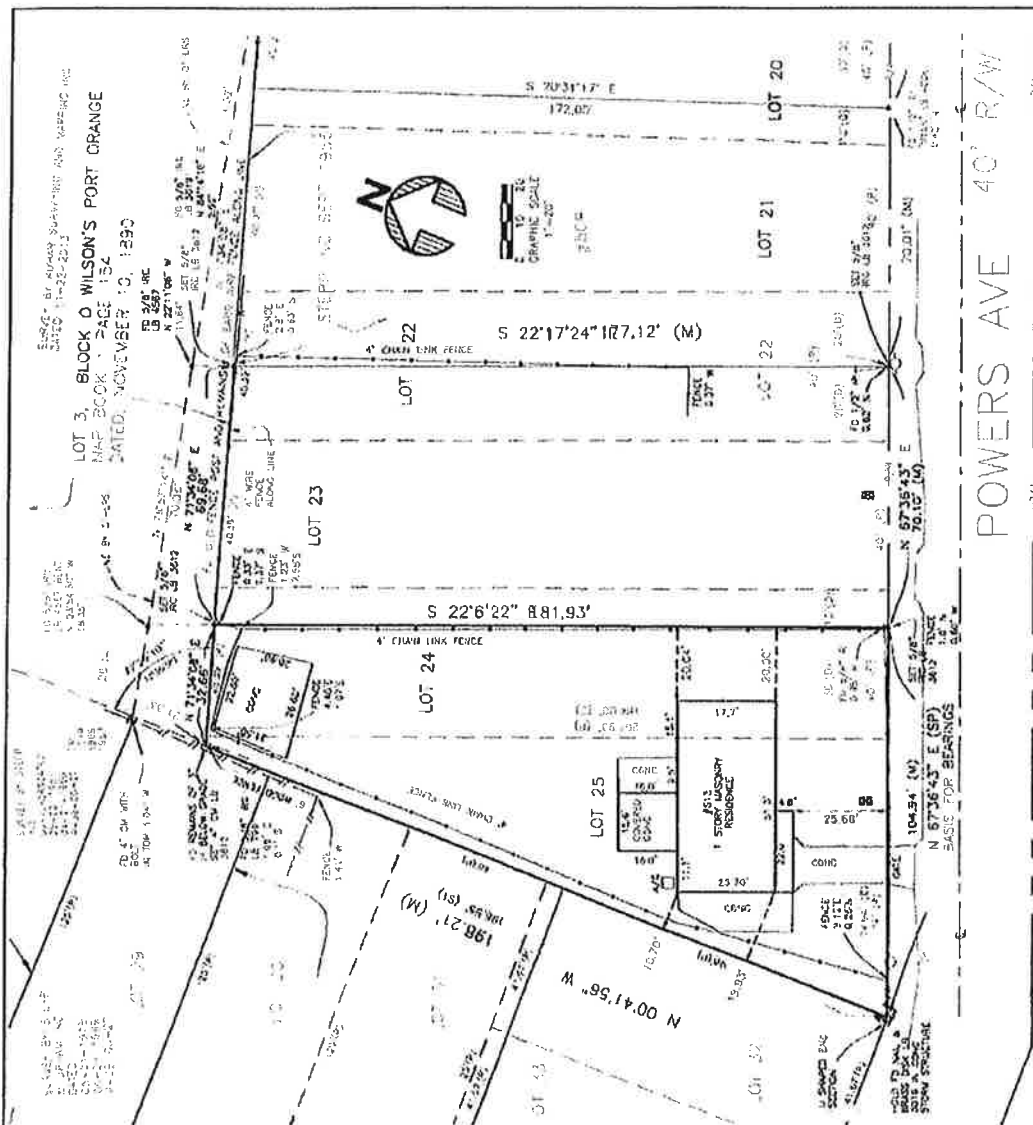
1. The first step is to identify the problem. In this case, the problem is that the system is not working properly.

11-10-2000

ST

1000 25th Street, Suite 200 • Denver, CO 80202 • Phone: 303.733.7272
Fax: 303.733.7272 • E-mail: info@denverpost.com

DATE OF BIRTH: 11/11/1941



POWERS AVE 40' R/W

Composite Exhibit D

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is hereby made and entered into this ____ day of March, 2016, by and between B.D.W. LAND HOLDINGS, LLC, a Florida limited liability company, and/or parent companies, affiliates, officers, directors, employees, shareholders, members, subsidiaries, assignees, predecessors in interest and successors in interest (hereinafter referred to as the "Licensor") and FREDERIC C. URQUHART, JR. and DRUCILLA H. URQUHART and their heirs, executors, administrators, successors and assigns, (hereinafter collectively referred to as "Urquharts").

WITNESSETH:

WHEREAS, LICENSOR is the fee simple owner and holder of clear title to certain real property ("the Property") located in Volusia County, Florida, as more particularly identified in Exhibit "1", attached hereto and by reference made a part hereof; and

WHEREAS, the parties are in litigation regarding ownership and use of the Property and each side desires an amicable, cost effective resolution of the litigation in Volusia County Circuit Court Case: FREDERIC C. URQUHART, JR. and DRUCILLA H. URQUHART vs. B.D.W. LAND HOLDINGS, LLC, a Florida Limited Liability Company, et al., 2014-30395 CICI which will be afforded in part by entry into this License Agreement; and

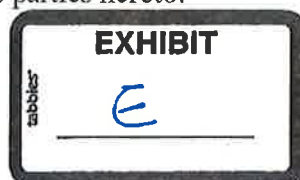
WHEREAS, Urquharts desire to have access to the Property owned by Licensor for the purpose of planting and maintaining plants, at their sole discretion, that will provide a visual buffer between Urquharts' property located at 511 and 513 Powers Avenue, Port Orange, Florida (see Exhibit 1 for legal description which is by reference incorporated herein), and the corresponding opposing section of vinyl fence to be installed by Licensor on Licensor's commercial property; and

WHEREAS, Licensor has agreed, with the conditions stated herein, to grant to Urquharts a license allowing Urquhart to enter the property for Urquharts' aforementioned purpose; and

WHEREAS, Urquharts agree to and accept the premises, findings, conditions and terms of this License and to make no other use, claim or application of the property than as allowed by this Agreement.

NOW, THEREFORE, for and in consideration of the terms, conditions and mutual covenants contained herein and other good and valuable consideration received by each party, the sufficiency of which are hereby acknowledged, Licensor and Urquharts hereby agree as follows:

1. The parties agree that each premise stated above is correct and each forms a material part of the agreement between the parties hereto.



2. In consideration of Licensor's agreement to license the property, Urquharts on or before January 31st of each year, shall pay by check to Licensor a licensing fee in the sum of One (\$1.00) Dollar for each year in which the License is in effect.
3. In consideration thereof, Licensor, subject to all terms and conditions of this License, grants to Urquharts the right, privilege and license to enter the Property described in Exhibit " 1". The purpose of the License shall be for the expressly limited purpose to allow Urquharts to, at their discretion, place, plant and maintain vegetation which shall screen Urquharts' view of the eight (8) foot tall vinyl screening fence which encloses and buffers the view of a storage and loading area utilized by Licensor on its commercial property. Pursuant to the Settlement and Release Agreement, of which this Agreement is Exhibit E to, it is the obligation of the Licensor to place and plant the vegetation that will screen the Urquharts' view of the eight (8) foot tall vinyl screening fence. The Urquharts have no obligation to place, plant, or maintain the vegetation. This License is being provided solely if the Urquharts should choose to plant, place or maintain the additional vegetation they shall be allowed to do so provided they do not remove existing, live vegetation. The Licensor's screening fence opposite Urquharts' property shall be tan. All the rest of Licensor's screening fence may be a color acceptable to Licensor.
4. This License is granted for a term of twenty (20) years from the date first written above and shall continue in full force and effect thereafter until the end of the term unless sooner terminated at the sole discretion of the parties hereto. By notice to Licensor or its successors, Urquharts may renew the License by providing written notice to Licensor or its successor on or before December 31st of the expiration year of this License of Urquharts' renewal of the License for which all fees must be paid as stated above.
5. E-mail delivered to the e-mail addresses provided below or hand delivery to the known or listed physical addresses of the parties listed below shall be adequate proof of written notice being provided to a party.

If to Licensor:

B.D.W. Land Holdings, LLC.
c/o Mr. Jack Wiles

Port Orange, FL 32127
(386) 788-1644 – telephone
jackwilesrealtor@gmail.com

If to Urquharts:

Frederic C. Urquhart, Jr. and Drucilla H. Urquhart
511 Powers Ave
Port Orange, FL 32127
(386) 760-3293- telephone

6. Urquharts expressly acknowledges and accepts their responsibility to Licensor to compensate for Licensor's loss, damage, or injury to persons or property, arising out of the unauthorized use by Urquharts of the Property, unless, however, such claim or demand shall arise out of or result from the negligence or willful misconduct of Licensor, its servants, agents, employees, or assigns.
7. Urquharts shall not allow the general public or anyone other than its immediate family or a contractor or subcontractor employed by them via written and fully executed contract to access, use or enter upon the Property. The work to be performed must specifically relate to planting or maintenance of plants.
8. If any date herein set forth for the performance of any obligation by Licensor or Urquharts or for the delivery of any instrument or notice should fall on a Saturday, Sunday or legal holiday, the compliance with such obligation or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday.
9. This Agreement represents the entire understanding between the parties with respect to the transaction contemplated herein and supersedes, incorporates and merges all prior negotiations, representations and agreements, whether oral or written. All understandings and agreements heretofore had between the parties are merged into this Agreement, which alone fully and completely expresses their agreement.
10. This Agreement may not be amended, nor shall any waiver, change or modification be affected, except by an instrument in writing executed by or on behalf of the party against whom enforcement is sought.
11. In the event of litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to collect from the losing party reasonable attorneys' fees and costs of suit whether at trial, on appeal, or in bankruptcy.
12. In the event of litigation regarding the terms of this Agreement or documents executed as a result of this Agreement, venue of the action shall be in Volusia County and Florida law shall apply.
13. The parties agree that they each have participated in the drafting of this Agreement and that the rule of constructing ambiguities against the drafter shall not be applied in any judicial interpretation or determinations regarding this Agreement.
14. Upon complete execution this Agreement and pursuant to the terms of the Settlement and Release Agreement, Urquharts shall direct their counsel to enter a, "Stipulated Judgment" in Volusia County Circuit Court Case No. 2014-30395 CICI with each party to bear its own attorneys' fees and costs. Licensor agrees it will join in the stipulation.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

LICENSOR:

B.D.W. LAND HOLDINGS, LLC, a
Florida limited liability company

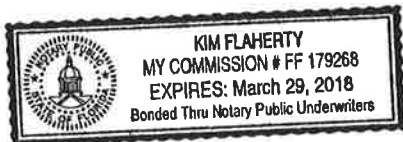

WITNESS

WITNESS

By: 
Printed Name: BRAD WILES
Title: President

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 6th day of April, 2016, by Brad Wiles, as Manager of B.D.W. LAND HOLDINGS, LLC, a Florida limited liability company, who has produced a Driver's License as identification and who did not take an oath.




Notary

URQUHARTS:

FREDERIC C. URQUHART, JR.



WITNESS



WITNESS


Frederic C. Urquhart

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of March, 2016, by Frederic C. Urquhart, Jr. who has produced a Driver's License as identification and who did not take an oath.

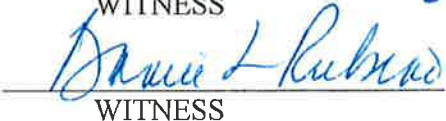



Notary

DRUCILLA H. URQUHART



WITNESS



WITNESS


Drucilla H. Urquhart

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of March, 2016, by Drucilla H. Urquhart, who has produced a Driver's License as identification and who did not take an oath.




Notary

EXHIBIT 1
BDW Legal Description

THE AREA OF PROPERTY OWNED BY LICENSOR (BDW) LOCATED IMMEDIATELY SOUTH OF THE BDW FENCE AND IMMEDIATELY NORTH OF THE PROPERTY OWNED BY URQUHART AS DESCRIBED ON EXHIBIT 2.

EXHIBIT 2
Urquhart Legal Description

THE WESTERLY 20 FEET OF LOT 22, ALL OF LOT 23, AND THE
EASTERLY 10 FEET OF LOT 24, POWER'S SUBDIVISION, AS PER MAP
RECORDED IN MAP BOOK 10, PAGE 138, PUBLIC RECORDS OF
VOLUSIA COUNTY, FLORIDA

AND

THE WESTERLY 30 FEET OF LOT 24 AND ALL OF LOT 25, POWERS
SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN
MAP BOOK 10, PAGE 138, PUBLIC RECORDS OF VOLUSIA COUNTY,
FLORIDA.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: Yes

SUBJECT: Extend Piggyback Agreement - Pegasus Engineering, LLC, Sleepy Hollow Drainage Improvements

DEPARTMENT: Public Works

GOAL: 1 - Infrastructure Preservation

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

RECOMMENDED MOTION: Move to approve the extension of the Piggyback Agreement with Pegasus Engineering, LLC, Sleepy Hollow Drainage Improvements, from January 3, 2016, to July 17, 2016, and authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: The initial piggyback Agreement between the City of Port Orange ("City") and Pegasus Engineering, LLC ("Contractor") was signed by the parties on July 7, 2015. The notice to proceed was given to the Contractor by the City on July 16, 2015, and the anticipated 100% completion date for the project was January 17, 2016, as the Agreement was for a six month period.

As the project progressed, it became evident that it was more complex and time intensive than anticipated as additional engineering surveys, public discussions with residents, and resolutions of unforeseen issues were required. As a result, the completion of the project required more than the six months.

On April 1, 2016 the Contractor requested an extension for the completion date to July 17, 2016. Staff recognized the oversight of the expiration date and have acted accordingly. No payments have been made to the contractor since the contract expired.

In order to preempt similar situations from occurring in the future, staff have implemented measures including checks and balances to insure agreements do not expire before extensions are requested.

Of more importance, because of the special significance of the Sleepy Hollow Drainage Improvements project to our residents and community, it is requested that the request for extension to July 17, 2016, be approved.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Amendment No 1 and Extension Agreement	Pegasus Amendment No 1 and Extension Agreement.pdf
2.	Piggyback Agreement, Pegasus Engineering LLC	EXECUTED Pegasus Engineering Piggyback Agreement.pdf
3.	Letter Requesting Extension from Pegasus	Pegasus Letter Extension Request April 2016.pdf
4.	Volusa County Contract with Pegasus thru June 2017	EXECUTED COUNTY CONTRACT with PEGASUS thru 6 19 2017.pdf
5.	Pegasus Insurance Certificate	Pegasus INSURANCE CERTIFICATE thru Sept 2016.pdf

Kynah Cockcroft
Branford Adumuah
Tracey Riehm
Margaret Roberts
M. Jake Johansson

Created/Initiated - 05/05/2016
Approved - 05/05/2016
Approved - 05/06/2016
Approved - 05/10/2016
Final Approval - 05/10/2016

AMENDMENT NO. 1 AND EXTENSION AGREEMENT

THIS AMENDMENT NO. 1 AND EXTENSION OF AGREEMENT ("Agreement") is made and entered into the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 (the "City"), and **PEGASUS ENGINEERING, LLC** ("Contractor"), a Florida limited liability corporation whose principal address is 301 West State Road 434, Suite 309, Winter Springs, Florida (collectively "the Parties").

WHEREAS, on the 19th day of June, 2014, County of Volusia, a body corporate and politic and a subdivision of the state of Florida, entered into a Contract for Professional Consulting Services with Pegasus Engineering, LLC, pursuant to Request for Statement of Qualifications No. 14-SQ-55KW (the "Volusia County Agreement") which provides for term commencing on June 19, 2014 and shall terminate three (3) years from the effective date; and

WHEREAS, the Parties entered into a Piggyback Agreement on July 7, 2015 (the "Contract") pursuant to the Volusia County Agreement with a term commencing on July 7, 2015 and continuing for a period of 180 days thereafter; and

WHEREAS, the Parties desire to extend the Contract from January 3, 2016 until July 17, 2016; and

WHEREAS, the Parties desire to amend the Contract to provide for updated public records compliance pursuant to Florida Statute; and

WHEREAS, the Port Orange City Council has determined that the execution of this Contract is beneficial to the citizens of the City of Port Orange.

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **Term.** The term of the Contract is hereby extended. Notwithstanding the date of execution, this Agreement shall be effective commencing January 3, 2016 and continuing until July 17, 2016.

2. **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 119.10, 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

3. Counterparts. 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.

4. All other terms and conditions of the Contract shall remain in full force and effect.

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

Witnesses:

PEGASUS ENGINEERING, LLC

Printed Name:_____

By:_____

Fursan Munjed, Managing Member

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

Printed Name:_____

Date:_____

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Fursan Munjed, as Managing Member of Pegasus Engineering, LLC, a Florida limited liability 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:*

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the City, and who is personally known to me.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, 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.

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



CITY OF PORT ORANGE PIGGYBACK AGREEMENT

This Piggyback Agreement is entered to this 7th day of July, 2015, by and between the **CITY OF PORT ORANGE**, a Florida municipal whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **PEGASUS ENGINEERING, LLC** ("Contractor"), a Florida limited liability corporation whose principal address is 301 West State Road 434, Suite 309, Winter Springs, Florida 32708 (collectively "the Parties").

WHEREAS, on the 19th day of June, 2014, County of Volusia, a body corporate and politic and a subdivision of the state of Florida, entered into a Contract for Professional Consulting Services with Pegasus Engineering, LLC, pursuant to Request for Statement of Qualifications No. 14-SQ-55KW (the "Volusia County Agreement"); and

WHEREAS, the Volusia County Agreement provides for a term commencing on June 19, 2014 and shall terminate three (3) years from the effective date; and

WHEREAS, by entering into this Piggyback Agreement, Contractor agrees to honor the terms of the Volusia County Agreement for Consulting Services for Stormwater and Environmental Engineering purchased by the City of Port Orange; and

WHEREAS, a copy of RSQ No. 14-SQ-55KW and the Volusia County Agreement are available in the Office of the City Clerk, City Hall, 1000 City Center, Port Orange, Florida 32129; and

WHEREAS, the Port Orange City Council has determined that the execution of this Contract is beneficial to the citizens of the City of Port Orange.

For good and valuable consideration, conditions and promises, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term. The term of this Contract shall commence on the last date this Contract is signed by the Parties and shall continue for a period of 180 days thereafter (the "Term").
2. Contractor Obligation. Contractor shall perform a drainage investigation for the watershed that encompasses the Sleepy Hollow Subdivision and provide the final design services, more specifically described in Exhibit "1" attached hereto.
3. Authorization for Services. This Contract standing alone does not authorize the performance of any work or services to be provided by the Contractor or require the City to place any orders for work or service. Authorization for performance of services by the Contractor under this Contract shall be in the form of a written Notice to Proceed issued and executed by the City and signed by the Contractor. The City makes no covenant or promise as to the number of available projects, nor that Contractor will perform any work or services for the City during the life of this Contract. The City reserves the right to contract with other parties for the services contemplated by this Contract, as determined in the City's sole and absolute discretion.
4. City Obligations. The City agrees to compensate Contractor at the prices set forth in Exhibit "1" of this Contract in an amount subject to a limit up to but not to exceed One Hundred Eighty-Nine Thousand and

00/100 Dollars (\$189,000.00) during the term of this Contract. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

5. Contract Administration. The Public Works Director, Branford Adumuah, shall perform contract administration of this Contract. 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 20 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.

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

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

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 Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

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

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

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

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. 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.

(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. 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.

20. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

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

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

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

24. Additional Provisions

(a) As may have been outlined in the Volusia County Agreement 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.

(b) For the purposes of this Contract, any reference in the Volusia County Agreement to "County of Volusia" or "County" shall be construed to mean the "City of Port Orange."

(c) In the event of a conflict between the Volusia County Agreement and this Contract, this Contract with the City of Port Orange shall control.

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Branford Adumuah, Public Works Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5575
Contractor:	Pegasus Engineering, LLC Attention: Fursan Munjed, P.E. 301 West State Road 434 Suite 309 Winter Springs, Florida 32708 (407) 992-9160 – Telephone (407) 358-5155 – 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.

27. Contract Construction. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The

delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

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

[Remainder of this page intentionally left blank]

Witnesses:

[Signature]
Printed Name: Juan Fong

[Signature]
Printed Name: Keith Johnson

PEGASUS ENGINEERING, LLC

By: [Signature]
Fursan Munjed, Managing Member

Date: 7.6.2015

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 6th day of July, 2015, by Fursan Munjed, as Managing Member of Pegasus Engineering, LLC, a Florida limited liability corporation, and who:

[Notary: Please select one]

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

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



Witnesses:

CITY OF PORT ORANGE

David T. Harden
Printed Name: David T. Harden

By: [Signature]
Allen Green, Mayor

Margaret T. Roberts
Printed Name: Margaret T. Roberts

Date: July 7, 2015

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 7th day of July, 2015, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

Witnesses:

ATTEST:

Frances Gosnell
Printed Name: Frances Gosnell

By: [Signature]
Robin L. Fenwick, CMC, City Clerk

Tracy M. London
Printed Name: Tracy M. London

Date: 7/7/15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 7 day of July, 2015, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

[CA 4945]



SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

EXHIBIT "A"

SCOPE OF WORK



EXHIBIT "1"

EXHIBIT "A"
SCOPE OF WORK
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

OBJECTIVE:

The City of Port Orange Public Works Department has requested that Pegasus Engineering, LLC prepare a scope of work and fee estimate under their Contract for Consulting Services for Stormwater and Environmental Engineering with Volusia County (Contract No. 14-SQ-55KW) to perform a drainage investigation for the watershed that encompasses the Sleepy Hollow Subdivision and provide final design services. More specifically, to investigate three (3) drainage retrofit alternatives to reduce and/or eliminate the structural, yard, and right-of-way flooding that took place as a result of the September 23, 2014 storm event and design, permit, and prepare bid documents to implement the recommended drainage retrofit improvements. The watershed limits associated with this drainage investigation are generally bounded by Jackson Street to the north, Spruce Creek Road to the east, and Nova Road (State Road 5A) to the south and to the west. The watershed encompasses approximately 262 acres.

Based on the September 23, 2014 storm event, it is our understanding that structural flooding within Sleepy Hollow occurred along Horseman Drive, west of Tarry Town Terrace; along Tarry Town Terrace, south of Horseman Drive; and Kristine Court, west of Sleepy Hollow Drive. In addition, yard and right-of-way flooding involved Horseman Drive, from Sleepy Hollow Drive to west of Tarry Town Terrace; Tarry Town Terrace, south of Horseman Drive; Kristine Court, west of Sleepy Hollow Drive; and Brom Bones Court, east of Sleepy Hollow Drive. It should be noted that the September storm event produced approximately 6- to 8-inches of rainfall within 4 hours, an intensity – duration relationship that falls between a 50-year and 100-year storm event. Traditionally, storm sewer systems and ditches are not designed for events of that magnitude.

The Sleepy Hollow Subdivision (platted circa 1977) is located south of Jackson Street, west of the Woodlake Subdivision, and north and east of Nova Road (State Road 5A). Sleepy Hollow is a 59.56-acre platted subdivision that contains 177 residential lots, with paved rights-of-way, curb and gutter, ditch bottom inlets, and storm sewer pipes to convey the stormwater runoff to nearby drainage ditches and stormwater ponds. The runoff from the Sleepy Hollow watershed eventually discharges to Halifax Canal via existing downstream drainage systems (refer to the attached exhibit). It should be pointed out that the Sleepy Hollow Subdivision was constructed prior to the current stormwater regulations that are enforced by the St. Johns River Water Management District (SJRWMD).



EXHIBIT "A"
SCOPE OF WORK
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

In other words, the original design focused on conveying stormwater runoff away from the subdivision without any form of stormwater management facilities (ponds) to treat and attenuate the runoff.

Since the original development of the Sleepy Hollow Subdivision, improvements have taken place within the watershed to alter the original drainage system. For example, the widening of Nova Road (SJRWMD Permit No. 22818) took place between 1999 and 2004, and resulted in the construction of a large stormwater pond located immediately south of Sleepy Hollow that provided an alternate outfall to the Halifax Canal. In addition, drainage retrofit improvements (SJRWMD Permit No. 122823) took place between 2009 and 2010, and involved enclosing a drainage ditch along the east side of Sleepy Hollow with pipes and inlets, as well as construction of a stormwater pond between Sleepy Hollow and the FDOT Nova Road stormwater pond.

Based on recent meetings with City staff, review of pertinent documents, and detailed field reviews, it appears that the current drainage problems within the Sleepy Hollow Subdivision can be attributed to the following factors:

- The hydraulic capacity of the existing downstream drainage systems (drainage ditches, culverts, and storm pipes) is inadequate to convey the peak stormwater runoff rate from the urban land use during high intensity / short duration storm events.
- The available storage volume within the existing stormwater ponds is insufficient to "absorb" the stormwater runoff during the storm event thereby causing elevated flood stages and effecting the conveyance of the upstream drainage systems.



Drainage ditch along Jackson Street (standing west of Rockledge Lane, facing east).



Drainage ditch located between Sleepy Hollow Subdivision and Green Acres Farm (standing at the west end, facing east).

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- Elevated flood stages associated with the Halifax Canal will impact the conveyance of the upstream drainage systems by reducing the hydraulic gradient and thereby reducing the capacity to convey the peak runoff rates.

The objective of this assignment is to evaluate and analyze the three (3) drainage retrofit improvements that will address the current drainage issues within Sleepy Hollow and prepare bid documents (construction plans, specifications, bid schedule, and the engineer's cost estimate) to implement the recommended drainage retrofit improvements. The Consultant shall also develop conceptual improvement plans and establish the approximate project costs to implement each alternative. The project costs will include construction costs and the costs to acquire land and/or easements. The results of the drainage investigation will be presented to the City Council and the homeowners in order to solicit input and feedback and ultimately select the preferred alternative that will be recommended for implementation. Upon selection of the recommended drainage retrofit improvements, final design services will be undertaken to design, permit, and prepare bid documents in order to implement the recommended drainage retrofit improvements.

PROFESSIONAL ENGINEERING SERVICES:

Pegasus Engineering, LLC (Consultant) shall provide the following Phase 1 and Phase 2 engineering services enumerated below:

Phase 1 Services (Preliminary Engineering Services)

1. Coordinate with the Florida Department of Transportation (FDOT) (Mr. David Schappel, P.E.) to obtain copies of the construction plans and drainage maps for State Road 5A (Nova Road). In addition, coordinate with the St. Johns River Water Management District (SJRWMD) to secure copies of the construction plans and drainage calculations associated with Woodlake Subdivision and the Sleepy Hollow Drainage Improvements. Lastly, coordinate with Volusia County and City staff to obtain copies of the original construction plans associated with Sleepy Hollow Subdivision, Shallowbrook Subdivision, Dunlawton Hills, and the Dunlawton Square Shopping Center.

EXHIBIT "A"
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In addition, the Consultant shall review the various recorded subdivision plats to determine the existence of all known drainage easements. The plats to be reviewed shall include Sleepy Hollow Subdivision - Units I and II (Plat Book 34, Pages 130-131); Shallowbrook at Dunlawton Hills - Phase I and II (Plat Book 41, Pages 118 and 160-161); and Woodlake Subdivision (Plat Book 42, Pages 33-34).



2. Coordinate with the survey subconsultant (Sliger & Associates, Inc.) to perform various survey services to support the drainage investigation. The anticipated survey services will include:
 - Invert elevations and pipe diameters of existing culverts and storm sewer systems to be included in the hydraulic analysis.
 - Cross-Sections of existing drainage ditches (e.g., the existing drainage ditch between Green Acres Farm and Sleepy Hollow, as well as the drainage ditch along Jackson Street).
 - Elevations and dimensions for existing control structures and overflow weirs to be included in the hydraulic analysis.
 - Finished floor elevations of the homes that experienced previous structural flooding.

EXHIBIT "A"
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Sanders Road outfall ditch (standing at the intersection of Spruce Creek Road and Sanders Road, facing east towards the Halifax Canal).



Control structure associated with Woodlake Subdivision (standing near Sanders Road, east of Alder Drive).



Concrete culvert under Rockledge Lane (standing west of Rockledge Lane, facing east).



Sanders Road outfall ditch control structure (downstream view).

3. Prepare for and conduct a project "kick-off" meeting with City staff (Public Works Department), as well as representatives of FDOT, to discuss the best available data, the known problem areas, and the project related goals, objectives, and schedule.
4. Prepare for and conduct a Public Meeting at the Community Center with representatives of Sleepy Hollow, Woodlake, and Shallowbrook subdivisions in order to confirm the known drainage problem areas and solicit input germane to the drainage investigation.
5. Conduct detailed field reviews within the project limits to confirm / establish the hydraulic connectivity of the existing drainage conveyance systems and investigate the reported problem areas. In addition, the field reviews are intended to establish the drainage sub-basin limits to support the hydrologic / hydraulic analysis.

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6. Prepare a Drainage Exhibit of the watershed and establish the drainage basin characteristics such as the areas, weighted runoff curve numbers, times of concentration, and the peak rate factors.
7. Develop an existing conditions hydrologic / hydraulic model of the watershed area. It is envisioned that the model will incorporate State Road 5A (Nova Road) and the following developments (refer to the attached exhibit):
 - Sleepy Hollow Subdivision
 - Woodlake Subdivision
 - Shallowbrook Subdivision
 - Dunlawton Hills
 - Bayside Business Park
 - Riverwood Shopping Center
 - Dunlawton Square Shopping Center

Based on the data collection efforts, field reviews, and survey notes, Pegasus Engineering will develop a hydrologic / hydraulic model to encompass the defined study area using the ***Interconnected Channel and Pond Routing*** (ICPR), Version 3 program (FEMA approved stormwater model). The model will analyze the 10-year, 25-year, and 100-year storm events of 24-hour duration. Additional simulation scenarios may also be analyzed to evaluate system performance for high intensity, short duration storm events that replicate rainfall conditions that were recorded during the September 23, 2014 flood.

The ICPR model is comprised of basins, nodes, and links. Basins account for the contributing drainage areas, land use, and soils that collectively predict the rate and volume of stormwater runoff for various storm events. Nodes represent storage areas, locations where flood stages are determined, and connecting points for hydraulic components (links) such as streams, ditches, culverts, bridges, etc.

It should be noted that tailwater conditions associated with the Halifax Canal will be based on the ***East Volusia Regional Water Authority, Nova Canal Flood Control and Integrated Water Resources Program Final Report*** (prepared by CDM, dated July 2010).

EXHIBIT "A"
SCOPE OF WORK
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8. Develop and evaluate three (3) drainage retrofit alternatives in order to reduce and/or eliminate the known drainage problems. These options may involve the following conceptual improvements (refer to Exhibit 1):

- **Alternative #1** ~ Interconnect the existing Jackson Street outfall system with the existing outfall system between the Shallowbrook and Woodlake subdivisions, in order to increase the hydraulic capacity and lower upstream flood stages. It is envisioned that the interconnect will take place between the east side of Green Acres Farm and the west side of Shallowbrook Subdivision and will require perpetual drainage easements for both construction and future maintenance.

It should be noted that additional drainage improvements associated with the Jackson Street and the Sanders Road outfall systems may be warranted in order to convey the peak flow rates to the Halifax Canal.

- **Alternative #2** ~ Acquire the two (2) vacant parcels located south of Dunlawton Square Shopping Center, immediately east of Nova Road, and north of Sleepy Hollow Drive (refer to the yellow highlighted parcels on the exhibit) in order to construct a stormwater pond within the ± 2 acre area. The purpose of this stormwater pond will be to accept a portion of the stormwater runoff from the Dunlawton Square Shopping Center in order to reduce the runoff to the existing ditch between Sleepy Hollow and Green Acres Farm. The proposed stormwater pond would then outfall to the existing FDOT stormwater pond (which is owned and maintained by the City). Lastly, remove the berm between the City pond and the FDOT stormwater pond in order to create additional flood storage. Lastly, evaluate the existing FDOT outfall system to determine if additional improvements are warranted to improve the hydraulic capacity.
- **Alternative #3** ~ Acquire a portion of the Green Acres Farm (fka Daytona Beach Manor) in order to construct a stormwater pond. The purpose of the stormwater pond will be to accept stormwater runoff from the Dunlawton Square Shopping Center, as well as portions of Sleepy Hollow, in order to attenuate the flows such that the downstream systems can properly convey the peak runoff rates. If sufficiently sized, the additional flood control volume provided within the stormwater pond would minimize the need to implement downstream conveyance improvements without causing upstream flooding.

EXHIBIT "A"
SCOPE OF WORK
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9. Prepare exhibits / conceptual improvement plans for each of the three alternatives. The conceptual improvement plans will depict the proposed drainage improvements, limits of construction, required easements, etc.
10. Perform a hydrologic / hydraulic analysis of the three (3) drainage retrofit improvement alternatives to evaluate the potential for adverse impacts to existing drainage systems as a result of implementing the proposed drainage conveyance or pond modifications. If adverse impacts are predicted to occur, additional improvements to mitigate the impacts will be investigated. It should be noted that water quality improvements will also be investigated in an attempt to reduce pollutant loads conveyed to the Halifax Canal.
11. Conduct a preapplication meeting with the St. Johns River Water Management District (SJRWMD) to discuss the proposed drainage retrofit improvements and potential permitting issues.
12. Coordinate with the various utility entities in order to verify / confirm the existence of underground utilities in the vicinity of the proposed drainage retrofit improvements. The Consultant shall coordinate directly with the Port Orange Utilities Department, the Volusia County Water and Utility Services Group (Scott Mays and Alan Ferguson), and Sunshine State One-Call of Florida, Inc. to confirm drinking water, wastewater, and/or reclaimed water lines within the project limits.
13. For the proposed drainage retrofit improvements, the Consultant shall prepare an engineer's cost estimate for each of the three alternatives. The total project cost will include anticipated construction costs, easement acquisitions, and annual operations and maintenance.
14. Conduct a status meeting with City staff and FDOT to discuss the stormwater modeling results, as well as the "pros and cons" of each alternative prior to conducting a public meeting.
15. Conduct a presentation to the City Council to present the results of the drainage investigation prior to proceeding with the Phase 2 final design services.

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Note: Since the recommended drainage retrofit improvements are unknown at this time, the following scope of work associated with the Phase 2 final design services is very general and may need to be revised in the future as the project develops. In addition, the attached manhour and fee estimate will assume costs for the subconsultant services (e.g., survey and geotechnical). Upon selection of the recommended drainage improvements, the Consultant shall request detailed fee proposals from each subconsultant. If the subconsultant assumed fee allowance is less than the detailed proposal(s), a change order will be submitted to the City to seek approval to adjust the design fees.

Phase 2 Services (Final Design Services)

1. Prepare and issue notice-to-proceed letters and subconsultant agreements to Sliger & Associates, Southeastern Surveying and Mapping Corp. (SSMC), and Universal Engineering Sciences (UES).
2. As a subconsultant to Pegasus Engineering, Sliger & Associates will conduct the necessary surveys for the development of the construction plans. More specifically, the following services are anticipated to be performed by the survey subconsultant:
 - a. Topographic / location survey to encompass the limits of the proposed improvements.
 - b. Establish a recoverable baseline of survey / construction within the project limits to use as a horizontal reference for the preparation of construction plans.
 - c. Coordinate with the subsurface utility subconsultant to locate all known utilities within the limits of the recommended improvements.
 - d. Prepare easement documents.

The survey subconsultant shall supply the Consultant with AutoCAD survey drawings / base maps depicting the existing topographic features. The survey subconsultant shall also provide the Consultant and the City with signed and sealed copies of all final work products.

EXHIBIT "A"
SCOPE OF WORK
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3. As a subconsultant to Pegasus Engineering, Southeastern Surveying and Mapping Corp. (SSMC) will conduct the necessary Subsurface Utility Engineering (SUE) services. More specifically, it is envisioned that the SUE subconsultant shall perform the following:
- a. Coordinate with all utility companies and locate all known underground and above ground existing utilities within the vicinity of the proposed improvements utilizing GPR technology.
 - b. Utility designation drawings, based on Ground Penetrating Radar (GPR) technology, within the limits of the proposed improvements.
 - c. Perform test holes / soft digs.

The SUE subconsultant shall also provide the Consultant and the City with signed and sealed copies of all final work products (including the utility designation drawings and the utility test hole reports).

- 4. Conduct a detailed field review to confirm the content and accuracy of the survey drawings, as well as identifying site constraints, and issue sufficiency comments to Sliger & Associates.
- 5. Conduct two (2) on-site coordination meetings with Port Orange staff and FDOT to discuss the proposed improvements, as well as access issues for maintenance.
- 6. As a subconsultant to Pegasus Engineering, Universal Engineering Sciences (UES) will conduct a subsurface investigation in the vicinity of the proposed drainage improvements and prepare a geotechnical report summarizing their findings.
- 7. Prepare all construction plans necessary to form a complete and single bid package ready to award for construction. All design parameters, surveys, and construction plans shall be submitted in English Standard units. At a minimum, it is anticipated that the preparation of 90% construction drawings for the proposed drainage retrofit improvements will include the following sheets:

EXHIBIT "A"
SCOPE OF WORK
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

- Title Sheet
 - General Notes
 - Overall Site Plan
 - Drainage Map
 - Plan and Profile
 - Pond Grading Plan
 - Pond Cross-Sections and Details
 - Erosion and Sediment Control Plan
 - Miscellaneous Details
 - Survey Drawings
8. Prepare a revised engineer's construction cost estimate for the proposed drainage retrofit improvements based on the 90% construction plans. Statements of probable construction costs and detailed cost estimates prepared by the Consultant represent his/her best judgment as a design professional familiar with the construction industry.
9. Conduct a meeting with Port Orange staff to discuss the 90% review comments.
10. Prepare a stormwater management report documenting the drainage analysis in support of the permit applications.
11. Prepare and submit a SJRWMD Environmental Resource Permit (ERP) application to the Palm Bay Service Center. The Consultant is also responsible for responding to all reasonable "requests for additional information" (RAI) letters from the WMD in order to acquire the necessary permit. The Consultant shall be responsible for addressing all technical issues.

EXHIBIT "A"
SCOPE OF WORK
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

12. Prepare and submit a Drainage Connection Permit to FDOT (Dave Schappel) associated with improvements to the existing Nova Road drainage system. The permit submittal will address FDOT's 8-page application consistent with Rule 14-86.004, F.A.C. The Consultant is also responsible for responding to all reasonable "requests for additional information" (RAI) letters from the FDOT in order to acquire the necessary permit.
13. Prepare and submit 100% construction plans based on the 90% review comments.
14. The Consultant will coordinate with City staff to prepare a preliminary project manual (specifications document) and bid schedule to support the construction plans.
15. Coordinate with the survey subconsultant regarding the easement documents.
16. Conduct a meeting with Port Orange staff to discuss the 100% review comments.
17. Prepare and submit "final" bid documents (construction plans, project manual, bid schedule, and the engineer's construction cost estimate) to the City for review and approval.
18. Prepare for and attend the pre-bid meeting.

BASIS OF PROPOSAL / ASSUMPTIONS:

The following conditions and assumptions are noted as qualifications to this proposal.

1. Although the scope of work for this proposal was developed as a result of conducting field reviews and performing some limited data collection, the study area that has been defined for the Phase 1 drainage investigation could change in the future. If the study area expands significantly, a change order may be required to encompass the additional engineering task assignments, including an increase to the assumed survey budget.
2. This proposal does not include environmental services associated with establishing the limits of jurisdictional wetlands and/or other surface waters in the vicinity of the conceptual improvements.

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SCOPE OF WORK
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

3. This proposal does not include preparation of pollutant loading computations for existing or proposed conditions.
4. This proposal does not include preparation and submittal of the following applications for possible grant considerations:
 - Volusia County Characterization of Proposed Mitigation Initiatives application; and
 - Division of Emergency Management (DEM) Hazard Mitigation Grant Program (HMGP) application.
5. The Consultant shall prepare and submit a separate scope of work and fee proposal for limited post-design / construction administration services (e.g., pre-construction meeting, review and process shop drawings, conduct site inspections, prepare and submit the SJRWMD as-built permit certification).
6. Permit application fees are not included and will be provided by the City of Port Orange.
7. The Contractor shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and prepare and submit a Notice of Intent (NOI) application to the Florida Department of Environmental Protection (FDEP).



SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

EXHIBIT "B"

MANHOUR AND FEE ESTIMATE



EXHIBIT "1"



EXHIBIT "B"

Manhour and Fee Estimate

SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

(Port Orange, Volusia County)



Task Description (Effective Date: June 3, 2015)	Sr. Project Manager (Hamstra, P.E.)	Project Manager (Teague, P.E.)	Project Engineer (Rodriguez, P.E.)	CADD Technician (Greenough)	Administrative Assistant (Villeneuve)	Task Hours	Task Fees
PHASE 1 SERVICES	\$175.00	\$105.00	\$125.00	\$75.00	\$65.00		
Coordinate with FDOT, SURWMD, Volusia County, and Port Orange to obtain pertinent documents			4	4	8	16	\$1,320.00
Review the pertinent documents (construction plans, drainage calculations, permit files, and recorded plans)			16			16	\$2,000.00
Prepare a Scope of Work for the Survey Subconsultant and review the Survey Notes		1	12	12	2	27	\$2,685.00
Prepare for and Conduct a Project "Click-Off" Meeting with Port Orange and prepare Meeting Minutes	4		8	2		14	\$1,850.00
Prepare for and Conduct a Public Meeting with representatives of the impacted sub-divisions	6		8	12		26	\$2,950.00
Conduct Field Reviews of the Existing Drainage Conveyance Systems and establish the Drainage Basin Limits			24	20		44	\$4,500.00
Prepare a Drainage Exhibit depicting the Existing Drainage Facilities and Drainage Basin Limits			8	16		24	\$2,200.00
Establish the Drainage Basin Characteristics (Areas, Curve Numbers, Times of Concentration, Peak Rate Factor)			12	24		36	\$3,300.00
Develop an Existing Conditions ICPR Model and Flood Route the Design Storm Events	4		48	12		64	\$7,550.00
Develop and Evaluate Three (3) Drainage Retrofit Alternatives	4		24	15		44	\$4,860.00
Prepare Preliminary Exhibits/ Conceptual Improvement Plans for each Alternative			24	35		60	\$5,700.00
Develop a Proposed Conditions ICPR Analysis for each Alternative and Flood Route the Design Storm Events	4	12	80	16		88	\$10,680.00
Prepare for and conduct a Pre-Application Meeting with the SURWMD (Palm Bay Service Center)			4			8	\$1,200.00
Coordinate with Port Orange, Volusia County, and Sunshine State One-Call of Florida			2	4	10	16	\$1,200.00
Prepare an Engineer's Cost Estimate for each Alternative			15	16		32	\$3,200.00
Conduct a Status Meeting with Port Orange and FDOT to discuss the modeling results and each Alternative	4		6	2		12	\$1,800.00
Prepare for and Conduct a Presentation to the City Council	6		8	12	6	32	\$3,340.00
Prepare Final Exhibits/ Conceptual Improvement Plans for each Alternative			12	16		28	\$2,700.00
PHASE 2 SERVICES							
Prepare and Issue NTP Letters and Subconsultant Agreements to Sliger, SSMC, and UES	4				2	6	\$930.00
Prepare a Scope of Work for the Survey Subconsultant and review the Survey Drawings		1	6	2	1	10	\$1,130.00
Prepare a Scope of Work for the SUE Subconsultant and review the Test Hole Reports		1	4	2	1	8	\$980.00
Conduct a Field Review to check the content and accuracy of the Survey Work Products			8			8	\$1,000.00
Conduct Two (2) On-Site Coordination Meetings with City Staff and FDOT	8		8			16	\$2,400.00
Prepare a Scope of Work for the Geotechnical Subconsultant and review the Geotechnical Report		1	4	2	1	8	\$880.00
Prepare and Submit the 50% Construction Plans						0	\$0.00
> Cover Sheet			2	4		6	\$550.00
> General Notes			2	6		8	\$700.00
> Overall Site Plan			2	8		10	\$850.00
> Drainage Map		1	4	12		17	\$1,585.00
> Plan and Profile Sheets (assume 4 sheets)		6	32	48		86	\$8,590.00
> Pond Grading Plan		4	12	16		32	\$3,360.00
> Pond Cross Sections and Details		4	12	16		32	\$3,360.00



EXHIBIT "B"

Manhour and Fee Estimate

SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

(Port Orange, Volusia County)



Task Description (Effective Date: June 3, 2015)	Sr. Project Manager (Hamm, P.E.)	Project Manager (Tengue, P.E.)	Project Engineer (Rodriguez, P.E.)	CADD Technician (Greenough)	Administrative Assistant (Villanueva)	Task Hours	Task Fees
Billable Hourly Rates	\$175.00	\$165.00	\$125.00	\$75.00	\$65.00		
> Erosion and Sediment Control Plans		4	16	24		44	\$4,400.00
> Miscellaneous Details			12	16		30	\$3,000.00
Prepare a Preliminary Engineer's Cost Estimate			8	8		16	\$1,600.00
Conduct a Meeting with City Staff to discuss the 90% Review Comments	4		4			8	\$1,200.00
Prepare the Stormwater Management Report to document the Drainage Analysis		8	32	8	8	56	\$6,440.00
Prepare and Submit the Environmental Resource Permit Application to the SJRWMD		4	16	4	4	28	\$3,220.00
Prepare and Submit the Drainage Connection Permit Application to the FDOT		4	24	4	4	36	\$4,220.00
Prepare and Submit the 100% Construction Plans		8	60	80		148	\$14,820.00
Prepare and Submit the Draft Specifications (Project Manual) and Bid Schedule		4	32	0	8	44	\$5,180.00
Coordinate with the Survey Subcontractor to prepare the Easement Documents		1	4	4	1	10	\$1,030.00
Address the Request for Additional Information (RAI) Comments from the SJRWMD		2	12	4	2	20	\$2,260.00
Address the Request for Additional Information (RAI) Comments from the FDOT		2	12	4	2	20	\$2,260.00
Conduct a Meeting with City Staff to discuss the 100% Review Comments	4		4			8	\$1,200.00
Prepare and Submit the Final Bid Documents (Construction Plans, Project Manual, Bid Schedule & Cost Estimate)		4	40	60	4	108	\$10,420.00
Prepare for and Attend the Pre-Bid Meeting			4			4	\$500.00
Prepare a CD containing digital copies of all work products			1	2	1	4	\$340.00
Project Administration (Prepare Status Reports via Monthly Billings)	12				8	20	\$2,620.00
TOTAL LABOR HOURS	56	82	673	554	73	1438	
TOTAL LABOR COSTS	\$9,800.00	\$13,530.00	\$84,125.00	\$41,550.00	\$4,745.00	\$153,750.00	\$153,750.00
PERCENT BREAKDOWN	6.4%	8.8%	54.7%	27.0%	3.1%	100.0%	
Fee Breakdown							
(1) Total Labor Costs							\$153,750.00
(2) Reimbursable Expenses							\$2,750.00
(3) Assumed Survey Budget (Sliger & Associates, Inc.)							\$17,500.00
(4) Assumed SUE Budget (Southdam Surveying)							\$7,500.00
(5) Assumed Geotechnical Budget (UES)							\$7,500.00
TOTAL FEE							\$168,000.00

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SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

EXHIBIT "C"

ESTIMATE OF REIMBURSABLE EXPENSES



EXHIBIT "1"

EXHIBIT "C"
ESTIMATE OF OTHER REIMBURSABLE EXPENSES
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

1. Black and White Copies (10¢/Page)

- Project Memorandums, Meeting Minutes, Permit Submittals, and Miscellaneous Correspondence: (assume 3,000 Pages)
- Total Copies = (3,000) x \$0.10/Page = \$300.00

2. Color Copies (\$1.00/Page)

- Project Memorandums, Meeting Minutes, Permit Submittals, and Miscellaneous Correspondence: (assume 250 Pages)
- Total Copies = (250) x \$1.00/Page = \$250.00

3. 24" x 36" Black and White Bond Plots (\$1.00/Sheet)

No. of Sets

- 90% Submittal:
 - Construction Plans (assume 20 sheets) 5
- 100% Submittal:
 - Construction Plans (assume 20 sheets) 5
- Permit Submittals (SJRWMD and FDOT):
 - Construction Plans (assume 20 sheets) 12
- RAI Submittals:
 - Construction Plans (assume 20 sheets) 12
- Final Submittal for Bids:
 - Construction Plans (assume 20 sheets) 25

Total Prints = [(5 + 5 + 12 + 12 + 25) x 20] x \$1.00/Sheet = \$1,180.00

4. 24" x 36" Color Plots (\$30.00/Plot)

- Assume fifteen (15) color plots to support meetings with the SJRWMD and FDOT, as well as status meetings and the grant applications.
- Total Plots = (15) x \$30.00/plot = \$450.00

EXHIBIT "C"
ESTIMATE OF OTHER REIMBURSABLE EXPENSES
FOR THE
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

5. **Miscellaneous Expenses** (courier charges, photographs, 3-ring notebooks, mileage, postage, 11x17 color copies, etc.) assume \$570.00
6. **Total Estimated Reimbursable Expenses = \$2,750.00**



SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

EXHIBIT "D"

SUBCONSULTANT FEE PROPOSALS

- ☐ **SLIGER & ASSOCIATES**
- ☐ **SOUTHEASTERN SURVEYING AND MAPPING CORP.**
- ☐ **UNIVERSAL ENGINEERING SCIENCES**

(TO BE SUBMITTED UPON COMPLETION OF THE PHASE 1 SERVICES)



EXHIBIT "1"



April 1, 2016

POC-22002

Mr. Michael Silvey
Assistant Public Works Director / City Project Manager
City of Port Orange
407 Virginia Avenue
Port Orange, Florida 32129

**Re: Sleepy Hollow Subdivision Drainage Improvements
RSQ No. 14-SQ-55KW**

**Subj: Project Schedule Extension Request
P.O. Number 070342**

Dear Mr. Silvey:

The purpose of this letter is to respectfully request an extension to complete the Phase 1 preliminary engineering services for the above referenced project. As you are aware, we received the Notice-to-Proceed (NTP) from the City of Port Orange on July 16, 2015 with a 100% completion date of January 17, 2016 (6-month project schedule). Upon receipt of the NTP, Pegasus Engineering began the approved services associated with the Phase 1 preliminary engineering services (refer to Attachment "A" for a listing of tasks completed to date). The following is a summary based on the tasks outlined in Attachment "A":

- August 2015 and September 2015 ~ Began the data collection and review; conducted initial field reviews; and began preparing the preliminary drainage maps (existing stormwater infrastructure and basin limits).
- October 2015 ~ Completed the data collection and review; completed the drainage maps (existing infrastructure connectivity and basin limits); and began setting-up the existing conditions hydrologic / hydraulic model.
- November 2015 ~ Prepared for and conducted Neighborhood Meeting #1; completed the initial set-up of the existing conditions hydrologic / hydraulic model; and began preparing the survey scope of work.
- December 2015 ~ finalized the survey scope of work; solicited a fee proposal from Sliger & Associates for survey services; and met with City staff to discuss the survey scope of work and fees.
- February 2016 and March 2016 ~ Sliger & Associates completed the survey field services; and prepared and submitted the preliminary survey notes.

"Engineering a Higher Standard"

301 West State Road 434, Suite 309, Winter Springs, FL 32708 • 407-992-9160 • Fax 407-358-5155
www.pegasusengineering.net

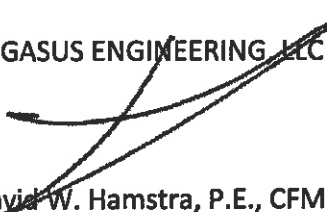
Now that we have the requested required survey notes, we can finalize the existing conditions modeling; evaluate, design and model the recommended drainage improvements; prepare a draft report and prepare conceptual cost estimates; present the recommended improvements to City Council and the Sleepy Hollow residents; and finalize the report based on feedback from the City Council, City staff, and the residents.

With that said, we respectfully request that the current deadline to complete the Phase 1 preliminary engineering services be extended from January 17, 2016 to July 17, 2016 (6-month extension for Phase 1 services). You can see from Attachment "A" that we have been busy since the NTP was issued but given the complexity of the existing drainage systems and the amount of survey required to characterize the existing system, more time is needed to adequately and properly design the drainage improvements for this community.

We would like to thank City staff in advance for consideration of the project schedule extension request. We look forward to finalizing the Phase 1 services in order to seek approval for City Council to initiate Phase 2 design and permitting services associated with the recommended drainage improvements. If you have any questions, please contact me directly at 407-992--9160, extension 309, or by email at david@pegasusengineering.net.

Sincerely,

PEGASUS ENGINEERING, LLC



David W. Hamstra, P.E., CFM
Principal / Stormwater Department Manager

cc: Branford Adumuah, City of Port Orange
Johan Rodriguez, Pegasus Engineering
Pegasus Project File POC-22002



SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

ATTACHMENT "A"



ATTACHMENT "A"
SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

1. The week of August 5, 2015, Pegasus Engineering (David Hamstra) prepared and issued an email to all parties on 08/08/15 regarding the status of the project.
2. The week of August 10, 2015, Pegasus Engineering (David Hamstra) prepared and issued the Notice to Proceed Letters and Subconsultant Agreements to Sliger & Associates, Universal Engineering Sciences, and Southeastern Surveying and Mapping Corp.
3. The week of August 10, 2015, Pegasus Engineering (Priscilla Villanueva) assisted David Hamstra with the Notice to Proceed Letters and Subconsultant Agreements to Sliger & Associates, Universal Engineering Sciences, and Southeastern Surveying and Mapping Corp.
4. The week of August 17, 2015, Pegasus Engineering (David Hamstra) set-up the preliminary project schedule; and conducted an in-house project kick-off meeting with Johan Rodriguez on 08/21/15.
5. The week of August 17, 2015, Pegasus Engineering (Johan Rodriguez) reviewed the scope of work and prepared for an in-house project kick-off meeting with David Hamstra; and discussed project with David Hamstra on 08/21/15.
6. The week of August 24, 2015, Pegasus Engineering (Johan Rodriguez) continued the data collection and review of the St. Johns River Water Management District (SJRWMD) permit files and the Florida Department of Transportation (FDOT) construction plans; and reviewed the computations associated with prior stormwater improvements within the Sleepy Hollow Subdivision.
7. The week of August 31, 2015, Pegasus Engineering (Johan Rodriguez) continued the data collection and review of the SJRWMD permits and coordinated with City staff; and began the preliminary drainage sub-basin delineations.
8. The week of September 7, 2015, Pegasus Engineering (Jason Birkhead) added the stormwater system for Nova Road and other projects to the drainage exhibit within the study area based on the downloaded SJRWMD permitted construction plans.
9. The week of September 14, 2015, Pegasus Engineering (Johan Rodriguez) prepared for and attended a meeting with City staff (Kenney Ho and Larry Roberts) and conducted the initial field review with Jason Birkhead on 09/18/15; and continued the preliminary basin delineation and mapping.
10. The week of September 14, 2015, Pegasus Engineering (Jason Birkhead) updated the drainage maps based on construction plans; prepared working maps for meeting with Kenny Ho and Larry Roberts and the field review; and met with City staff and performed the initial field review with Johan Rodriguez on 09/18/15.

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11. The week of September 21, 2015, Pegasus Engineering (Johan Rodriguez) received and reviewed the scanned construction plans from the City; downloaded and reviewed the provided documentation from the City; discussed the complaint logs and requested information from Kenny Ho; and followed-up on reproduction of the Master Stormwater Study and returned the hard copy report to Larry Roberts.
12. The week of September 21, 2015, Pegasus Engineering (Priscilla Villanueva) assisted Johan Rodriguez with scanning and assembling the Master Stormwater Study prepared by Quentin Hampton (dated 1990).
13. The week of September 28, 2015, Pegasus Engineering (Johan Rodriguez) continued preparing a preliminary drainage basin map; received and reviewed the additional information (construction plans) from the City; and began evaluating the preliminary stormwater system to be modeled in ICPR in preparation of the initial survey request.
14. The week of September 28, 2015, Pegasus Engineering (Jason Birkhead) continued preparing the drainage basin map.
15. The week of October 5, 2015, Pegasus Engineering (Johan Rodriguez) followed-up with City staff and obtained the digital as-built drawings (City recently completed scanning documents); downloaded all additional information provided; coordinated with City staff and the HOA Board to schedule a public meeting; coordinated with FDOT to obtain additional information associated with Dunlawton Avenue (expanded basin delineation); continued coordination with Jason Birkhead regarding the basin delineation; reviewed prior ICPR models (by others) within the project limits; and began setting-up the existing conditions ICPR model.
16. The week of October 5, 2015, Pegasus Engineering (Jason Birkhead) added the drainage connectivity based on the as-built plans from the City.
17. The week of October 12, 2015, Pegasus Engineering (Johan Rodriguez) continued the public meeting coordination efforts with City staff and the Sleepy Hollow HOA; continued the basin delineation coordination and review with Jason Birkhead; and continued setting-up the preliminary existing ICPR model.
18. The week of October 12, 2015, Pegasus Engineering (Jason Birkhead) coordinated with Johan Rodriguez to continue delineating the drainage basin limits.
19. The week of October 19, 2015, Pegasus Engineering (Johan Rodriguez) continued coordination regarding revisions to the off-site contributing drainage basin areas; began preparing the ICPR node-link diagram; reviewed available information (pipe information and connectivity) in preparation for the survey request; and continued coordination regarding scheduling of public meeting (additional parties to be invited).

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SLEEPY HOLLOW SUBDIVISION DRAINAGE IMPROVEMENTS

20. The week of October 19, 2015, Pegasus Engineering (Jason Birkhead) continued delineating the drainage basins and began creating the nodes and links in GIS.
21. The week of October 26, 2015, Pegasus Engineering (Johan Rodriguez) discussed project status with David Hamstra; coordinated meeting with City staff prior to public meeting; continued coordination with Jason Birkhead regarding the drainage basin parameters to be used in the ICPR model; and coordinated with Jason Birkhead preparing the figures to accompany the survey request.
22. The week of October 26, 2015, Pegasus Engineering (Jason Birkhead) completed delineating the drainage basins; continued creating the node and link map in GIS; and began creating the Survey Request #1 figures.
23. The week of November 2, 2015, Pegasus Engineering (David Hamstra) prepared for and conducted a Status Meeting on 11/02/15 with Port Orange (Branford Adumuah and Mike Silvey) and Johan Rodriguez; and prepared for and conducted a Neighborhood Meeting on 11/04/15.
24. The week of November 2, 2015, Pegasus Engineering (Leylah Saavedra) prepared a PowerPoint presentation for the Neighborhood Meeting scheduled for 11/04/15 and revised per David Hamstra's and Johan Rodriguez's review comments.
25. The week of November 2, 2015, Pegasus Engineering (Johan Rodriguez) prepared for and attended a status meeting on Monday, 11/02/15 with City of Port Orange staff (Branford Adumuah and Mike Silvey) and David Hamstra to discuss the project status prior to the Neighborhood Meeting; prepared for and attended Neighborhood Meeting #1 on 11/04/15; prepared the existing conditions ICPR model node-link layout in GIS; reviewed the existing conditions drainage basin maps and provided mark-ups to Jason Birkhead; and began preparation of the survey request and coordinated with Jason Birkhead to prepare figures.
26. The week of November 2, 2015, Pegasus Engineering (Jason Birkhead) created slides for the PowerPoint presentation; created and plotted exhibits to be mounted for the Neighborhood Meeting; coordinated with Johan Rodriguez to finalize the drainage basins; revised the SJRWMD land use layer and the NRCS soils layer in order to establish the weighted runoff curve numbers; and finalized the stage-area relationships for the ICPR nodes.
27. The week of November 2, 2015, Pegasus Engineering (Priscilla Villanueva) assisted David Hamstra and Johan Rodriguez to prepare for the 11/04/15 Neighborhood Meeting.

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28. The week of November 9, 2015, Pegasus Engineering (Johan Rodriguez) completed setting-up the "preliminary" existing conditions ICPR model in GIS and ICPR; continued coordination regarding obtaining the drainage basin parameters; prepared draft Survey Request #1; extracted the as-built data to be used in the existing conditions ICPR; and coordinated with Sleepy Hollow residents to obtain additional photographs of flooding and correlated to the 1-foot topographic data.
29. The week of November 9, 2015, Pegasus Engineering (Jason Birkhead) continued coordinating with Johan Rodriguez to establish the ICPR model parameters; and assisted Johan Rodriguez with the survey request.
30. The week of November 16, 2015, Pegasus Engineering (Johan Rodriguez) coordinated with Sliger & Associates (Joe Zapert) regarding the forthcoming survey request in regards to keeping costs low during the Phase 1 study; organized all the as-built plan data to be used in the ICPR model; coordinated with Jason Birkhead in preparing the survey request figures; prepared a detailed summary table of all the required survey elements and nomenclature; and completed the draft survey request letter and supporting documentation for an in-house review.
31. The week of November 16, 2015, Pegasus Engineering (Jason Birkhead) assisted with locating as-built plans for subdivisions; and created maps for Survey Request #1.
32. The week of November 23, 2015, Pegasus Engineering (Johan Rodriguez) met with David Hamstra and discussed the draft survey requests; provided draft survey requests to Greg Teague for internal review (QA/QC); revised survey requests and subdivided into Requests #1A and #1B; and provided email PDF of the survey requests and coordinated to have a hard copy delivered to Sliger and Associates.
33. The week of November 23, 2015, Pegasus Engineering (Jason Birkhead) made final revisions to the Survey Request 1A and 1B figures and tables.
34. The week of November 30, 2015, Pegasus Engineering (Johan Rodriguez) continued to extract as-built data to be used in the ICPR model; coordinated with Sliger & Associates regarding the Survey Request Proposals #1A and #1B; and discussed tasks with Jason Birkhead in preparation for a final field review.
35. The week of November 30, 2015, Pegasus Engineering (Jason Birkhead) created a working map for areas that need to be visited during a future field review.
36. The week of December 7, 2015, Pegasus Engineering (Johan Rodriguez) reviewed the proposals associated with Survey Requests #1A and #1B; and continued coordination with City to meet and discuss the survey scope of work.

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37. The week of December 14, 2015, Pegasus Engineering (Johan Rodriguez) prepared for and attended a meeting with City staff (Branford Adumuah and Mike Silvey) to discuss the scope and fees of the requested survey.
38. The week of December 14, 2015, Pegasus Engineering (Jason Birkhead) created figures and plotted exhibits for Johan's meeting with City staff.
39. The week of December 21, 2015, Pegasus Engineering (Johan Rodriguez) coordinated with Jason Birkhead to re-map the flood prone properties based on previous observed flood levels and documented flooding; requested finished floor information from the Community Development Department per Branford Adumuah's direction; discussed the finished floor information with Kenny Ho and determined that the information is not available; and revised and finalized the finished floor Survey Request #1B and forwarded to Sliger & Associates.
40. The week of December 21, 2015, Pegasus Engineering (Jason Birkhead) revised the number of finish floor elevations associated with Survey Request #1.
41. During this billing period, Pegasus Engineering (Johan Rodriguez) continued to refine the existing conditions ICPR model.
42. The week of January 25, 2016, Pegasus Engineering (David Hamstra) prepared and submitted the Notice-to-Proceed (NTP) letter and Subconsultant Agreement to Sliger & Associates, Inc.
43. The week of February 8, 2016, Pegasus Engineering (Johan Rodriguez) followed-up with Sliger & Associates, Inc. (Joe Zapert) regarding the survey project schedule.
44. On Friday, March 25, 2016, Pegasus Engineering received the preliminary survey notes from Sliger & Associates, Inc.

ORIGINAL - DO NOT REMOVE
FROM PROJECT FILE



**CONTRACT FOR CONSULTING SERVICES
FOR
STORMWATER & ENVIRONMENTAL
ENGINEERING**

Between

THE COUNTY OF VOLUSIA

AND

PEGASUS ENGINEERING, LLC.

Contract No. 14-SQ-55KW

County of Volusia
Purchasing and Contracts Division
123 West Indiana Avenue, Room 302
Deland, Florida 32720-4608
www.volusia.org/purchasing

CONTRACT FOR PROFESSIONAL CONSULTING SERVICES

This Contract made and entered by and between Pegasus Engineering, LLC., duly authorized to conduct business in the State of Florida, whose principal place of business is located at 301 West State Road 434, Suite 309, Winter Springs, Florida, 32708 (hereinafter the "Consultant") and County of Volusia, a body corporate and politic and a subdivision of the State of Florida, whose address is County of Volusia, 123 West Indiana Avenue, DeLand, Florida 32720 (hereinafter "County").

RECITALS:

WHEREAS, the County requires a competent and qualified consultant to provide professional services in support of the County's operations; and

WHEREAS, the County has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, the County has determined that the Consultant is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual; and

WHEREAS, the County has determined pursuant to Florida Statutes 287.055 (a/k/a "Consultant's Competition Negotiation Act") and 337.105 that the Consultant is competent and qualified to furnish said services stated hereunder to the County and Consultant desires to provide professional services according to the terms and conditions hereunder, and

WHEREAS, it has been determined that the execution of this Contract is beneficial to the people of County of Volusia, Florida.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and other specific consideration set forth in this Contract, the receipt and sufficiency of which is acknowledged by the Consultant and County, the parties agree and stipulate as follows:

1. DEFINITIONS.

- 1.1. **Addendum:** A written explanation, interpretation, change, correction, addition, deletion, or modification of equal dignity herewith affecting the contract documents including drawing and specifications prepared by the Consultant, approved and issued by the County and/or distributed to third parties.
- 1.2. **Affidavit:** The instrument which is to be signed by the Contractor and submitted to the County upon the County's request through the Project Manager, upon completion of the job, showing that all bills have been paid. It shall also mean such instrument that may be requested by the County incidental to partial payments.
- 1.3. **Agency:** The state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under Sections 380.06 or 163.3220-163.3243 of the Florida Statutes.
- 1.4. **Amendment:** An amendment to an approved Task Assignment or this Contract in writing by the County, approved by the Director of Purchasing and Contracts, and signed by the County of equal dignity herewith authorizing an addition, deletion, or revision in the scope of work, or an adjustment in the Task Assignment price or the time for completion that is issued after execution

of the task assignment.

- 1.5. **Application for Progress Payment:** The current estimate form furnished and certified by the Consultant, which is to be used by Contractor in requesting progress payments.
- 1.6. **Architect:** A person or firm that is authorized to practice architecture pursuant to Florida Statute 481.299 or a general contractor who provides architectural services under a design-build contract authorized by F.S. 481.299(3).
- 1.7. **Architect/Engineer:** The design professional identified in the contract documents and who is licensed and registered in the State of Florida. The terms "Architect" and "Architect/Engineer (A/E)" means the architect/engineer or its authorized representative.
- 1.8. **Basic Contract:** This Contract between the County and the Consultant covering the services requested from a formal solicitation. Authorization for performance of services under the basic Contract shall be in the form of a written Task Assignment (see Task Assignment).
- 1.9. **Bid Documents:** The official forms on which the County requires formal bids to be prepared and submitted by the bidder.
- 1.10. **Calendar day:** Any day, including Saturdays, Sundays, and holidays, regardless of weather conditions.
- 1.11. **Change Order:** A written order to the Contractor signed by the County authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or time.
- 1.12. **Compensation:** The amount paid by the County to Consultant for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated which includes the total monies payable to the Consultant under a Task Assignment which includes all services, labor, materials, supplies, travel, training, profit, overhead, costs, expenses, and any other costs necessary to complete the Task Assignment.
- 1.13. **Completion Date:** The date that the County or its designated representative approves and accepts all Work or Services for a Scope of Work in a Task Assignment or this Contract.
- 1.14. **Consultant:** The person or entity qualified to perform work under this Contract and any Task Assignment related thereto. In addition, Consultant must be a professional engineer or engineering firm, including an architect (or registered landscape architect, surveyor and mapper, professional engineer, architect or registered landscape architect providing professional services within the meaning of Section 287.055, F.S., who is registered in the State of Florida. In addition, the Consultant may be the Engineer or Architect or Landscape Architect of record or may provide services through and be subcontracted to the Engineer of record.
- 1.15. **Continuing contract:** A contract for professional services entered into in accordance with all the procedures of Section 287.055, F.S. between the County and a firm whereby the firm provides professional services to the County for projects for work of a specified nature as outlined in a this Contract and its associated Task Assignments as required by the County, with no time limitation except one governed by the termination provisions of this Contract and a Task Assignment.
- 1.16. **Contract Administrator:** The Director of Purchasing and Contracts or his/her designee responsible for addressing any concerns within this Contract.

- 1.17. **Contractor:** The person or entity qualified to perform work pursuant to Florida 489.105, F.S. under the Project and who is registered and licensed under the Florida Department of Business and Professional Regulation and in compliance with local laws or ordinances, other than a materialman or laborer, who enters into a contract with the County for improving real property in accordance with the Contract Documents.
- 1.18. **Contract Documents:** Contract documents shall include but are not limited to the following:
- (1) This Contract ("Basic Contract") and Exhibits;
 - (2) Task Assignments;
 - (3) Performance and payment bonds (if applicable);
 - (4) Letters of credit (*if applicable*);
 - (5) Certificates of insurance;
 - (6) Notice of Award and/or Notice to Proceed;
 - (7) The conditions of this Contract (general, special, supplementary, and other);
 - (8) Drawings;
 - (9) Project specifications;
 - (10) Written interpretations;
 - (11) Change orders;
 - (12) Project manuals;
 - (13) Addenda (including RSQs, RFPs and Consultant's responses to RFPs) issued before the execution of this Contract; and,
 - (14) Any valid modifications or Amendments to this Contract or Task Assignments issued after its execution of this Contract, and any Amendments to the foregoing.
- 1.19. **County Representative:** Also known as the Owner's representative who is the County Engineer or person designated by the County to review, approve and make decisions regarding the scope of work.
- 1.20. **County:** The County of Volusia, Florida, a political subdivision of the State of Florida for whom the work is to be performed.
- 1.21. **Deliverable:** The result(s) or end products or services of a Project or Task Assignment that meet the defined design or construction specifications, and functional parameters articulated in the Scope of Work for this Contract and a Task Assignment which, e.g., include but are not limited to: design drawings\specifications, structures, equipment, machinery, studies, reports, written documentation, training, systems or processes.
- 1.22. **Design criteria package:** Concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the Project.
- 1.23. **Design criteria professional:** A firm who holds a current certificate of registration under Chapter 481, F.S., to practice architecture or landscape architecture or a firm who holds a current certificate as a registered Engineer under Chapter 471, F.S., to practice engineering and who is employed by or under contract to the agency for the providing of professional Architect services,

Landscape Architect services, or Engineering services in connection with the preparation of the design criteria package.

- 1.24. **Drawings/Plans:** The official approved drawings or plans or exact reproductions thereof, which have been prepared, signed, sealed and dated by the Consultant, which shows the location, character, dimensions and details of the work to be done and which are considered part of the Contract Documents.
- 1.25. **Effective Date:** The date that this Contract, a Task Assignment, Addendum, Amendment, Modification is fully executed by Consultant and the County.
- 1.26. **Engineer:** The person, firm, or corporation named as such in the contract and/or authorized by the County to act as the County's representative or the County construction engineer authorized to practice engineering services pursuant to Florida Statute 471.03(2)(i)(2006) and who may serve as the County's engineers of construction, engineering and inspection. The term Engineer shall be synonymous with design architect/engineer or Architect/Engineer or Consultant.
- 1.27. **Engineer of Record:** The professional Engineer or engineering firm contracted or employed by the County and registered in the State of Florida who develops criteria and concept for the work, performs the analysis and is responsible for the preparation of the plans and specifications. The engineer of record may be County in-house staff or a Consultant retained by the County.
- 1.28. **Field Order:** A written instrument issued by the Consultant to the Contractor, which clarifies or interprets the drawings and technical specifications, and/or orders minor variations in the work, as opposed to a change in the work, and which does not involve an adjustment in contract price or time.
- 1.29. **Final Certificate of Payment:** A certificate for payment which shall constitute a representation of the Consultant to the County that the quantity of the work has been performed in accordance with the Contract Documents. The Consultant shall obtain from the Contractor(s) periodic waiver of liens and "no lien affidavits" at each payment
- 1.30. **Final Completion:** That date when (a) the Work is complete in accordance with the Contract Documents including the minor items identified during the final inspection, and (b) the Contractor has submitted its request for final payment including the Contractor's release and all Subcontractor affidavits.
- 1.31. **Firm:** Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.
- 1.32. **Inspector or Field Representative:** County Employee or an authorized representative of the Consultant assigned to make inspections of the work performed and materials furnished by the contractor.
- 1.33. **Modification:** A written Amendment to the Contract Documents approved by the County which includes but is not limited to the following:
 - 1.33.1. **Change Order:** A written order to the Contractor signed by the County authorizing an addition, deletion, revision in the Work, or an adjustment in the construction contract price or time issued after execution of the contract.
 - 1.33.2. **Field Order:** A written clarification, interpretation, minor change or alteration issued by the Consultant.

- 1.33.3. **Addenda:** A document written by the Consultant and approved by the County that is added to the original Contract Documents to clarify, revise, add to, or delete from the original Contract Documents or previous addenda. The document includes a written clarification or interpretation prepared by the Consultant.
- 1.34. **Notice of Award:** A written notice by County that the Consultant has been determined by a selection committee to be highly qualified and approved for an award of a contract.
- 1.35. **Notice to Proceed:** The official letter from the County to the Consultant establishing a date on which the Task Assignment will commence.
- 1.36. **Original Expiration Date:** The date that this Contract was originally intended to expire excluding any extensions or renewals of this Contract for a time certain.
- 1.37. **Owner:** The owner is Volusia County for whom all Work or Services under this Contract and any Task Assignment related thereto are performed by the Consultant.
- 1.38. **Pre-task Assignment/Conference:** The meeting scheduled by the County Project Manager of all the parties involved with the planning and execution of the Task Assignment(s).
- 1.39. **Professional Services:** Those services within the scope of the practice of Architecture, Professional Engineering, Landscape Architecture, or registered Surveying and Mapping, as defined by the laws of the state, or those performed by any Architect, Professional Engineer, Landscape Architect, or registered Surveyor and Mapper in connection with his or her professional employment or practice.
- 1.40. **Project:** A fixed capital outlay study or planning activity described in the public notice of the County which includes the entire Scope of Work including the Scope of Work in any Task Assignment that shall be performed in accordance with the Contract Documents. A Project may include:
- 1.40.1. A grouping of minor construction, rehabilitation, or renovation activities.
- 1.40.2. A grouping of substantially similar construction, rehabilitation, or renovation activities.
- 1.41. **Project Manager or County Project Manager:** The County employee who is assigned to the Project and is responsible for the day-to-day administration and coordination of the Project for the County. The County may change the Project Manager at any time by providing notice to the Consultant and/or Contractor.
- 1.42. **Proposal:** The document submitted by the Consultant in response to a formal solicitation used to determine if the Consultant is highly qualified.
- 1.43. **Request for Information (RFI):** A prospective bidders' or Consultants' inquiries for information.
- 1.44. **Request for Statement of Qualifications (RSQ):** An invitation process initiated and used by the County to select contractor(s) or consultant(s) to perform work or provide services in a prospective project(s) based upon their apparent qualifications as submitted by them (respondents) in response to the invitation.
- 1.45. **Scope of Services/Work:** The general services/work, herein defined in this Contract, as well as the scope of work in a Task Assignment including responsibility for performing and complying

with all incidental matters pertaining thereto, as set out in the Task Assignment.

- 1.46. **Services:** Those services are the Professional Services of work or tasks as defined in Section 287.055, F.S. to be performed by the Consultant as provided for under this Contract and any Task Assignment which shall be performed by a duly licensed professional Engineer or Engineering firm, Architect or Architectural firm, Landscape Architect or Landscape Architectural firm, Surveyor, and/or Mapper who is registered in the State of Florida.
- 1.47. **Shop Drawings:** All diagrams, illustrations, brochures, schedules, and/or other data which are prepared by Contractor or Consultant, a subcontractor, manufacturer, supplier, distributor, or other person on behalf of the contractor, and which illustrate the equipment, material, or some portion of the work.
- 1.48. **Specifications:** The document that establishes the material and performance requirements of goods and services.
- 1.49. **State:** State of Florida.
- 1.50. **Subconsultant:** A person other than a materialman or laborer who enters into a contract with a Consultant for the performance of any part of the Basic Contract.
- 1.51. **Sub-subconsultant:** A person other than a materialman or laborer who enters into a contract with a sub-consultant for the performance of any part of such sub-consultant's contract.
- 1.52. **Substantial Completion:** The date as certified by the County's Project Manager when the Task Assignment or Project or a specified part as agreed to in writing by the parties is sufficiently completed to the satisfaction of County or its designated representative, in accordance with the Contract Documents, so that the project or specified part can be utilized for the purposes for which it was intended; or if there be no such certification, the date when final payment is due in accordance with the applicable Task Assignment.
- 1.53. **Task Assignment:** Specific, detailed services or work placed against an awarded and established continuing services Contract memorialized as an Amendment to this Contract by the parties prior to the commencement of such Work or Services by the Consultant.
- 1.54. **Work:** Any and all obligations, Services, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by Consultant under the Contract Documents, including the furnishing of all labor, materials, equipment and other incident.
2. **ORDER OF PRECEDENCE.** In the event of any inconsistency between this Contract and a Task Assignment and its attached documents or exhibits regarding the Scope of Work and the amount of Compensation paid to a Consultant, the Task Assignment and its attached documents or exhibits shall be controlling. For all other inconsistencies between this Contract and a Task Assignment and its attached documents or exhibits, this Contract shall be controlling.
3. **SCOPE OF WORK.**
 - 3.1. **General Scope of Services.** The following general Scope of Services shall be governed by Section 3.2 of this Contract. The Consultant shall provide services under this Contract in accordance with the Scope of Services set forth in Exhibit "B".
 - 3.1.1. Provide all certifications ("Engineer of Record"), calculations, drawings, and any other documents required for special permits and authorizations from various government

bodies or agencies having jurisdiction over the project except for those permits that the County is responsible to provide to the consultant such as environmental surveys/permits, wetland identification surveys, traffic impact studies, property surveys, geotechnical studies/reports and quality control testing;

- 3.1.2. Prepare a time scaled diagram (Design Schedule) showing the proposed dates of completion of various design phases and scheduled completion of working drawings and technical specification manuals; submit the design schedule for County Project Manager's review and approval;
- 3.1.3. Obtain at least three quotes from subcontractors if any part of the Task Assignment requires a subcontractor to perform the Work;
- 3.1.4. Evaluate proposals furnished by the Contractor or a construction management firm, if requested by the County. Cooperate with and facilitate the performance of duties of a construction manager, if so required by the County;
- 3.1.5. The Work or Services to be rendered by the Consultant shall be commenced, as specified in the Task Assignments as may be issued hereunder, and shall be completed within the time specified therein;
- 3.1.6. If specified in a Task Assignment, furnish consultation and advice during the construction of a project and perform construction administration or commissioning services;
- 3.1.7. Furnish all other architectural/engineering services including without limitation those specified hereinafter and those required for the completion of specific projects as described in the Task Assignment:
 - 3.1.7.1. **Investigation Phase.** Consultant shall visit the project site, initiate and hold project meetings as may be necessary to develop the design and preliminary sketches of the contemplated project. The Task Assignment shall specify the required number of visits necessary for the Consultant to design/develop construction plans and technical specification. The Consultant shall confer with the project manager to ascertain the number of site/project meetings. The number of site visits and/or project meetings shall depend upon the complexity of the project.
 - 3.1.7.2. **Design/Construction Plans and Specification.** Consultant shall submit design development documents and estimates of the approved design to the County for review. Each plan package and its component parts shall be prepared in accordance with the Task Assignment. The plans shall be of sufficient detail indicating floor plan layout, elevations, outline specifications, to illustrate the size and character of the entire project in its essentials as to kinds of material, type of structure, mechanical and electrical systems (if applicable), site work, and such other work as may be necessary for a completely functioning project. Consultant shall submit a cost estimate, if requested, or opinion estimate for this phase of the work for review and approval by the County. The estimate shall include, as required for the project, the identification of costs for heating, ventilation, plumbing, air conditioning, electrical lighting and power.
 - 3.1.7.3. Notwithstanding, Section 3.1.7.2, Consultant shall submit a cost estimate, if requested, or opinion estimates during each phase of the work. Estimates shall be submitted between 30, 60, and 90 percent, and again at the 100 percent stage of completion or as specified in the Task Assignment. Each estimate will

be utilized to review the Scope as may be necessary to complete the project within the construction budget. In the event that the project construction cost estimate exceeds the construction budget as set forth above, consultant shall, after review and upon written request of the County at Consultant's direct labor rates, pursuant to 3.2.6.1, continue to revise any or all of the project design, drawings, specifications, and estimates in a manner satisfactory to the County, until the revised estimate conforms to the County's budget. Consultant shall submit to the County for review the required number of sets of the contract plans, the latest cost estimate, and complete specification books as specified in the Task Assignment.

- 3.1.7.4. Each 100% final construction plan package shall be accurate, legible, complete in design, and suitable for public bidding purposes. Construction drawings shall meet the following minimum plans and design documentation packaging requirements:

- 3.1.7.4.1. Cover/Key Sheet
- 3.1.7.4.2. Summary of Pay Items, if applicable
- 3.1.7.4.3. Reference Points, if applicable
- 3.1.7.4.4. Typical Sections
- 3.1.7.4.5. Miscellaneous Detail Sheet

- 3.1.7.5. Consultant shall also prepare final construction drawings and technical specifications suitable for inclusion in a County prepared bidding package. The construction documents shall be prepared at the drawing scales specified in the Task Assignment for the development of the following elements:

- 3.1.7.5.1. Statement of probable costs of the project
- 3.1.7.5.2. Layout/site plan
- 3.1.7.5.3. Grading and drainage plans
- 3.1.7.5.4. Technical specifications that define materials appropriate for construction

- 3.1.7.6. Following the approval of design development documents and estimates of cost by the County, Consultant shall prepare construction Contract Documents that include plans, suitable for reproduction for the project in complete detail as per the Task Assignment.

- 3.1.7.7. **Completed Plans, Specifications, Documents, and Cost Estimate.** Upon completion and final approval by the County of the plans, specifications, other Contract Documents, and detailed construction cost estimates and/or opinion estimate of construction cost per task assignment, Consultant shall deliver to the County in the medium and number of copies specified in the Task Assignment the following:

- 3.1.7.7.1. Any data or field notes obtained pertaining to the project, including data and field notes obtained from additional surveys;
- 3.1.7.7.2. Complete final approved original tracings or electronic files of contract plans;
- 3.1.7.7.3. Typed masters or electronic files of Contract Documents, other than plans, suitable for reproduction on 8" x 11" paper; and

- 3.1.7.7.4. The last cost or opinion estimate of the construction cost in detail for approval by the County.
- 3.1.7.8. **Permitting Phase Services.** If required in the Task Assignment, Consultant shall be responsible for applying and assisting the County in securing all applicable permits; for preliminary coordination with the County and other appropriate regulatory agencies so that the design efforts are properly directed towards permit approval; for preparing and submitting permit packages based on preliminary coordination with the County; and for other appropriate regulatory agency requirements under the County's name at the time of submittal. Consultant shall include in the permit packages the site and system design information required by the County and other regulatory agencies, applicable sketches and calculations. Consultant shall respond to the requests of the County and other regulatory agencies concerning the submitted information; report to the County any requests for information not required at the time of permit submittal, as made known during the preliminary coordination; reproductions in excess of requirements; or regulation changes requiring permit resubmission. County shall be responsible for the permitting fees. The County, however, will not pay a fee to the Consultant when the Consultant is required to resubmit a permit package to a regulatory agency so as to address deficiencies, omissions, or corrections to the original permit package that are not attributable to changes in rules made by the regulatory agency after submission of the original permit package. Consultant shall attend the appropriate number of office and field meetings necessary for the preliminary coordination as set forth in a Task Assignment.
- 3.1.7.9. **Bidding Phase.** Consultant shall attend the pre-bid conference meeting at the location selected by the County. Consultant shall answer questions, as applicable, and take minutes as necessary for a written response; provide plan and specification clarification and prepare addenda to be issued by the County; review and evaluate bid packages from each respondent; and summarize in writing his/her recommendation based on the definition of responsive and responsible as defined in the Contract Documents.
- 3.1.7.10. **Construction Phase Services.** Consultant shall visit the project site, including attending job construction meetings, during construction to monitor the progress, quality of the work, and that the work is proceeding in accordance with the construction Contract Documents. During such visits, Consultant shall make reasonable efforts to protect the County against defects and deficiencies in the work of the contractors by informing the County Representative the work does not, in their opinion, conform to the Contract Documents. Consultant shall keep the County informed of the progress and quality of the work by submitting a written report of each visit. As part of the site visits, if required for the project, the Consultant's mechanical and electrical engineers shall also visit the project site and attend job construction meetings as requested to determine if the mechanical and electrical work is proceeding in accordance with the construction Contract Documents. Task Assignment shall specify the required number of visits necessary for the Consultant to monitor the progress and quality of work. Consultant shall perform the following tasks, including, but not limited to, assisting the County during the construction to verify that the project is completed in general conformance with the construction Contract Documents.
- 3.1.7.10.1. **Preconstruction Conference:** Consultant shall prepare the agenda,

if requested; attend the County's preconstruction conference meeting; prepare and submit notes of the meeting.

3.1.7.10.2. **Design Clarification Responses:** Consultant shall provide technical interpretation of the plans/drawings, specifications, and Contract Documents; evaluate requested deviation from the approved design or specification; and review and respond to requests for information (RFI) from the Contractor. Consultant shall prepare supplementary sketches as may be necessary for clarification of construction plans and assist in resolving actual field conditions encountered.

3.1.7.10.3. **Site Visits:** Consultant shall visit the job site to monitor the progress and quality of the work and determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents including site visits for both substantial and final completion for each project. The Consultant shall route all job correspondence to the Contractors through County.

3.1.7.10.4. **Pay Request Review:** Consultant shall determine based on the observations and surveillance, as set forth above and on the evaluation of the Contractor's progress payment requests, the amount owed to the Contractor(s) and transmit the Contractor's payment requests to the County with recommendation for payment in accordance with the terms and conditions of the Contract Documents. The Consultant shall conduct visits to the project as necessary to determine the dates of Substantial and Final Completion and shall issue to the County a Final Certificate of Payment. Such certificate for payment shall constitute a representation of the Consultant to the County that the quantity of the work has been performed in accordance with the Contract Documents. The Consultant shall obtain from the Contractor(s) periodic waiver of liens and "no lien affidavits" at each payment. Additionally, at completion of the project, Consultant shall obtain from the Contractor(s) final waiver of lien, final "no lien affidavits," and final affidavit of release of liens prior to certification of Final Payment.

3.1.7.10.5. **"As-Built":** The Consultant shall prepare record drawings by reviewing and considering information or drawings provided by the contractor; revise original design drawings of the project and submit to the County hardcopy and an electronic file of the record drawing using information supplied by Contractor.

3.1.7.10.6. **Shop Drawing Review:** The Consultant shall review shop drawings and other data that the Contractor is required to submit. Consultant shall examine for compliance with design concept and recommend to County, approval or rejection of shop drawings and of material and equipment submitted as qualified for use in the project, based on literature and samples supplied by the Contractor through the County. Consultant shall submit to the County original drawings that will reflect all amendments to the Contract Documents. Consultant shall prepare any necessary change orders and assemble written guarantees required of the Contractors.

3.1.7.10.7. **Project Close-Out:** The Consultant shall make final review of construction to determine if work was completed in general conformance of the construction contract documents; assist in the preparation of final "punch list" when the project is substantially completed; assist in negotiating the final payment for construction; and submit a final letter report upon which final settlement and contract closeout can be based. If required, prepare and submit to Florida Department of Environmental Protection (FDEP) or Department of Health for approval, the FDEP certificate of completion of construction for both water and sewer.

3.1.7.11 **Deliverables.** Submit final design plans and support documents to the County for review and approval at specified junctures in the medium and number of copies specified in the Task Assignment. If required in the Task Assignment, each plan set submitted shall have the percentage completed for those submittals clearly indicated on the first sheet of each set of plans.

3.2. Performance Criteria:

- 3.2.1. All Work or Services shall be performed in accordance with the Contract Documents and shall be approved by the County in writing prior to commencing any Work or Service(s) described herein or in a Task Assignment.
- 3.2.2. This Contract standing alone does not authorize the performance of any Work or Services to be provided by the Consultant or require the County to place any orders for Work or a Service. Authorization for performance of professional services by the Consultant under this Contract shall be in the form of written Task Assignments issued and executed by the County and signed by the Consultant. A sample Task Assignment is attached hereto as Exhibit "A". Each Task Assignment shall describe the Services required, state the dates for commencement and completion of the Work, and establish the amount and method of payment.
- 3.2.3. Notwithstanding the General Scope of Work and Services provision in Section 3.1., the Scope of Work for a Project shall be set forth with specificity and describe in detail all specifications, plan requirements, deliverables, additional performance criteria, maximum not-to-exceed compensation, the commencement and completion dates, materials, equipment, testing and any other item or criteria required to complete the Work or Services in the Task Assignment. Each Task Assignment shall relate to the General Scope of Work and Services in Section 3.1 and shall supplement this Contract and be made a part thereof.
- 3.2.4. All materials and labor necessary to complete a Task Assignment shall be furnished by the Consultant unless the Contract Documents state otherwise. Said materials shall be of good quality and as specified in the Contract Documents; and all work and labor will be performed, pursuant to Section 7.3.5, to the satisfaction of the County.
- 3.2.5. The Consultant shall provide the services required herein strictly in an independent contractor relationship with the County and, except as expressly set forth herein, is not, nor shall be, construed to be an agent or employee of the County. For each purpose related to this Contract and each Task Assignment, Consultant and contractors, subcontractors or subconsultants shall be independent contractors with respect to the County and nothing herein shall create any association, partnership, joint venture or agency relationship between them. The County shall not provide vehicles or equipment

to the Consultant to perform the duties required by a Task Assignment under this Contract nor will the County pay for any business, travel, office or training expense or any other contract performance expense not specifically set forth in the scope of services of a Task Assignment. The Consultant is not exclusively bound to the County and may provide service to other private and public entities as long as the service by the Consultant for such entities does not conflict with the Consultant's services to the County in any Task Assignment.

- 3.2.6. As applicable to each Project performed by the Consultant during the term of this Contract or Task Assignment, the County may at any time, by written order, make changes within the general scope of a Task Assignment and the Work and/or Services to be performed through Amendments to the Task Assignment. Except as provided in this Contract otherwise, if any such change causes an increase or decrease in the Consultant's cost of, or the time required for performance of, the Project Work or Services, an equitable adjustment shall be made and this Contract shall be amended through the Amendment of the Task Assignment in writing stating the equitable adjustment prior to the commencement of Work covered by the equitable adjustment. Any claim by the Consultant for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Consultant of the notification of change unless the County grants in writing an additional period of time before the completion of the Contract; otherwise, the claim shall be deemed waived. The Consultant shall proceed with the prosecution of the Work or Service as changed. Except as otherwise provided in this Contract, no charge for any extra work or materials shall be allowed or approved by the County.

- 3.2.6.1. **Changes to Scope of Work.** Either party may propose changes to the scope or time schedule of the Work or Services under a Task Assignment which shall be submitted to the other party in writing for consideration of feasibility and the likely effect on the cost and schedule for performance of the Work or Services. The parties shall mutually agree upon any proposed changes, including resulting equitable adjustments to costs and schedules for the performance of the Services. The agreed changes shall be documented in one (1) or more Amendments to the Task Assignment signed by the County and Consultant prior to the commencement of Work or Services covered by the equitable adjustment. If, despite good faith negotiations, the parties are unable to agree to the terms of an Amendment to a Task Assignment, the parties shall follow the dispute resolution process provided under Section 18.

- 3.2.7. **Time is of the Essence.** Time is of the essence for each Task Assignment issued under this Contract and all Projects performed in accordance herewith.

- 3.2.8. County and Consultant shall exhaust all methods to resolve issues, including but not limited to, the dispute resolution procedures in Section 18 of this Contract before any action is taken to declare the County or Consultant in default of this Contract.

4. TERM OF CONTRACT.

- 4.1. Subject to Section 4.2, the Term of this Contract shall commence on the Effective Date of this Contract or when it is fully executed by all parties and shall terminate three (3) years from the Effective Date. Except as provided in Section 4.2 the expiration of the term of a Task Assignment issued under this Contract shall have no effect upon this Contract. This Contract may be renewed by the County if the County determines that renewal is in the best interest of the County and satisfies the requirements of Section 287.055, F.S. Said renewal shall be in writing and made a part of this Contract and shall incorporate this Contract by reference.

- 4.2. All Task Assignments issued under this Contract shall terminate at the expiration of the term of the Task Assignment, unless amended in writing by the parties, or the term of this Contract, except if a Task Assignment issued before the expiration of this Contract cannot be completed until after the expiration of this Contract, then this Contract shall expire on the Completion Date of said Task Assignment, including any Amendments thereto, and after all Work or Services under the Task Assignment have been approved and accepted by County's Project Manager. As such, the obligations entered therein by both parties under this Contract and said Task Assignment shall remain in full force and effect until completion of all Work or Services performed under this Contract and/or the Task Assignment.
- 4.3. The Work or Services to be rendered by the Consultant shall be commenced, as specified in the Task Assignments as may be issued hereunder, and shall be completed within the time specified therein.
- 4.4. No new or additional Task Assignments shall be issued after the Original Expiration Date of this Basic Contract. The extension of this Contract to coincide with the completion of an existing Task Assignment issued prior to the original expiration date of this Contract shall not be construed as or constitute authorization by the County or the Consultant to enter into a new or additional Task Assignment after the original expiration date of this Contract, unless this Contract is renewed prior to entering into an Contract for a new or additional Task Assignment.

5. CONTRACT PRICE AND COMPENSATION.

- 5.1. For Work, Services, or each separate Project performed under a Task Assignment during the term of the Contract, the Consultant shall be paid Compensation for all Work or Services performed in a Task Assignment, including labor and materials on a "fixed fee," "time and materials", "cost-plus-a-fixed-fee" or "guaranteed maximum-not-to-exceed" basis as applicable in the Task Assignment. The Task Assignment shall state the method of Compensation.
 - 5.1.1. Regardless of the method of Compensation, e.g., "fixed fee", "time and materials", "cost-plus-a-fixed-fee" or "guaranteed maximum-not-to-exceed" basis, Compensation shall not be adjusted because of errors or omissions which are not the fault of the County in computing the Project or Task Assignment costs which result in an increase in the cost of the Task Assignment or because the time for completion varies from the original estimate, including completion or substantial completion of the Task Assignment prior to the scheduled or Contract or Task Assignment completion date or on account of County's election to furnish any of the Work or Services. In addition, Consultant shall certify in the Task Assignment that the original contract price or Compensation for a Project or Task Assignment and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the contract price or Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.
 - 5.1.2. **Reimbursable Expenses:** Subject to the County's Travel and Reimbursement Policy, Sections 112.061 (7) and (8), Florida Statutes, or their successor, reimbursable expenses include actual and verifiable expenditures without any mark-up made by the Consultant or Consultant's employees and/or agents that directly relate to the Task Assignment and to the expenses listed in the following subparagraphs:
 - 5.1.2.1. Expenses of transportation, when traveling is directly related to the Project and necessary, based on and in accordance with the Scope of Work of a Task Assignment;

- 5.1.2.2. Long distance calls and telegrams;
 - 5.1.2.3. Fees paid for securing approval of authorities having jurisdiction over the tasks of the Project or Task Assignment;
 - 5.1.2.4. Expenses of reproductions;
 - 5.1.2.5. Postage and handling of drawings and specifications;
 - 5.1.2.6. Any other expenses related to the Project; and
 - 5.1.2.7. If authorized in the Task Assignment, the cost of other expenditures made by the Consultant that relate directly to the Scope of Work in the Task Assignment.
- 5.1.3. **Truth-in-Negotiation Certificate.** For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or Compensation in a Task Assignment over \$150,000.00, Consultant shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Compensation are accurate, complete, and current at the time of contracting. Any Professional Service contract or Task Assignment under which such a certificate is required must contain a provision that the original contract price or Compensation and any additions thereto will be adjusted to exclude any significant sums by which the County determines the contract price or Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or Compensation adjustments must be made within one (1) year following the end of the contract. Otherwise, such adjustments shall be deemed waived by the Consultant and null and void for the purposes of this Contract or the Task Assignment. The signature on this Contract by Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.
- 5.1.4. **Fixed Fee or Price & Guaranteed Maximum-Not-To-Exceed Compensation.** The total Fixed Fee or Price and Guaranteed Maximum-Not-To-Exceed Compensation for a Task Assignment shall be comprised of the total cost of the project, including all design engineering, materials, machinery, equipment, labor, temporary construction, capital spare parts, reimbursable expenses, all mark-ups for overhead and profit. In addition, the Task Assignment shall state with specificity the commencement and completion dates, all materials, contingency and escalation allowances, any and all expenses (including those referenced in Section 5.1.2 herein), and all other items of cost necessary to complete the Task Assignment, whether furnished by County, Consultant, third parties, or others. A Scope of Work for a Task Assignment specifying Compensation on guaranteed maximum-not-to-exceed basis shall allocate the guaranteed maximum-not-to-exceed price or Compensation among, and provide for payments against specified deliverables and performance.
- 5.1.5. **Retainage.** The County shall have the right to withhold retainage from Compensation paid to a Consultant. Should the County decide that retainage shall be withheld from Compensation, the amount to be retained from each payment to the Consultant shall be:
- A. ☐ % of the total contract price.
 - B. ☐ % of each payment of a milestone payment based on a Project milestone

schedule.

- C. ☒ No retainage will be taken.

The County shall have the right to withhold retainage from Compensation paid to a Consultant. Should the County decide that retainage shall be withheld from Compensation; the amount to be retained from each payment to the Consultant shall be stated in the Task Assignment. The retainage shall be included with the final payment after all Work or Services for the Task Assignment have been approved and accepted by the County and all disputed invoices have been resolved by the parties. The County shall never be required to pay an amount that would leave unpaid from the contract price or Compensation an amount less than the amount County would need to have in order to pay another Consultant to complete the Work or Services should Consultant fail to complete the Work in a Task Assignment remaining incomplete as of that date.

5.1.6. Payments.

5.1.6.1. **Punch List.** If County, in its reasonable discretion, does not consider a Project substantially complete, the County shall notify Consultant in writing giving the reasons. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment, and the certificate shall state the time within which those items shall be completed or corrected, the time to be within the contract time. Disputes regarding payments shall be resolved through the dispute resolution procedure articulated in Section 18 of this Contract.

5.1.6.2. **Approval of Final Payment.** If, on the basis of the County Project Manager's observation and review of Consultant's Work or Services performed during the Task Assignment, final inspection and review of the final application for payment and the County Project Manager's satisfaction that the work has been completed and Consultant has fulfilled all of its obligations under the Contract Documents, County Project Manager, after receipt of the final application for payment, indicate in writing his or her approval of payment and present the application to Accounts Payable for payment. Otherwise, the County Project Manager shall return the application to the Consultant, indicating in writing the reasons for refusing to approve final payment, in which case the Consultant will make the necessary corrections and resubmit the application.

5.1.6.3. **Invoice Detail.** Regardless of the method of compensation, e.g., "fixed fee", "time and materials", or "guaranteed maximum not-to-exceed" basis, the Consultant shall submit an invoice for which Professional Services were rendered to the County in response to its request therefore upon the completion and acceptance of the services detailed in Section 3.1 herein. Each invoice shall show detailed explanations of the services accomplished by labor hours by classification, associated rates, any material or subcontracted costs and any indirect rates or costs in accordance with the prices set forth in a Task Assignment. All of the above shall sum to the total amount requested.

5.1.7. **Invoices.** Invoices or payment requests shall be addressed by Consultant and submitted to the County's Project Manager. The Consultant shall submit:

- A. ☒ A monthly statement for Professional Services rendered to the date of the

statement subject to Section 5.1.5. The monthly statements shall reflect the Work or Services actually completed at the time of billing.

- B. ☐ A Final Statement for each County requested Project indicating the Work or Services actually completed after final acceptance of said Work or Services by the County. The Consultant's determination of the Work or Services actually completed is to be prepared by the Consultant, and accompanied by such supporting data as may be required by the County Project Manager. County Project Manager shall review the Consultant's statement and notify the Consultant in writing within twenty (20) business days from receipt of the statement if any amounts requested are disputed or lack adequate support or documentation.

- 5.1.8. For each Task Assignment, Consultant shall submit a monthly statement for Professional Services rendered to the date of the statement. The monthly statements shall reflect the Work or Services actually completed at the time of billing. The Consultant's determination of the Work or Services actually completed is to be prepared by the Consultant, and accompanied by such supporting data as may be required by the County Project Manager. County Project Manager shall review the Consultant's statement and notify the Consultant in writing within twenty (20) days from receipt of the statement if any amounts requested are disputed or lack adequate support or documentation.
- 5.1.9. The County may withhold payment of any specific invoiced charges in a pay request or monthly statement which it disputes in good faith and pay all undisputed charges on the invoice, pay request or monthly statement.
- 5.1.10. Within forty-five (45) days of acceptance by the County Project Manager of all the Work or Services for which Consultant has submitted the monthly statement of professional services, the Consultant shall be paid the unpaid balance of any money due for any undisputed Work or Services covered by said statement. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Part VII of Chapter 218 Florida Statutes, as amended.
- 5.1.11. **Taxes.** County is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for Work or Services performed under this Contract.
- 5.1.12. Pursuant to the terms and conditions articulated in this Contract, an appropriate fee shall be negotiated for each specific Project or Task Assignment to be performed under this Contract and such fee shall be stipulated, together with the Scope of Work for each Task Assignment or project, in separate Task Assignments to this Contract.
- 5.1.13. **Consultant's Continuing Obligations.** Consultant's obligation to perform the Work or services and complete the Task Assignment in accordance with the Contract Documents shall be absolute. Neither approval of any progress nor final payment to Consultant, nor the issuance of a certificate of substantial completion, nor any payment by County to Consultant under the Contract Documents nor any act of acceptance by the County nor any failure to do so, nor any correction of defective work by County shall constitute an acceptance of Work or Services not in accordance with the Contract Documents.

6. TERMINATION.

- 6.1. The performance of Work or Services under this Contract may be terminated for convenience or

non-appropriation of funds by the County in accordance with this clause in whole or from time to time in part, upon at least thirty (30) days prior written notice to Consultant whenever the County shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Consultant of a notice of termination specifying the extent to which performance of Work under the Contract is terminated, and the subsequent date upon which such termination becomes effective.

- 6.2. Upon receipt of such notification, Consultant shall inform County of the extent to which performance is completed and unless notified in writing by the County otherwise, the Consultant shall take no further steps towards completion of the Project. Upon payment by County, Consultant shall deliver to County any and all completed Deliverables and Deliverables-in-progress that then exist for all outstanding Projects. If the County terminates any Project due to the Consultant's failure to meet a completion deadline as set forth in Section 7 herein, the County may seek the services for the Project from another Consultant. Payment will be made to the Consultant pursuant to 6.3.15.
- 6.3. After receipt of a Notice of Termination as set forth in Section 6.1 above, and except as otherwise directed by the County, the Consultant shall:
 - 6.3.1. Stop work under the Contract or Task Assignment on the date and to the extent specified in the notice of termination.
 - 6.3.2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract or Task Assignment, as it is not terminated.
 - 6.3.3. Terminate all orders and subcontracts pursuant to Article 6 to the extent that they relate to the performance of Work or Services terminated by the notice of termination.
 - 6.3.4. Assign to the County, in the manner, at the times and to the extent directed by the County, all of the right, title, and interest of the Consultant under the orders and subcontracts so terminated, in which case the County shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
 - 6.3.5. With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts. County's approval of such settlements shall be final for all the purposes of Section 6. In addition, Consultant shall transfer title and deliver to the County, in the manner, at the times, and to the extent, if any, directed by the County:
 - 6.3.5.1. Sketches, calculations, reports, models, studies and other Work-in-process, completed Work or Services, supplies, and other materials produced as a part of, or acquired in connection with the performance of the Work or Services terminated by the notice of termination; and,
 - 6.3.5.2. Completed or partially completed designs, plans, drawings, information, and other property, which, if had been completed, would have been required to be furnished to the County.
 - 6.3.6. Complete performance of such part of the Work or Services as shall not have been terminated by the notice of termination.
 - 6.3.7. After receipt of a notice of termination, the Consultant shall submit to the County its

termination claim, in the form and with a certification as prescribed by the County. Such claim shall be submitted promptly but in no event later than thirty (30) days from the effective date of termination, unless one (1) or more extensions in writing are granted by the County, upon request of the Consultant made in writing within such thirty (30) day period or authorized extension thereof. Upon failure of the Consultant to submit its termination claim within the time allowed, the County may determine on the basis of information available to it, the amount, if any, due to the Consultant by reason of the termination and shall there upon pay to the Consultant the amount so determined.

6.3.8. Subject to the provisions of Section 6.3.7., the Consultant and the County may agree upon the whole or any part of the amount or amounts to be paid to the Consultant by reason of the total or partial termination of work pursuant to Article 6 which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts exclusive of settlement costs, shall not exceed the total contract price or Compensation as reduced by the amount of payments otherwise made and as further reduced by the contract price of Compensation for Work not terminated. As such, the Contract shall be amended accordingly and the Consultant shall be paid the agreed amount. Nothing herein, prescribing the amount to be paid to the Consultant in the event of failure of the Consultant and the County to agree upon the whole amount to be paid to the Consultant by reason of the termination of Work or Services pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Consultant.

6.3.9. In the event of the failure of the Consultant and the County to agree as provided in 6.3.8. above upon the whole amount to be paid to the Consultant by reason of the termination of Work pursuant to Article 6, the County shall pay to the Consultant the amounts determined by the County as follows, but without duplication of any amounts already agreed upon by the parties.

6.3.9.1. For completed Work or Services accepted by the County, the price or prices or Compensation specified in the Task Assignment for such work, less any payments previously made.

6.3.9.1.1. Notwithstanding Section 5.1.4., the total compensation shall include the total of the following:

6.3.9.1.1.1. The costs incurred by the Consultant in the performance of the Work and Services terminated, including initial costs and preparatory expenses allocable thereto, but exclusive of any costs attributable to the Work and Services paid or to be paid for under Section 6.3.9.1. hereof;

6.3.9.1.1.2. The cost of settling and paying claims arising out of the termination of Work or Services under subcontracts or orders as provided herein, which are properly chargeable to the terminated portion of the Contract exclusive of amounts paid or payable on account of work or services delivered or furnished by subconsultants or Sub-subconsultants prior to the effective date of termination, which amounts shall be included in the costs payable herein; and,

6.3.10. This Contract or a Task Assignment may be terminated by Consultant if Consultant

provides a minimum of thirty (30) days written notice to the Director of Purchasing. In the event Consultant breaches any of the terms and conditions of this Contract or Task Assignment, and after receipt of notice from County of said breach and time to cure the same the Consultant fails to cure the breach, the County may take over the Work and Services and complete the same by Task Assignment; or otherwise, the Consultant shall be liable to the County for any increased cost of the Project reasonably incurred by the County in the process of completing the Consultant's unfinished Work and Services.

As such, County may apply unpaid Compensation due and owing to Consultant prior to the default as a set off against the costs incurred by the County for taking over such Work or Services.

- 6.3.11. In the event that there is a partial termination of this Contract or a Task Assignment by the County or Consultant because of non-appropriation by County, subject to Section 4 - Term of Contract and Section 5 - Contract Price and Compensation, Consultant shall be paid in accordance with terms of this Section 6, to the date of termination on a prorated basis for any task, milestone, or Deliverable started but not completed which were designated for payment on a payment schedule provided to the County prior to the commencement of work on the task, milestone or Deliverable which is the subject of the partial termination. County's obligation to pay Consultant under this Contract or Task Assignment is limited to the budgeted amount for the fiscal year approved by the Volusia County Council for the then current fiscal year of this Contract and is otherwise limited to legally available non-ad valorem tax revenues. Consultant shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation set forth in Section 5-Contract Price and Compensation. Consultant and County shall be obligated to continue performance under this Contract for the work or services within the Scope of Work or Services under this Contract which is not the subject of the partial termination by non-appropriation.

- 6.3.12. If termination of this Contract or Task Assignment occurs for any reason:

- 6.3.12.1 The County shall continue to have the unfettered right to use or access any license, designs, plans, or exhibits, any of the Deliverables or work products from tasks or milestones, arising under that Contract or Task Assignment and produced pursuant to the Contract Documents for which the County has paid prior to termination of this Contract or Task Assignment or for which County makes payment after termination of this Contract or Task Assignment.

- 6.3.13. Except as otherwise provided in this Contract, Consultant shall return to the County all County confidential information in Consultant's possession and Consultant shall certify in a written document signed by the Consultant that all such information has been returned.

- 6.3.14. Except as provided in Section 6.3.12.1., the County shall return to Consultant or destroy all Consultant's confidential information in the County's possession (including, without limitation, all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment or other documents or property relating to such Consultant's Confidential Information and all copies of any of the foregoing (in whatever medium recorded)) and all third-party products in its possession not yet accepted and not yet paid for in full together with all copies of documentation and other material related thereto, and shall certify in a written document signed by the County Project Manager that all such information and material has been returned or destroyed.

- 6.3.15. For all undisputed outstanding invoices submitted to the County prior to the effective date of the termination and subject to Section 4 - Term of Contract, Section 5 - Contract Price and Compensation, and this Article 6, the County shall cause payments to be made to Consultant within thirty (30) days of receipt of invoice. Consultant shall invoice the County for any sums Consultant claims to be owed by County under this Contract for work performed from the last invoice to the effective date of termination. County shall review such invoice for payment and County shall pay any undisputed amount within thirty (30) days.
- 6.3.16. In the event of termination by the County for non-appropriation, for all items or products ordered by Consultant before receipt by Consultant of the notice of termination which Consultant could not cancel without imposition of a fee, the County shall cause payments to be made to Consultant within thirty (30) days of receipt of an undisputed invoice for all cancellation, restocking or residual fees resulting from the cancellation or return of third party products ordered from or shipped by the vendor thereof prior to the effective date of the termination.
- 6.3.17. All provisions of this Contract which impose or contemplate continuing obligations on a party will survive the expiration or termination of this Contract.

7. RESPONSIBILITY OF CONSULTANT.

- 7.1. Consultant shall be duly licensed under the laws of the State of Florida as an Architect, Engineer, Landscape Architect, Mapper or Surveyor for the purposes of this Contract and to satisfy the requirements of Section 287.055, F.S.
- 7.2. Consistent with Article 3 herein, Consultant's performance of Work or Services shall be in accordance with the terms and conditions of this Contract and the applicable Task Assignment(s). The Consultant's performance of Work or Services shall be as a professional consultant to the County to carry out the activities of a Task Assignment under the direction of the County's Project Manager.
- 7.3. Consultant shall perform Work or Services required under this Contract or Task Assignment, including but not limited to reports, studies, schedules, estimates, the development or preparation of plans, specifications, and cost estimates pertaining to a Project. Consultant shall confer with the County Project Manager to ascertain the functional or design criteria of each Task Assignment. The services of Consultant shall also include of the following:
- 7.3.1. Unless otherwise provided in this Contract or Task Assignment, Consultant shall commence in accordance with the Contract Documents the Services required for the Project or Task Assignment within ten (10) days of the County's Notice to Proceed.
- 7.3.2. Consultant shall verify to the County for the applicable Task Assignment that all designs, and specifications, and all data reports, studies, plans, bulletins, schedules, and other drawings therewith conform to the Scope of Work in the Task Assignment and applicable governmental regulations, statutes, and ordinances, including any amendments thereto. Said certification shall be in the form acceptable to the County and made a part of this Contract and attached to the Task Assignment and incorporated herein by reference.
- 7.3.3. Consultant covenants, and agrees that there are no obligations, commitments, or impediments of any kind that shall limit or prevent Consultant's performance of the Work or Services.

- 7.3.4. The Consultant covenants and agrees that it will not contract for or accept employment for the performance of any Work or Service with any individual, business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the County.
- 7.3.5. Consultant covenants and agrees that all of the Work or Services to be furnished by Consultant under this Contract and any Task Assignment from the inception of this Contract or Task Assignment until the Project has been fully completed, shall be of the standard and quality that prevail among similarly situated licensed professional consultants engaged in the Consultant's profession or practice in the State of Florida under the same or similar circumstances involving the design and/or construction of the Project.
- 7.3.6. Consultant covenants and agrees that all of the Work or Services to be furnished by Consultant shall be in accordance with the most current specifications or technology at the time this Contract is fully executed for projects such as the Project in the Task Assignment as of the time Consultant delivers to County the drawings, specifications and/or Deliverables. Thereafter, Consultant shall keep the County informed of any changes or advancements in such specifications or technology occurring any time prior to or during actual implementation of the Project.
- 7.3.7. Consultant covenants and agrees as follows:
- 7.3.7.1. Consultant recognizes that its special talent, training, and experience caused the County to select Consultant to be the prime professional on the Project or Task Assignment;
 - 7.3.7.2. Consultant comprehends the specifications and requirements of the Scope of Work of the applicable Task Assignment and the use of the same in their entirety to provide Project Deliverables; and
 - 7.3.7.3. Consultant possesses the special skills to recognize material errors or omissions that shall make a Deliverable fail to perform within the specifications and requirements of the Scope of Work for the applicable Task Assignment.
- 7.3.8. Consultant covenants and agrees that any Project data, reports, studies, designs, drawings, specifications and requirements prepared by Consultant or its agents or subconsultants shall be completed, pursuant to Section 7.3.5. In addition, Consultant shall include in any such reports, studies, bulletins, schedules, designs, drawings, and/or specifications warnings about known hazards to the Project.
- 7.3.9. Consultant covenants and agrees to the following: (1) the Project plans and specifications shall conform to their foreseeable use in the Project with all the amenities as set forth in the plans and specifications in the Task Assignment; and, (2) the Consultant shall produce Deliverables made pursuant to Section 7.3.5. Consultant's duties, as set forth herein, shall at no time be in any way diminished by reason of any approval by County of any plans or specifications in a Task Assignment, nor shall Consultant be released from any liability by reason of such approval by County, it being understood that County at all times is ultimately relying on Consultant's skill, expertise, and knowledge in preparing the plans and specifications or any other documentation. As such, said approval shall not be a defense to a claim or cause of action for contribution or indemnification by the County.

- 7.3.10. Consultant covenants and agrees that all persons connected with Consultant directly in charge of the professional work are duly registered and licensed under Florida law and pursuant to this Contract.
- 7.3.11. Consultant covenants and agrees that it shall be liable for all errors or omissions proximately caused by Consultant, if any, in judgment relative to the Work or Services of any Task Assignment under which Consultant provides Work or Services.
- 7.3.12. Consultant covenants and agrees to call to County's attention anything of any nature in any deliverables, reports, studies, bulletins, schedules, designs, drawings, documentation, plans, specifications, requirements or instructions prepared by Consultant or data supplied to Consultant by the County or any other party that Consultant regards in Consultant's professional opinion as unsuitable, improper, or inaccurate in connection with the purposes for which such data is furnished in the Project.
- 7.3.13. Consultant covenants and agrees to furnish efficient business administration of the Project and perform all Work or Services in the most expeditious and economical manner consistent with the standard of care applicable to a Consultant with the degree of skills and diligence.
- 7.3.14. Consistent with Section 7.3.11., Consultant covenants and agrees that it shall, at its own cost, make good any defects in its Work or Services as soon as Consultant becomes aware of such defects or is notified of such defects. Should Consultant refuse or neglect to make good such defects within a reasonable time after receiving notice requesting such remedial work, then County, pursuant to Section 6., shall be entitled to make good such defective Services at the expense of Consultant and/or terminate this Contract and the Task Assignment. This commitment by Consultant is in addition to, and not in substitution for, any other remedy for defective Work or Services that County may have at law or in equity.
- 7.3.15. Consultant covenants and agrees to provide all necessary and required plans for the successful design or completion of a Project as agreed to in the Task Assignment's Scope of Work and as governed by this Contract. Written Deliverables shall be made and delivered in accordance with this Contract or Task Contract. Each written Deliverable shall be accurate, legible and suitable for public bidding purposes. For recommendations concerning the plan preparation of studies, plants, or specifications, the Consultant should refer to the latest applicable manuals as determined by the County Project Manager. All studies, plans, drawings or specifications must meet the County's requirements to obtain permits or government documents, licenses and certificates as applicable in a Task Assignment. In addition the Consultant shall have the following responsibilities:
- 7.3.15.1. Consultant shall be responsible for preliminary coordination with the County and other appropriate regulatory agencies so that design efforts are properly directed towards permit approval;
- 7.3.15.2. If applicable in a Task Assignment, prepare permit packages based on preliminary coordination with the County and other appropriate regulatory agency's requirements at the time of submittal. The permit packages shall include site and system design information required by the County and other regulatory agencies, applicable sketches and calculations as set forth in the Task Assignment;

- 7.3.15.3. Consultant shall respond to the requests of the County and other regulatory agencies concerning the submitted information. The Consultant shall report to the County any requests for information not required at the time of permit submittal, as made known during preliminary coordination, reproductions in excess of requirements, or regulation changes requiring permit resubmission:
- 7.3.15.4. The County shall provide the permitting fees, but shall not pay an additional fee to the Consultant when the Consultant is required to resubmit a permit package to a regulatory agency so as to address deficiencies, omissions, or corrections to the original permit package that were the responsibility of the Consultant and that are not attributable to changes in rules made by the regulatory agency since submission of the original permit package:
- 7.3.15.5. Consultant shall review all design and shop drawings and other data that the Consultant is required to submit to the County or any state, local or federal agency. These drawings shall be reviewed for general conformance with the design concept of the Project and scope of work of the Task Assignment and general compliance with the information given in the Contract Documents;
- 7.3.15.6. Consultant shall make final review of Project Deliverables to determine if Work or Services were completed in general conformance with the Contract Documents; and
- 7.3.15.7. Consultant shall prepare and submit a schedule or time line of each task listed in a Task Assignment.
- 7.3.16. **Annual Statement of Qualifications.** Annually, the Consultant shall submit to the County's Contracts Administrator statements of qualifications and performance data confirming that Consultant is a duly licensed and registered professional Architect, Engineer, Landscape Architect, or Surveyor and Mapper as applicable in connection with Consultant's professional practice and the Services or Work provided to the County under this Contract.
- 7.3.17. **Design Phase.** As required by the County, Consultant shall submit a certain number of sets of design development documents and/or estimates as specified in the Task Assignment to the County for review. The plans and specifications shall be of sufficient detail indicating, e.g., floor plan layout, elevations, outline specifications to fix and illustrate the size and character of the entire Project in its essentials as to kinds of material, type of structure, mechanical and electrical systems, site work, and such other work as may be necessary for a completely functioning Project or completed design drawings and specification. As requested by the County Project Manager, the Consultant shall submit a unit cost or opinion of cost estimate for this phase of the Work or Services for review and approval of County. This estimate or opinion shall include, e.g., identification of costs for heating, ventilation, plumbing, air conditioning, and electrical lighting and power, and other items applicable to the Project or Task Assignment.
- 7.3.18. **Final Review of Plans, Specifications, and Estimates.**
 - 7.3.18.1. As requested by the County or as set forth in a Task Assignment, Consultant shall submit to County for review copies of the Project plans and specifications, and copies of the latest detailed cost estimate.

- 7.3.18.2. Upon completion and final approval by County of the Project plans, specifications, other Contract Documents, and cost estimates (if required in the Task Assignment), Consultant shall deliver to County as part of the contract obligation or as set forth in the Task Assignment, unless otherwise noted completed plans, designs, drawings, specifications, documents, and cost or opinion estimates.
- 7.3.18.3. Consultant shall submit to County original drawings and specifications that shall reflect all amendments to the Contract Documents.
- 7.3.18.4. Consultant agrees to furnish all services, materials, labor, and all other items required to undertake and complete all Work or Services required by this Contract or any Task Assignment in accordance with the drawings, plans, and specifications submitted to the County by Consultant or relied upon by the Consultant to complete the Project or Task Assignment.
- 7.4. **Assurance.** Consultant gives County its assurance that all Work or Services performed under this Contract shall be timely performed, pursuant to Section 7.3.5., and in accordance with the specifications and requirements of the Contract Documents and of any inspections (if applicable), tests (if applicable) or approvals required under the Contract Documents. All Work not conforming to the specifications and requirements of the Scope of Work of a Task Assignment or of the inspections, tests (if applicable) or approvals in a Task Assignment shall be considered materially defective and constitute a breach of this Contract or the Task Assignment.
- 7.5. **Tests and Inspections.** If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected and tested, and Consultant has agreed in a Task Assignment to perform such services, Consultant shall furnish the County's Project Manager with the required certificates of inspection, testing or approval. All tests shall be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization that may be required by law or the Contract Documents.
- 7.6. The Consultant shall be responsible for the professional and technical accuracy and the coordination of all data, reports and any other service furnished by the Consultant under this Contract or any Task Assignment. The Consultant shall, without additional cost to the County, correct or revise any errors or deficiencies in its Work or Service for which it is responsible.
- 7.7. All Work performed by Consultant including all general provisions, special provisions, job specifications, drawings, Addendum, Amendments to Task Assignments, written interpretations, and written orders for minor changes in Work, shall comply with the Scope of Work of a Task Assignment and all applicable local laws, codes, ordinances and statutes and the performance criteria in Section 3.2. Otherwise, if Consultant is an Architect or Engineer, only work certified by said consultant, which in whole or part constitutes, a Deliverable in a Task Assignment shall comply with the Scope of Work in a Task Assignment and all applicable local laws, codes, ordinances and statutes. Work not covered by Contract Documents in a Task Assignment shall not be required in a Project unless the County in its sole discretion determines that it is required by reasonable inference as being necessary to produce the intended Deliverable(s).
- 7.8. If applicable in a Task Assignment, Consultant will supervise and direct all Work or Services efficiently and pursuant to Section 7.3.5. As such, Consultant shall be solely responsible for the means, methods, techniques, sequences and procedures for the design or development of a Deliverable. Further, Consultant shall be responsible for assuring the County that finished Deliverables complies accurately with the Contract Documents or plans and specifications of the

Scope of Work in the applicable Task Assignment.

- 7.9. Consultant will make periodic visits as delineated in the Task Assignment to the site to observe the progress and quality of the executed construction Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents or Task Assignment. The efforts of the Consultant shall be directed toward providing assurance for the County that all Work completed in a Task Assignment shall conform to the requirements of the Scope of Work of the Task Assignment. On the basis of Consultant's observations, skills and experience, Consultant shall keep the County informed of the progress of all Work and shall endeavor to guard the County against defects and deficiencies in the Work. As required in the Task Assignment, each site visit will be followed by a report to the client of known deviations from the Contract Documents or plans and specifications in the Scope of Work of a Task Assignment.
- 7.10. Consultant shall issue with reasonable promptness all written clarifications or interpretations of a Task Assignment (in the form of drawings or otherwise as requested by the County) that Consultant may determine are necessary, which shall be consistent with or reasonably inferable from the overall intent of the Task Assignment.

7.11. Concerning Subconsultants.

- 7.11.1. Consultant shall not employ any subconsultant, other person or organization against whom the County may have reasonable objection, nor shall Consultant be required to employ any subconsultant against whom it has reasonable objection. Consultant shall not make any substitution for any subconsultant who has been accepted by the County without the County's approval.
- 7.11.2. County's disapproval or requirement of removal or replacement of Consultant's employee or subconsultant shall be deemed for lawful reasons if in County's reasonable judgment, such Consultant's employee or subconsultant poses a threat or causes harm to the health, welfare, safety or morale of the County or its agencies, personnel or property or who fails any drug test administered in connection with this Contract, or who has been convicted of a felony or a misdemeanor involving "moral turpitude" or has been released or dishonorably discharged or separated under other than honorable conditions from any of the Armed Forces of the United States.
- 7.11.3. Consultant shall be fully responsible for all negligent acts and omissions of its subconsultant or sub-subconsultants and of persons directly or indirectly employed by them and of persons for whose negligent acts any of them may be liable to the same extent that it is responsible for the negligent acts and omissions of persons directly employed by it. Nothing in the Contract Documents shall create any contractual relationship between any subconsultant and the County or any obligation on the part of the County to pay or to see to the payment of any moneys due any subconsultant, except as may otherwise be required by law. County may furnish to any subconsultant to the extent practicable, evidence of amounts paid to Consultant on account of specific work done in accordance with the schedule of values.
- 7.11.4. Consultant agrees to bind specifically every subconsultant to the applicable terms and conditions of the Contract Documents and the terms and conditions of Section 1-3 and 16 of this Contract for the benefit of the County.
- 7.11.5. The Consultant shall require all subconsultants or sub-subconsultants or outside associates employed in connection with the performance of this Contract to comply fully with the terms and conditions of this Contract between the County and the Consultant.

- 7.11.6. Any subcontractors or subconsultants and/or outside associates required by the Consultant in connection with the services covered by the Contract will be limited to such individuals or firms as are specifically identified for each Project assigned under this Contract. Any substitution of such subcontractors, subconsultants or associates will be subject to the prior written approval of the County Project Manager.
- 7.11.7. Consultant shall save and hold the County harmless from any and all claims or actions by Consultant's subconsultants or sub-subconsultants for payment of monies such subconsultant or sub-subconsultants claims to be owed by Consultant for Work performed under this Contract or a Task Assignment, provided that the County has paid Consultant in accordance with the terms of this Contract.
- 7.11.8. Nothing in this Contract or a Task Assignment shall create any obligation on the part of the County to pay directly to any subconsultants or sub-subconsultants of Consultant any monies due to such subconsultant or sub-subconsultants or claims of a subconsultant or sub-subconsultant for amounts owed by Consultant to subconsultant or sub-subconsultant for Work performed under this Contract or Task Assignment.

8. AUTHORIZATION FOR SERVICES.

- 8.1. **No Guarantee to Perform Projects.** The County makes no covenant or promise as to the number of available Projects, nor that the Consultant will perform any Project for the County during the life of this Contract. The County reserves the right to contract with other parties for the services contemplated by this Contract as determined in the County's sole and absolute discretion.
- 8.2. **Certifications for Completed Work.** Consultant shall sign and seal (hereinafter "Certification") all completed Work under a Task Assignment as required as a licensed professional or under Florida law; otherwise, the County Project Manager shall not have the authority to approve completed Work or Services and Consultant shall not be entitled to payment for the Work or Services covered by uncertified Work. In the event the County Project Manager accepts and approves completed Work bearing no such certification by the Consultant, such acceptance and approval shall not relieve Consultant or its subconsultants or agents of any liability for any defects, omissions or errors in the Deliverables of completed Work of a Task Assignment until such work is certified by Consultant.

9. INDEMNIFICATION.

- 9.1. Consultant shall, at its own expense, indemnify and hold harmless the County and its public officials (elected and appointed), successors and successors in interest, officers, agents, attorneys, and employees from and against all claims of every kind and nature (including losses incurred or suffered in consequences either of bodily injury to any person or damage to property), damages, losses and expenses including reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and its subconsultants or sub-subconsultants or agents performing Work or Services under this Contract or a Task Assignment, caused by any negligent act or omission of Consultant, any of Consultant's subconsultants or sub-subconsultants, anyone employed by any of them or anyone for whose acts any of them may be liable, except the Consultant will not be required to indemnify and hold the County harmless if such claim, damage, loss and expense is the result of the sole negligence of the County, or of anyone directly or indirectly employed by the County or anyone for whose acts the County may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Contract.

- 9.2. In all claims against the County or any of its public officials (elected and appointed), successors and successors in interest, officers, agents, attorneys and employees by any employee of Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consultant, contractor or any subcontractor or subconsultant under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 9.3. If Consultant is licensing, providing or developing software, including derivative works for use by the County, Consultant agrees to protect and indemnify and hold harmless the County, its agents, elected officials and employees of the County from and against any and all claims, demands, actions, and causes of action which may arise asserting that all or any part of the Consultant licensed applications provided under any software owned by Consultant and licensed to County or provided by Consultant for use thereof by the County, infringes or misappropriates any third party's United States patent, copyright or any trade secret protected under United States law.
- 9.3.1. In addition to the foregoing indemnification provision, Consultant shall also take the following steps to assure that County can continually use the software which Consultant has directly licensed to County or provided for use thereof by the County in substantially the same manner delivered or subsequently enhanced or modified by:
- 9.3.1.1. Promptly replace the allegedly infringing or misappropriated item or items with compatible, functionally equivalent items which are not alleged to be infringing or misappropriated; or
 - 9.3.1.2. Promptly modify the alleged infringing or misappropriated item or items to eliminate the alleged infringement or misappropriation without impairing County's intended use of the licensed applications and/or sublicensed applications in any manner; or
 - 9.3.1.3. Promptly procure the right for the County to continue to use the licensed applications and/or sublicensed applications without modification; and
 - 9.3.1.4. Unless otherwise agreed by the parties, promptly shall mean that the events described herein shall occur in no less than sixty (60) days from the date that notice of the claim is received by Consultant unless otherwise agreed by the Parties.
- 9.4. **Confidential Information and Indemnification.** If Consultant is licensing or developing software (including derivative works) for use by the County, Consultant grants County a perpetual, fully-paid, non-assignable, non-exclusive, royalty-free license to use Consultant's software deliverables developed or licensed under a Task Assignment. Said license includes software owned by Consultant which is furnished under this Contract or a Task Assignment, for County's internal use with such use to include the right to modify such deliverable(s) and to create derivative works for such internal use including, without limitation, the right to use such deliverable(s).
- 9.5. The terms "proprietary software, sensitive information" and "trade secret" shall constitute Confidential Information and shall be that which is defined in and exempt from disclosure pursuant to Florida Statutes, Chapter 119, and Section I, Section 24 of the Florida Constitution ("Florida Public Records Law"), and Chapter 812 of the Florida Statutes. In addition and for the purposes of this Contract and any Task Assignment, Confidential Information shall include confidential information and/or trade secret information disclosed by Consultant to County that

is expressly identified in writing by Consultant and Consultant's subconsultants or sub-subconsultants. Any Confidential Information provided to County by Consultant must be expressly identified in a "Nondisclosure Contract for Confidential Materials" form which Consultant may obtain from the County's Purchasing Division.

9.5.1. Confidential Information and/or Trade Secret do not include the following:

- 9.5.1.1. Information already known or independently developed the party in possession; or
- 9.5.1.2. Information in the public domain through no wrongful act of the party in possession; or
- 9.5.1.3. Information received by the party in possession from a third party who was free to disclose it; or
- 9.5.1.4. Information regularly disclosed to third parties without restriction on disclosure; or
- 9.5.1.5. Information required to be disclosed by law or an order of a court of competent jurisdiction.

9.6. In the event that Consultant does not enable the County to use that which Consultant has delivered through accomplishing one or more of the alternatives set forth above within aforementioned time period set forth herein during the term of this Contract or Task Assignment, Consultant shall be in material default of this Contract and subject to Section 6: Termination.

9.7. If Consultant is granting a license or develops software for the County in a Task Assignment, it hereby warrants and represents that:

- 9.7.1. Consultant is the sole owner of all right, title, and interest in and to the Consultant licensed software, user manuals and documentation, including all patents, copyrights, copyright rights, trade secrets, trademarks, trade names and all proprietary and intellectual rights and confidential information contained therein, and that it is authorized to enter into this Contract and grant County a perpetual license; and
- 9.7.2. No portion of any licenses or right granted to the County to use Consultant's software pursuant to the terms of the applicable software license Contract of Consultant for any work performed under this Contract or Task Assignment violates or is protected by right, title, interest or similar right of any third person or entity.

10. LIMITATION OF LIABILITY AND REMEDIES.

10.1. **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes (as amended). 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 of limits of liability of County beyond any statutory limited waiver of immunity of 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 County for damages regardless of the number or nature of claims in tort, equity or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit on any third party for the purpose of allowing any claim against County which would otherwise be barred under the doctrine of sovereign immunity or

operation of law.

11. COUNTY REPRESENTATIVE.

- 11.1. The Work or Services shall be provided by the Consultant under the direction of the authorized County Representative, except as limited by the County's Purchasing and Contracts Procedures (see www.volusia.org/purchasing), who shall have decision authority subject to the requirements of the County's Purchasing Procedures Manual for all phases of the Work, including general direction, review and approval of the Work or Services.
- 11.2. Neither the County Representative's review, approval or acceptance of, nor payment for any of the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Consultant shall be and remain liable to the County for all costs of any kind which were incurred by the County as a result of the Consultant's negligent performance of the services furnished under this Contract.

12. REUSE AND OWNERSHIP OF DOCUMENTS.

- 12.1. Provided that Consultant has been paid by County for all completed Work in the applicable Task Assignment in accordance with the terms of this Contract, the County shall have unlimited rights, for the benefit of the County, in all reports, statistical data, specifications, notes and other Consultant's work produced in the performance of this Contract, including right to copy plans for any purpose including for the use and maintenance of the Deliverable(s) of a Project. If County determines to reuse or adapt plans signed and sealed by Consultant, Consultant shall be entitled to further reasonable compensation at rates agreed upon by County and Consultant prior to executing and commencing any Work in a Task Assignment. Said rates shall be incorporated in the Task Assignment. Further, all documents prepared by Consultant pursuant to this Contract are instruments of service in respect of the Project or Task Assignment. The Consultant shall not be liable for the negligent reuse by the County of said documents.
- 12.2. All deliverables analyses, reference data, survey data, plans and reports or any other form of written instrument or document that may result from the Consultant's Work or Services or that have been created during the course of the Consultant's performance under this Contract shall become property of the County and/or "works made for hire" (as defined under the 1976 Copyright Act (Title 17 of the United States Code) as amended) after final payment is made to the Consultant.

13. EXPERT WITNESS

- 13.1. If requested by the County, the Consultant shall serve as an expert or professional witness for the County in any legal proceedings arising in connection with this Contract. The expert or professional witness fee for Consultant shall be a reasonable rate negotiated at the time the Consultant is called for such a duty.

14. AUDIT AND EXAMINATION OF RECORDS

- 14.1. For purposes of verifying that invoices submitted, in conjunction with the negotiation of this Contract or any Contract change or other modification are accurate, complete, and current, the County Project Manager, or County's authorized representative(s), shall - until the expiration of three (3) years from the date of final payment under this Contract - have the right to examine those books, records, documents and other supporting data that will permit adequate evaluation of the invoices submitted, along with the computations and projections used therein that were prepared by the Consultant in connection with work under this Contract. Unless the price is

based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices are set by law or regulation. The Consultant agrees to insert the substance of this clause in all subcontracts hereunder so as to apply until three (3) years after final payment under the subcontract.

16. INSURANCE REQUIREMENTS.

16.1. Required Types of Insurance:

The Consultant shall purchase and maintain at its own expense, during the term of this Contract the following types and amounts of insurance with limits no less than those shown below, in the form and from companies satisfactory to the County:

SCHEDULE

LIMITS

Workers' Compensation

Florida Statutory Coverage

Commercial General Liability\$2,000,000. General Aggregate
\$2,000,000. Products/CompOps Aggregate
 Products-Completed Operation.....\$1,000,000. Personal/Advertising Injury
\$1,000,000. Each Occurrence

(The County of Volusia shall be named as an additional insured under all of the above Commercial General Liability coverage.)

Auto Liability.....\$1,000,000. CSL
 All autos-owned, hired or no-owned
 (Symbol 1 Coverage)

Professional Liability.....\$1,000,000. (Project Specific)
 (Errors & Omissions)

- 16.1.1. Minimum underlying coverage's shall include Commercial General Liability, Automobile Liability and Workers' Compensation/Employer's Liability. Umbrella liability limit will not be required to be carried by subconsultants.
- 16.1.2. Umbrella or Excess Liability policies may be used to obtain the total limits of liability required to meet the required limits of coverage stated above. Evidence of such coverage should clearly demonstrate the underlying coverage's/policies that are included.
- 16.1.3. **Workers' Compensation Insurance.** Workers' Compensation insurance is required for all employees of the Consultant, employed or hired to perform or provide Work or Services under this Contract or that is in any way connected with Work or Services performed under this Contract, without exclusion for any class of employee, and shall comply fully with the Florida Workers' Compensation Law (Chapter 440, Florida Statutes, Workers' Compensation Insurance) and include Employers' Liability Insurance with limits no less than the statutory amount shown above per occurrence.
 - 16.1.3.1. Consultant and its Subconsultants, or any associated or subsidiary company doing Work on County property or under this Contract must be named in the Workers' Compensation coverage or provide proof of their own Workers'

Compensation coverage, without exclusion of any class of employee, and with a minimum of the statutory limits per occurrence for Employer's liability coverage. Further, if the Consultant's Subconsultants fail to obtain Workers' Compensation insurance and a claim is made against the County by the uncovered employee of said Subconsultant of the Consultant, the Consultant shall indemnify, defend, and hold harmless the County from all claims for all costs including attorney's fees and costs arising under said employee(s) Workers' Compensation insurance claim(s).

16.1.4. Commercial General Liability Insurance. Commercial General Liability insurance, with a limit of not less than the amounts shown above with an aggregate limit and per occurrence basis, including coverage for the Consultant's operations "broad form" property damage coverage's protecting itself, its employees, agents, for claims for damages caused by bodily injury, property damage, or personal or advertising injury, products liability/completed operations including what is commonly known as groups A, B, and C (libel, false arrest, slander). Such policies shall include coverage for claims by any person as a result of actions directly or indirectly related to the employment of such person or entity by the Consultant arising from Work or Services performed under this Contract. Public liability coverage shall include either blanket contractual insurance or a designated contract contractual liability coverage endorsement, indicating expressly the Consultant's contract to indemnify, and hold harmless the County as provided in this Contract. The commercial general liability policy shall be endorsed to include the County as an additional insured. The commercial general liability policy shall provide exclusive coverage for the location or project site where the Work or Services are to be performed under this Contract. In the alternative, the commercial general liability policy shall be endorsed to provide the designated aggregate per location endorsement or equivalent on a form approved or requested by the County Risk Manager.

16.1.5. Motor Vehicle Liability. The Consultant shall secure and maintain during the term of this Contract, motor vehicle coverage in the split limit amounts of no less than the amounts shown above per person, per occurrence for bodily injury and for property damage or a combined single limit of the amount shown above (including "Any Auto" Symbol 1 coverage), protecting itself, its employees, agents or lessees, or subsidiaries and their employees or agents against claims arising from the ownership, maintenance, or use of a motor vehicle.

16.1.6. Professional Liability. The Consultant shall ensure that it secures and maintains, during the term of this Contract, Professional Liability insurance with limits of no less than the amount shown above contemplated by this Contract. Such policy shall cover all the Consultant's professional liabilities and broad enough to include errors and omissions specific to Consultant's professional liability for direct and contingent design errors and Architect's/Engineers professional liability with no exclusions for design-build work.

16.1.6.1. If the Consultant fails to secure and maintain the professional liability insurance coverage required herein, the Consultant shall be liable to the County and agrees to indemnify, defend, and hold harmless the County against all claims, actions, losses or damages that would have been covered by such insurance.

16.1.6.2. The Consultant must maintain a retroactive date prior to or equal to the effective date of this Contract. The Consultant shall purchase a Supplemental Extended Reporting Period ("SERP") with a minimum reporting period of not less than three (3) years in the event a sub-consultant's policy is canceled, not renewed, switched to occurrence form, or any other event which requires a purchase of

SERP to cover a gap in insurance for claims which may arise under or related to this Contract. The Consultant's purchase of the SERP shall not relieve the Consultant of the obligation to provide replacement coverage. In addition, the Consultant shall require have the sub-consultant's carrier immediately inform the Consultant, and the County of Volusia's Risk Management Division and the Purchasing and Contracts Division of any contractual obligations that may alter its professional liability coverage under this Contract.

- 16.1.7. **Primary and Excess Coverage.** Any insurance required may be provided by primary and excess insurance policies.

16.2. General Insurance Requirements:

- 16.2.1. All insurance policies 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.
- 16.2.2. Approval by County of any policy of insurance shall not relieve Consultant from its responsibility to maintain the insurance coverage required herein for the performance of Work or Services by the Consultant or its Subconsultants for the entire term of this Contract and for such longer periods of time as may be required under other clauses of this Contract.
- 16.2.3. **Waiver of Subrogation.** The Consultant hereby waives all rights against the County and its Subconsultants to the extent of the risk coverage by any insurance policy required hereunder for damages by reason of any claim, demand, suit or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of this Contract. The Consultant shall require similar waivers from all its Subconsultants. This provision applies to all policies of insurance required under this Contract (including Workers' Compensation, and general liability).
- 16.2.4. **County Not Liable for Paying Deductibles.** For all insurance required by Consultant, the County shall not be responsible or liable for paying deductibles for any claim arising out of or related to the Consultant's business or any Subconsultant performing Work or Services on behalf of the Consultant or for the Consultant's benefit under this Contract.
- 16.2.5. **Cancellation Notices.** During the term of this Contract, Consultant shall be responsible for promptly advising and providing the County's Risk Management and the Purchasing and Contracts divisions with copies of notices of cancellation or any other changes in the terms and conditions of the original insurance policies approved by the County under this Contract within two (2) business days of receipt of such notice or change.
- 16.2.6. For any on-site Work performed by or on behalf of Consultant on County property, the County shall be named as an additional insured or additional named insured subject to review and determination by County's Risk Manager on all policies required under this Contract.
- 16.2.7. Deductibles. For purposes of this Contract, Contractor shall not obtain an insurance policy with a deductible or self-insurance provision.

16.3. Proof of Insurance:

- 16.3.1. The Consultant shall be required to furnish evidence of all required insurance in the form of certificates of insurance, which shall clearly outline all hazards covered as itemized herein, the amounts of insurance applicable to each hazard and the expiration dates.
- 16.3.2. The Consultant shall furnish proof of insurance acceptable to the County prior to or at the time of execution of this Contract and the Consultant shall not commence Work or provide any Service until the Consultant has obtained all the insurance required under this Contract and such insurance has been filed with and approved by the County. Upon request from the County, the Consultant shall furnish copies of the following types of insurance policies and any changes or amendments thereto, during its normal business hours, to the County and County's Risk Management and Purchasing and Contracts Divisions, prior to the commencement of any contractual obligations. This Contract may be terminated by the County, without penalty or expense to County, if at any time during the term of this Contract proof of any insurance required hereunder is not provided to the County.
- 16.3.3. All certificates of insurance shall clearly indicate that the Consultant has obtained insurance of the type, amount and classification required by this Article. No Work or Services by Consultant or its Subconsultants shall be commenced until County has approved these policies or certificates of insurance. Further, the Consultant agrees that the County shall make no payments pursuant to the terms of this Contract until all required proof or evidence of insurance has been provided to the County. This Consultant may be terminated by the County, without penalty or expense, if proof of any insurance required hereunder is not provided to the County.
- 16.3.4. The Consultant shall file replacement certificates with the County at the time of expiration or termination of the required insurance occurring during the term of this Contract. In the event such insurance lapses, the County expressly reserves the right to renew the insurance policies at the Consultant's expense or terminate this Contract but County has no obligation to renew any policies.
- 16.4. The provisions of this Article shall survive the cancellation or termination of this Contract.

17. LOCAL GOVERNMENT POLICIES.

- 17.1. **Public Records Law.** Consultant acknowledges that the County and Consultant are required to comply with the Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Contract and that said statute controls over the terms of this Contract. To the extent practicable, the County agrees to notify Consultant of any public records request concerning the Consultant or matters relating to the services provided under this Contract. Consultant agrees to comply with all provisions of such Public Record Act as they apply to the Consultant.
- 17.2. **Payments Subject to Appropriation.** Notwithstanding any other term or provision of this Contract, the continuation of this Contract or Task Assignment beyond a single fiscal year of County is subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes. If at any time funds are not appropriated for the Services and Deliverables provided or to be provided under this Contract or Task Assignment, cancellation

shall be accepted by Consultant with thirty (30) days prior written notice, but failure to give such notice shall be of no effect. Termination by the County due to non-appropriation shall be without a termination charge by Consultant. County shall not be obligated to pay Consultant under this Contract beyond the date of termination except as set forth in Section 6 – Termination. County’s obligation to pay Consultant is limited to the budgeted amount for a fiscal year approved by the Volusia County Council for the then current fiscal year of this Contract and is otherwise limited to legally available non-ad valorem tax revenues. Consultant shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation set forth in Section 5 – Contract Price and Compensation. The parties agree to review the Project Work plan and remaining Work to be performed in advance of each new fiscal year for the County to compare the funding allocated for the next fiscal year to the cost of the remaining Scope of Work of the Project or Task Assignment, to determine whether or not the allocated funding will be adequate to cover all Work to be completed in the next fiscal year. The cost of the remaining Project shall be the fixed fee/lump sum or price, maximum-not-to-exceed compensation less all amounts paid and less all amounts on pending undisputed invoices. Unless the parties agree that the funding allocated for the next fiscal year is adequate for the next fiscal year’s Work, either party may terminate this Contract in accordance with the provisions of Section 6 – Termination.

- 17.3. **Truth-in-Negotiations.** Consultant’s signature on this Contract or a Task Assignment shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Assignment are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Consultant has disclosed all debts or fees owed to or that are pending before the County prior to the execution of this Contract or a Task Assignment.
- 17.4. **No Code Violation or Past Due Debt.** Consultant warrants and represents that neither the business, nor any officer or significant stakeholder of the business is in violation of the Volusia County Code of Ordinances, and does not owe the County any past due debt. Any breach of the foregoing warranty and representation shall be a material breach of this Contract and the County shall have the right to terminate this Contract as set forth herein.
- 17.5. **Changes Due to Public Welfare.** The County and Consultant agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or due to change in law or Ordinance.
- 17.6. **Compliance with Applicable Laws.** Consultant shall perform its obligations hereunder in accordance with all applicable federal, state and local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the performance of this Contract. Consultant shall protect and indemnify County and all its officers, agents, servants and employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order or decree caused or committed by Consultant, its representatives, subconsultants, professional associates, agents, servants or employees. Additionally, Consultant shall obtain and maintain at its own expense all applicable licenses and permits to conduct business pursuant to this Contract from the federal government, State of Florida, County of Volusia or municipalities when legally required and maintain same in full force and effect during the term of this Contract.
- 17.7. **Nondiscrimination and Americans with Disabilities Act.** Consultant shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Contract. Consultant agrees it shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA)

in the course of providing all Services funded by County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In performing under this Contract, Consultant agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for Work under this Contract because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.

- 17.7.1 In accordance with the American Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing a special accommodation to participate in the proceedings, or an interpreter to participate in any proceedings, should contact the county's ADA Coordinator at 386-248-1760 for assistance, at least two business days before any meeting date. Assisted listening system receivers are available for the hearing impaired, and can be obtained from the Deputy Clerk by contacting the county's ADA Coordinator at 386-248-1760. Read the full ADA Notice under The American with Disabilities Act (Title II). Read the County of Volusia Grievance Procedure under The Americans with Disabilities Act (Title II).
- 17.8. **Drug Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. Consultant agrees that it shall provide a drug-free environment to its personnel during the term of this Contract and will comply, subject to the prior receipt thereof, with the County's policies on drug-free and smoke-free work place during the term of this Contract.
- 17.9. **Background Checks.** Consultant and County understand that certain areas of the County's premises may not be available to Consultant's personnel without background checks and that such access is not required to perform the services contemplated by this Contract.
- 17.10. **Employment of Illegal Aliens.** Consultant certifies that it does not knowingly or willingly and will not during the performance of the Contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.
- 17.11. **Prohibition Against Contingent Fees:**
- 17.11.1. The Consultant warrants that he or she or it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Contract and that he or she or it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, compensation, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the County shall have the right to terminate this Contract or Task Assignment without liability and, at its sole discretion, to deduct from the contract price or compensation, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
- 17.11.2. Consultant understands and acknowledges that any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for the Consultant, who offers, agrees, or contracts to solicit or secure County contracts for professional services for any other individual, company, corporation, partnership,

or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this State, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.

17.11.3. Any Architect, professional Engineer, or registered Surveyor and Mapper, or any group, association, company, corporation, firm, or partnership thereof that is a Consultant under this Contract, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.

17.11.4. Any County official, agent or employee who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the County and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.

17.12. EQUAL OPPORTUNITY; DISADVANTAGED BUSINESS ENTERPRISES:

17.12.1. During the performance of this Contract, the Consultant agrees as follows:

17.12.1.1. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, up-grading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

17.12.1.2. Municipal Code section 2-269, County Ordinance No. 90-20, § 9,5-17-90 of the County Council of the County of Volusia, establishing policies and procedures for the Disadvantaged and Women's Business Enterprises program shall be part of this Contract and the Consultant shall endeavor to fulfill the goals and policies of this Resolution as applicable to this Contract.

18. DISPUTE RESOLUTION.

18.1. The parties to this Contract shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to this Contract in accordance with the provisions set forth in this Section. The Consultant and County Project Manager shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this Contract or Task Assignment and any applicable Scope of Services. Issues shall be escalated to successive management levels as indicated in Section 18.3.

18.2. If a dispute develops between the parties concerning any provision under this Contract or Task

Assignment, or the interpretation thereof, or any conduct by the other party under these Contracts, and the parties are unable to resolve such dispute within five (5) days, that party, known as the Invoking Party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-Invoking Party's Project Manager or designated representative, as the case may be, of the other party in writing ("Dispute Notice") in order to resolve such dispute.

- 18.3. Upon issuance of a Dispute Notice, the Project Managers or designated representative(s) shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Managers or designated representative(s) shall negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Managers or designated representative(s) within five (5) business days, the Project Managers or designated representative(s) shall escalate the dispute as indicated below.

Business Days	Consultant's Representative	County Representative
5	Consultant	Project Manager
10	Consultant's Engagement Manager	Director of Purchasing and Contracts
15	Consultant's Business Unit Manager or Designee	Chief Financial Officer

- 18.4. **Formal Dispute Resolution.** At any point after issuance of a Dispute Notice under this Section, either party may initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction. If litigation is prematurely commenced, it shall be stayed until the mediator makes the required certification.

19. FORCE MAJEURE.

- 19.1. Neither party will be liable for any failure or delay in the performance of its obligations under this Contract (and the failure or delay will not be deemed a default of this Contract or grounds for termination) if both of the following conditions are satisfied: (i) the failure or delay could not have been prevented by reasonable precautions, and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) the failure or delay is caused, directly or indirectly, by reason of fire or other casualty, natural disaster, epidemic or accident; strikes or labor disputes; inability to procure raw materials, equipment, power or supplies; war, terrorism or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency or intergovernmental body other than a party hereto; or any other act or condition beyond the reasonable control of the non-performing party. Accordingly, the parties further agree that:
- 19.2. Upon the occurrence of an event which satisfies both of the above conditions (a "Force Majeure Event"), the non-performing party will be excused from any further performance of those obligations under this Contract affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use

commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

19.3. Upon the occurrence of a Force Majeure Event, the non-performing party will notify the other party within two (2) business days of the failure, or as soon as possible after such failure or delay if the Force Majeure Event prevents compliance within two (2) business days, of the occurrence of a Force Majeure Event and will describe in reasonable detail the nature of the Force Majeure Event.

19.4. In the event of a Force Majeure Event, the time for performance by the parties under the applicable Project shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order pursuant to the terms of this Contract.

20. CLAIMS NOTICE.

20.1. The Consultant shall timely report in writing to the County's Director of Risk Management any incident which it believes might result in a claim or claims against the County under any of the coverages mentioned herein.

Name: County of Volusia, Florida
Personnel/Risk Management Division
Address: 230 North Woodland Boulevard, Suite 250
DeLand, Florida 32720
Telephone: (386) 736-5963
Fax: (386) 822-5006

21. SUCCESSORS AND ASSIGNS.

21.1. Consultant may not assign or otherwise convey Contractor's rights and/or obligations under this Contract without first providing County with a processing fee of Five Hundred Dollars (US\$500.00) and obtaining County's prior written consent, which consent County may withhold, limit and/or condition in County's sole discretion, including, but not limited to posting a performance bond. Any consent by the County under this section shall be by written amendment to the Contract in a form and substance specified by the County in its sole discretion. If Consultant desires to assign or otherwise convey its rights and/or obligations under this Contract, Consultant shall, no less than one hundred twenty (120) days prior to the assignment's proposed effective date, provide County with a written request for County's consent.

Failure by the Consultant to obtain the County's consent in accordance with this section prior to assignment or other conveyance shall: 1) constitute a material breach of the Contract; and 2) entitle the County to retain any and all legal rights, claims and defense to enforce this section, including, but not limited to, injunctive, declaratory, damages and attorney's fees and costs. Payment of any sum by the County in accordance with the Contract to the Consultant or any person or entity prior to the Consultant obtaining the County's consent to the assignment shall not constitute a waiver of the rights of the County under this section.

Nothing herein shall preclude the right of the County to waive its rights under this section but no waiver shall be granted by the County without amendment to the Contract. The Consultant is hereby placed on notice that the County may demand a discount of up ten percent (10%) from those rates or compensation for the goods or services established in the Contract as a condition to execution of the amendment.

- 22. ADDITIONAL RIGHTS AND REMEDIES.** The rights and remedies of the County provided for under this Contract are in addition to any other rights and remedies provided by law; the County may assert its right of recovery by any appropriate means including, but not limited to, set-off, suit, with-holding, recoupment, or counterclaim, either during or after performance of this Contract.
- 23. MBE.** This Contract is entered into by the County and Consultant pursuant to the minority business enterprise procurement goals under Section 287.09, F.S.
- 24. CONTROLLING LAW.** This Contract or Task Assignment is to be governed by the laws of the State of Florida. Venue for any litigation between the parties to this Contract or Task Assignment shall be in the County of Volusia, Florida and any trial shall be non-jury. Each party agrees to bear its own costs and attorneys fees relating to any dispute arising under the Contract.
- 25. MODIFICATIONS TO CONTRACT.** This Contract or Task Assignment and any exhibits, amendments and schedules may only be amended, supplemented, modified or canceled by a written instrument duly executed by the parties hereto of equal dignity herewith.
- 26. NOTICE.** All notice required under this Contract or Task Assignment shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

In the case of County:	with a copies of legal notices to:
County of Volusia Attn: Director of Purchasing and Contracts Address: 123 W. Indiana Ave., Room 302 DeLand, Florida 32720 Phone: (386) 736-5935 Fax: (386) 736-5972	County of Volusia Attn: County Attorney Address: 123 W. Indiana Ave., Room 301 DeLand, Florida 32720 Phone: (386) 736-5950 Fax: (386) 736-5990
In the case of Consultant:	with a copy of legal notices to:
Pegasus Engineering, LLC Attn: David Hamstra, P.E. Address: 301 W. State Road 434, Suite 309 Winter Springs, Florida, 32708 Phone: (407) 992-9160 E-mail: david@pegasusengineering.net	Pegasus Engineering, LLC Attn: David Hamstra, P.E. Address: 301 W. State Road 434, Suite 309 Winter Springs, Florida, 32708 Phone: (407) 992-9160 E-mail: david@pegasusengineering.net

- 27.** This Contract or Task Assignment, together with any exhibits, schedules, attachments and amendments thereto constitute the entire Contract between County and Consultant and supersede all prior written or oral understandings.

IN WITNESS WHEREOF, the parties have made and executed this Contract for Consulting Services for Stormwater and Environmental Engineering Services, the day and year below written.

CONSULTANT: Pegasus Engineering, LLC.

BY: Furson Munjed
(Signature)

(SEAL)

BY: Furson Munjed, P.E., MGRM
Corporate Officer Name & Title

Date: 4.28.2014

ATTEST: [Signature]

Date: 4/28/14

COUNTY OF VOLUSIA

BY: [Signature]
Jason P. Davis
County Chair

Date: 6/25/2014

ATTEST: [Signature]
James T. Dinneen
County Manager

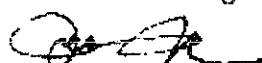
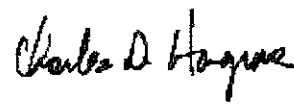
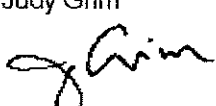
(SEAL)

Date: 6/27/14

County Council Approval Date: 6/19/2014

Exhibit "A" -- Sample Task Assignment

Exhibit "B" -- Proposal dated 02-06-2014

Date: 06/19/2014		AGENDA ITEM		Item: 23						
☐ Ordinance	☐ Resolution	☐ Budget Resolution	☒ Other							
Department: Public Works Division: Road and Bridge										
Subject: Selection of firms to provide stormwater and environmental engineering services, 14-SQ-55KW.										
John Angiulli Director Public Works 	Jeaniene Jennings Director Purchasing  Approved in Accordance with Purchasing Policies and Procedures	Legal Charles Hargrove County Attorney 	County Manager's Office Charlene Weaver, CPA, CFO Deputy County Manager 							
Judy Grim 	Phyllis Schwarz Proxy for Tammy Bong Director Management and Budget Approved as to Budget Requirements	Approved as to Form and Legality								
Council Action: Approved As Recommended										
Modification:										
Fund Number(s):: 999 Various		Description: N/A		Amount: \$0.00						
Total Item Budget: \$0.00										
Staff Contact(s): John Angiulli Judy Grim		<table style="width: 100%; border: none;"> <tr> <td style="text-align: right;">Phone:</td> <td style="text-align: right;">Ext.</td> </tr> <tr> <td style="text-align: right;">386 736 5965</td> <td style="text-align: right;">12712</td> </tr> <tr> <td style="text-align: right;">386 822 6422</td> <td style="text-align: right;">20459</td> </tr> </table>			Phone:	Ext.	386 736 5965	12712	386 822 6422	20459
Phone:	Ext.									
386 736 5965	12712									
386 822 6422	20459									
Summary/Highlights: In response to a solicitation, the county received statements of qualifications to provide stormwater and environmental engineering services from 13 firms shown on the attached tabulation sheet. An evaluation committee comprised of Jon Cheney, traffic engineering director; Judy Grim, road and bridge director; Scott Martin, engineering section manager; Jim McNelly, mosquito control director; and Mike Ulrich, water resources and utilities director, reviewed the responses. The committee recommends award of contracts for three years to the following five firms: CDM Smith, Inc., Maitland, Florida; Jones Edmunds & Associates, Inc., Gainesville, Florida; McKim & Creed., Inc, Daytona Beach, Florida; Pegasus Engineering, Inc. Winter Springs, Florida; and										

Quentin L. Hampton Associates, Inc., Port Orange, Florida.

Authorization for services shall be by written task assignment. The work and dollar amount for each assignment will be negotiated on an as-needed basis per project. All work will be accomplished in accordance with the county council approved budget.

Recommended Motion: Approval.



PEGAS-1

OP ID: KM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/27/2016

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 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 JCJ Insurance Agency 2208 Hillcrest Street Orlando, FL 32803 Mark E. Jackson		CONTACT NAME: Kristin McIntosh PHONE (A/C, No, Ext): 321-445-1117 E-MAIL ADDRESS: certs@jcj-insurance.com FAX (A/C, No): 321-445-1076		
		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : Travelers Indemnity Co.		25658
		INSURER B : Travelers Casualty & Surety Co		19038
		INSURER C : Axis Insurance Company		37273
		INSURER D :		
		INSURER E :		
		INSURER F :		

INSURED
Pegasus Engineering LLC
301 W. SR 434, Suite 309
Winter Springs, FL 32708

COVERAGES

CERTIFICATE NUMBER:

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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	X	X	680-5D254960	09/18/2015	09/18/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Emp Ben. \$ 1,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS	X	X	680-5D254960	09/18/2015	09/18/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			CUP-5D257010	09/18/2015	09/18/2016	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	UB-4128T792	09/18/2015	09/18/2016	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Professional Liab			AEA000099-01-2015	09/18/2015	09/18/2016	Per Claim 2,000,000 Aggregate 2,000,000

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

City of Port Orange additional insured as respects General & Auto Liability when required by written contract. Waiver of subrogation applies to the additional insured when required by written contract.

CERTIFICATE HOLDER

CANCELLATION

PORT100 City of Port Orange 1000 City Center Circle Port Orange, FL 32129	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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CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 05/17/2016

Consent item: No

SUBJECT: Purchase Sale Agreement for ±15 Acres in the Port Orange Business Park

DEPARTMENT: Community Development

GOAL: 3 - Economic Development

OBJECTIVE: 2 - Develop strategy for use of appropriate incentives for desirable development

RECOMMENDED MOTION: Move to approve a purchase and sale agreement with Thompson Pump, Inc. for 15+/- acres in the Port Orange Business Park for a purchase price of \$1,000,000.00 and authorize the Mayor and City Manager to execute all documents, including but not limited to articles, bylaws, declarations, easements, and such other legal documents necessary to complete the transaction.

SUMMARY: We have received an offer from Thompson Pump to purchase approximately 15 acres that the City owns located at Williamson Boulevard and Hockney Lane. An aerial view of the parcel is attached. The terms of this offer are as follows:

- Purchase price of \$1,000,000.00.
- A deposit of \$50,000.00 will be paid upon City's acceptance of this offer. Balance to be paid at closing.
- The purchase sales agreement provides a credit to Thompson Pump up to \$270,000.00 towards the estimated total of approximately \$450,000.00 site development fees and building permit fees plus 69,000 cubic yards of dirt from the City's wellfield for onsite fill. The credit may not be applied to connection and impact fees.

Acceptance of this offer will provide the opportunity for one of the City's major businesses to expand while remaining within the City. It may also provide an opportunity at some future time for the current property of Thompson Pump to be converted to other uses. In addition, upon transfer, this property will be subject to ad valorem taxes.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Contract for Purchase of 15+/- acres	Contract for Purchase 15 acres off Williamson.pdf
2.	Aerial View of Subject Property	Aerial View of 15 acres on Williamson.pdf

Penelope Cruz	Created/Initiated - 05/04/2016
Wayne Clark	Approved - 05/05/2016
Shannon Balmer	Approved - 05/06/2016
Tracey Riehm	Approved - 05/09/2016
Margaret Roberts	Approved - 05/12/2016
M. Jake Johansson	Final Approval - 05/12/2016



CONTRACT FOR SALE AND PURCHASE
OF REAL PROPERTY

THIS CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY, hereinafter, the "Contract" is made and entered into this _____ day of _____, 2016, between: THOMPSON PUMP & MANUFACTURING COMPANY, INC., mailing address P.O. Box 291370, 4620 City Center Drive, Port Orange, FL 32129, hereinafter referred to as "Purchaser"; and CITY OF PORT ORANGE, FLORIDA, a municipal corporation, mailing address: c/o City Manager, 1000 City Center Circle, Port Orange FL 32129-4144, hereinafter referred to as "Seller."

1. Seller agrees to sell and Purchaser agrees to purchase the following described real estate, with its appurtenances, located in the southeast quadrant of South Williamson Boulevard and Hockney Court, in Port Orange, County of Volusia, State of Florida:

NON COMMON AREA PARCEL FOR PORT ORANGE BUSINESS PARK EXC
IRREG PARCEL MEAS 383.37 FT ON E/L HOCKNEY CT & MEAS. 983.80 FT
ONS/L PER OR 6370 PG 114 PER OR 6370 PG 50 & EXC IR REG PARCEL EL
MEAS. 1170.55 ON E/L & 758.38 ON S/L PER OR 6381 PG 3329.

Being generally described and graphically depicted on **Exhibit "A"** attached hereto and made a part hereof by reference. Seller and Purchaser agree that a final legal description of the property shall be prepared by a surveyor engaged and paid for by Purchaser.

The subject real estate being hereinafter referred to as the "Property".

General Vicinity of Property: At the intersection of Williamson Boulevard and Hockney Court, City of Port Orange, Volusia County, Florida.

Improvements Serving the Site: Stormwater facilities, public road, and public utilities.

Tangible Personal Property: None

This Contract shall be subject to the Standards for Real Estate Transactions ("the Title Standards") set forth on the form contract approved by The Florida Bar and The Florida Association of Realtors, Inc., attached hereto as **Exhibit "B."** In the event of a conflict between the terms of the Contract and the terms contained in **Exhibit "B,"** the Contract shall control.

2. Purchase Price and Method of Payment. The purchase price payable to Seller is as follows:

(a) The Purchase Price for the Property is: One Million Dollars (\$1,000,000.00);

- and
- (b) A deposit/down payment of Fifty Thousand Dollars (\$50,000.00) shall be submitted upon acceptance of this offer by the City Council and the balance to be paid at closing. Upon execution of the Contract by the Mayor and the City Clerk, Purchaser's good faith deposit shall be paid to and held in trust by Columbia Title Research Corporation Trust Account, 200 Forest Lake Boulevard, Daytona Beach, FL 32119; referred to as "Escrow Agent," pending the approval by City Council and the closing of this transaction and to be delivered to Seller at the time of closing.
 - (c) The total Purchase Price, which includes the Purchaser's good faith deposit of Fifty Thousand Dollars (\$50,000.00), and less expenses and prorations as provided in Paragraph 8 and Standard L of the Title Standards by check or wire transfer payable to the order of Seller, to be delivered at the time of closing.

3. Title.

(a) Marketable Title. Seller shall convey to Purchaser marketable title to the Property, determined according to the Title Standards in Exhibit "B". The matters contained in the deed as described in Paragraph 6 shall not constitute defects in the marketability of the title.

(b) Title Insurance and Survey. Within forty-five (45) days of the Effective Date of this Contract, At Seller's expense, Seller shall provide a title commitment for owner's title insurance issued by title insurance company of Seller's choice (in compliance with the requirements of Title Standard A of Exhibit "B") covering the Property, together with legible copies of all recorded documents referenced therein and a special assessment and real property tax search (the "Commitment"), by which Commitment the Title Company shall agree to issue to Purchaser, upon recording the deed for the Property, an Owner's ALTA policy in the amount of the full Purchase Price. Within forty-five (45) days of the Effective Date, Purchaser, at Purchaser's expense, may obtain a boundary survey of the Property (the "Survey") prepared by a duly licensed land surveyor licensed in the State of Florida. The Survey shall be prepared in accordance with the minimum technical requirements for surveys in the State of Florida. Purchaser shall have fifteen (15) days from the receipt of the last of either: (i) the Commitment or (ii) the Survey in which to examine the Commitment and Survey and to give written notice to Seller of its approval or disapproval of any matter contained therein. If Purchaser gives such notice of disapproval of the Commitment or Survey, Seller shall have thirty (30) days from the actual receipt of such notice of disapproval to cure the objections or defects so specified (the "Curative Period") or to provide notice that it has declined to cure such matter. If Seller is unable, or unwilling, to correct such objections or defects within said period of time, then Purchaser shall have the right to terminate this Contract or to waive such objections or defects in writing and proceed with the transaction. If Purchaser does not provide written notice of objection or defects within said period of time, Purchaser shall be deemed to have waived any right to disapprove of any matters contained therein.

4. Taxes and assessments. Seller agrees to pay before delinquency all taxes, assessments and utility charges, if any, which may be due currently or may hereafter become

due on the premises until and including the day of closing.

5. Risk of loss. Risk of loss or damage to the Property by fire or other casualty between the date of this Contract and Closing shall be and is assumed by Seller.

6. Deed. Seller agrees, on full payment of the purchase price in the manner herein specified, to make, execute and deliver to Purchaser a good and sufficient Warranty Deed to the Property. Said Warranty Deed and post-closing agreement, if any, shall contain the following provisions:

For the Deed:

"The Grantor hereby covenants that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to convey said land; that the Grantor does hereby fully warrant the title, including fee simple title to mineral rights and the sole and exclusive right to said land and will defend the same against the lawful claims of all persons whomsoever, subject to the royalty interest and reservation herein set forth in Official Records Book 2605, Page 1907, in the Public Records, Volusia County, Florida; and subject to covenants, reservations, restrictions, and easements of record, if any, in the Public Records, Volusia County, Florida.

"SUBJECT to that certain Declaration of Covenants, Conditions, Restrictions, Reservations and Easements recorded in Official Records Book 6370, Page 50, Public Records of Volusia County, Florida (hereafter the "Covenants").

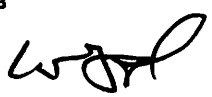
"SUBJECT to that certain restriction set forth in the Warranty Deed recorded in Official Records Book 5934, Page 2532, Public Records of Volusia County, Florida."

For the Post Closing Agreement:

"The Grantor hereby agrees to not exercise the right of Repurchase as set forth in the Section 4.6 of the Covenants and Restrictions recorded in Official Records Book 6370 at Page 63, Public Records of Volusia County, Florida, within the first two years after recording of this deed."

"The Grantor hereby agrees to a waiver as authorized by Section 4.4 relating to the restrictions of Section 4.8 and 4.14(d) of the Covenants to permit the use of the site for the production of pumps, including but not limited to the storage of equipment and pumps, the testing of equipment and pumps, the use of above ground and below ground water tanks and fuel tanks, so long as all of the aforesaid operations are screened with a masonry wall or chain link fence together with dense vegetation completely concealing the chain link fence material and as required by the City of Port Orange Land Development Code."

7. Closing. Closing shall take place in Volusia County, Florida at the office of the Escrow Agent referenced in paragraph 2(b) within thirty (30) days after the City's approval of Purchaser's site plan for development and Master Development Agreement of the Property for Purchaser's intended use as described in Paragraph 11 below. The date of closing may be extended upon mutual written agreement of the parties. At the closing, Seller shall provide



Purchaser with the deed to the premises and other documents in accordance with Title Standard J. Following closing, Purchaser shall have the right to exclusive possession of the property.

8. Closing Costs. Seller shall pay closing costs for title insurance premium, costs of recording the deed, and closing statement preparation costs. Costs for documentary stamp tax on the deed, environmental audits, surveys, and other inspections shall be paid by the Purchaser. However, upon Purchaser's request, Seller shall provide Purchaser with copies of any such audits, surveys, and other inspections covering the property that Seller has possession of and the right to disclose to third parties prior to closing.

9. Fees. Neither Seller or Purchaser have utilized the services of a Florida Real Estate Broker for the sale and purchase of the Property. Any use of services of a Florida Real Estate Broker shall be the responsibility of the engaging party. Purchaser shall be responsible for appraisal report prepared at its request, and Purchaser shall be responsible for fees incurred for Purchaser's independent review of this proposal and application for government approvals incurred by Purchaser for attorneys and engineers and other professionals, if any.

10. Site Inspection Period; Governmental Approvals Period.

(a) Purchaser shall have a period of Ninety (90) days from the Effective Date (hereinafter referred to as the "Site Inspection Period") to enter upon the Property and to make all inspections and investigations of the condition of the Property which it may deem necessary, including, but not limited to, soil borings, percolation tests, engineering and topographical studies, environmental audits, wetland jurisdictional surveys, and investigations of the availability of utilities, all of which inspections and investigations shall be undertaken at Purchaser's cost and expense. If, after completing its inspection of the Property, Purchaser determines, in Purchaser's sole and absolute discretion, that the Property is not suitable or feasible for Purchaser's intended purposes, prior to the expiration of the Inspection Period, Purchaser may terminate this Contract by providing written notice thereof to Seller before the expiration of the Site Inspection Period. In such instance, the Deposit provided in Paragraph 2(b) to the Escrow Agent shall be released forthwith to the Purchaser and neither party shall have any further obligations under this Contract. If Purchaser elects to terminate this Contract in accordance with this Paragraph, Purchaser shall leave the Property in the condition existing on the Effective Date.

(b) Purchaser shall have a succeeding period of One Hundred Eighty Days (180) days after acceptance of the Property under Paragraph 10(a) above (hereinafter the "Governmental Approval Period") to obtain governmental approvals from the City necessary for the development of the Property for its Intended Use described in Paragraph 11 below. These approvals may include, *inter alia*, amendments to the Covenants referenced in Paragraph 6, amendments and/or modifications to the Planned Community Agricultural (PC-A) workplace zoning district covering the Property, the City's Land Development Code, site plan for development and Master Development Agreement of the Property for Purchaser's Intended Use as described in Paragraph 11 below. Purchaser acknowledges and agrees that they shall actively and diligently pursue the government approvals referenced herein, recognizing that time is of the essence in the closing of this transaction. In the event that said final approval(s) are not obtained by the end of the Governmental Approval Period, and said time period is not otherwise extended by mutual agreement of the Seller and Purchaser, then Purchaser may terminate this



Contract by providing written notice thereof to Seller before the expiration of the Governmental Approval Period, or any extension thereof. In such instance, the Deposit provided in Paragraph 2(b) to the Escrow Agent shall be released forthwith to the Purchaser and neither party shall have any further obligations under this Contract.

11. Purchaser's Intended Use of the Property. Both parties acknowledge that Purchaser intends to construct improvements on the Parcel in the form of a facility where the intended use is manufacturing, distribution, sales, rental and service of pumps, and pumping equipment. In addition, Purchaser may seek to subdivide a portion of the Property to be used for retail purposes by the Purchaser, or assignees related to Purchaser's Intended Use. Any retail use contemplated shall be subject to the deed restriction set forth in Official Records Book 5934, Page 2532, Public Records of Volusia County, Florida. The Parties acknowledge and agree that the Purchaser intends to use the Property subject to the following conditions:

- 1) That outside storage is permitted so long as it is not visible from Williamson Boulevard, Hockney Court and the adjoining property.
- 2) That the storm water facility located at the easterly terminus of Hockney Court provides for the storm water retention for the Property as set forth in the existing St. Johns Stormwater Management District Permit.

12. Failure of Performance. If Purchaser fails, neglects, or refuses to perform Purchaser's obligations under this Contract, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract and in full settlement of any claims, whereupon Purchaser and Seller shall be relieved from all further obligations under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects, or refuses to perform under this Contract, Purchaser may seek specific performance or elect to receive return of Purchaser's deposit without thereby waiving any action for damages resulting from Seller's breach.

13. Special Provisions.

- a) City shall credit up to a maximum of \$270,000.00 toward City site plan fees and building permit fees ("City Fees") associated with Purchaser's projected build out of the Property (contemplating 3 building structures as final buildout). Said credit shall be fully vested in the Purchaser upon closing as a credit toward any payment to the City of Port Orange Finance for site plan fees or the issuance of building permit(s) associated with Purchaser's projected buildout of the Property. City Fees incurred before closing shall be paid by the Purchaser and credited to the Purchaser upon closing. Said credit shall not apply to impact fees or utility connection fees.
- b) City shall make available 69,000 cubic yards of fill dirt at the City's wellfield for Purchaser's use in filling the Property. Purchaser shall be responsible for all costs to transport the fill dirt to the Property. City will provide access to Purchaser and Purchaser's agents or consultants for testing the dirt for its suitability as fill dirt.



14. Access to Property. Seller agrees to allow Purchaser and Purchaser's employees, consultants, agents and representatives access to the Property upon execution of this Contract by Seller and extending to the time of closing for the purpose of conducting surveys, environmental audits and inspections of the premises.

15. Assignment. Neither party may assign or delegate its rights or obligations pursuant to this Agreement without the prior written consent of the other. However, no consent is required for an assignment that occurs to an entity in which the transferring party or the principals of the transferring party holds majority ownership in said entity. Any assignment or delegation in violation of this section shall be void.

16. Effective Date. The Effective Date for the Contract shall be the date of approval of the Contract by the City Council for the City of Port Orange, Florida , such approval shall be evidenced by the signing of all parties to this Contract.

17. Counterparts. 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 electronic transmittal of an executed copy of this Contract shall be deemed valid as if an original signature was delivered. This Contract is executed by the parties as of the respective dates shown below.

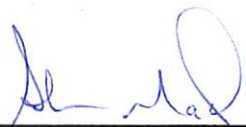
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A handwritten signature in black ink, appearing to be 'WAP', is located in the bottom right corner of the page.

WITNESSES:

FOR CONTRACT FOR SALE AND PURCHASE OF
REAL PROPERTY

PURCHASER:
THOMPSON PUMP &
MANUFACTURING COMPANY, INC.:



First Witness Signature Above, Printed Name Below:
Shawn Mackey

By: 

William F. Thompson, Chairman
Date: May 9, 2016

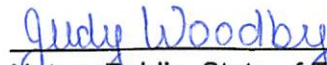


Second Witness Signature Above, Printed Name Below:
Robert Thompson

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Contract was and acknowledged before me this 9TH day of MAY, 2016, by William F. Thompson, Chairman, **THOMPSON PUMP & MANUFACTURING COMPANY, INC.**, the Purchaser named in the foregoing Contract, who (Notary, please check as applicable): ☒ took an oath or ☐ did not take an oath; and who ☒ is personally known to me or ☐ has produced _____ as identification.





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



WITNESSES:

FOR CONTRACT FOR SALE AND PURCHASE OF
REAL PROPERTY

SELLER:

CITY OF PORT ORANGE, FLORIDA,
a chartered municipal corporation

First Witness Signature Above, Printed Name Below:

By: _____
Allen Green, Mayor

Second Witness Signature Above, Printed Name Below:

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

Witnesses as to Both

Date: _____, 2016

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Contract was acknowledged before me this ____ day of _____, 2016, by Allen Green as Mayor, of the City of Port Orange, Florida, a chartered municipal corporation, on behalf of the city. They are personally known to me.

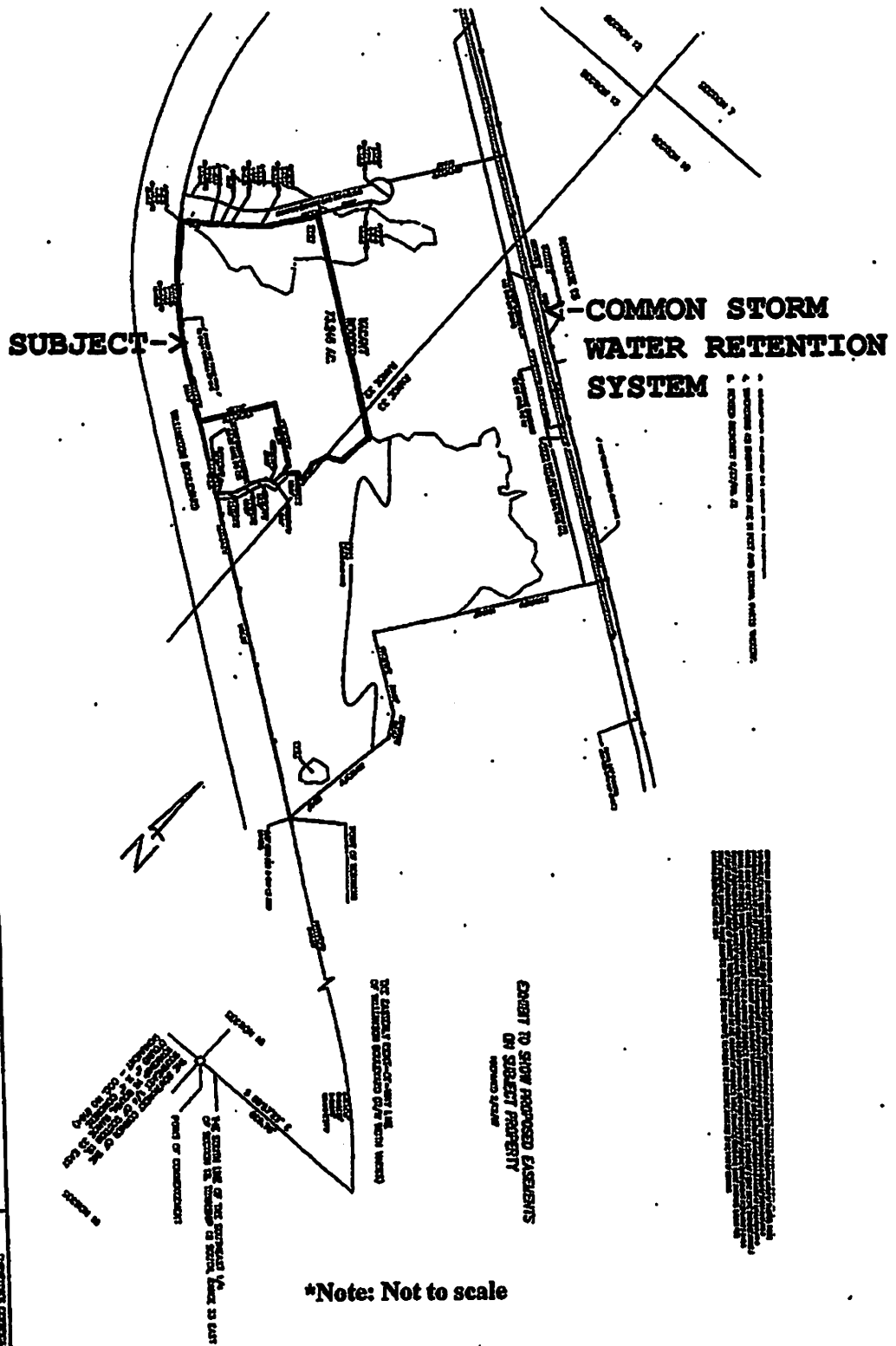
Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Contract was acknowledged before me this ____ day of _____, 2016, by Robin Fenwick as City Clerk, of the City of Port Orange, Florida, a chartered municipal corporation, on behalf of the city. They are personally known to me.

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



[illegible]

***Note: Not to scale**

EXHIBIT "A"

Contract For Sale And Purchase

FLORIDA ASSOCIATION OF REALTORS® AND THE FLORIDA BAR

- 1* PARTIES: _____ ("Seller"),
 2* and _____ ("Buyer"),
 3 hereby agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property")
 4 pursuant to the terms and conditions of this Contract for Sale and Purchase and any riders and addenda ("Contract"):
- 5 I. DESCRIPTION:
 6* (a) Legal description of the Real Property located in _____ County, Florida: _____
 7* _____
 8* (b) Street address, city, zip, of the Property: _____
 9 (c) Personal Property includes existing range(s), refrigerator(s), dishwasher(s), ceiling fan(s), light fixture(s), and window treatment(s) unless
 10 specifically excluded below.
 11* Other items included are: _____
 12* _____
 13* Items of Personal Property (and leased items, if any) excluded are: _____
 14* _____
- 15* II. PURCHASE PRICE (U.S. currency): _____ \$ _____
 16 PAYMENT:
 17* (a) Deposit held in escrow by _____ ("Escrow Agent") in the amount of (checks subject to clearance) \$ _____
 18* Escrow Agent's address: _____ Phone: _____
 19* (b) Additional escrow deposit to be made to Escrow Agent within _____ days after Effective Date in the amount of _____ \$ _____
 20* (c) Financing in the amount of ("Loan Amount") see Paragraph IV below _____ \$ _____
 21* (d) Other _____ \$ _____
 22 (e) Balance to close by cash, wire transfer or LOCALLY DRAWN cashier's or official bank check(s), subject
 23* to adjustments or prorations _____ \$ _____
- 24 III. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:
 25 (a) If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or
 26* before _____, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn. Unless other-
 27 wise stated, the time for acceptance of any counteroffers shall be 2 days from the date the counteroffer is delivered.
 28 (b) The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed or initialed this offer or the
 29 final counteroffer. If such date is not otherwise set forth in this Contract, then the "Effective Date" shall be the date determined above for
 30 acceptance of this offer or, if applicable, the final counteroffer.
- 31 IV. FINANCING:
 32* ☐ (a) This is a cash transaction with no contingencies for financing;
 33* ☐ (b) This Contract is contingent on Buyer obtaining written loan commitment which confirms underwriting loan approval for a loan to purchase
 34* the Property ("Loan Approval") within _____ days (if blank, then 30 days) after Effective Date ("Loan Approval Date") for (CHECK ONLY
 35* ONE): ☐ a fixed; ☐ an adjustable; or ☐ a fixed or adjustable rate loan, in the Loan Amount (See Paragraph II.(c)) at an initial interest rate not to
 36* exceed _____%, and for a term of _____ years. Buyer will make application within _____ days (if blank, then 5 days) after Effective Date.
 37 BUYER: Buyer shall use reasonable diligence to: obtain Loan Approval; notify Seller in writing of receipt of Loan Approval by Loan Approval
 38 Date; satisfy terms of the Loan Approval; and close the loan. Loan Approval which requires a condition related to the sale of other property shall
 39 not be deemed Loan Approval for purposes of this subparagraph. Buyer shall pay all loan expenses. Buyer authorizes the mortgage broker(s) and
 40 lender(s) to disclose information regarding the conditions, status, and progress of loan application and Loan Approval to Seller, Seller's attorney,
 41 real estate licensee(s), and Closing Agent.
 42 SELLER: If Buyer does not deliver to Seller written notice of Loan Approval by Loan Approval Date, Seller may thereafter cancel this Contract by
 43 delivering written notice ("Seller's Cancellation Notice") to Buyer, but not later than seven (7) days prior to Closing. Seller's Cancellation Notice shall
 44 notify Buyer that Buyer has three (3) days to deliver to Seller written notice waiving this Financing contingency, or the Contract shall be cancelled.
 45 DEPOSIT(S) (for purposes of this Financing Paragraph IV(b) only): If Buyer has used reasonable diligence but does not obtain Loan Approval
 46 by Loan Approval Date, and thereafter either party elects to cancel this Contract, the deposit(s) shall be returned to Buyer. If Buyer obtains Loan
 47 Approval or waives this Financing contingency, and thereafter the Contract does not close, then the deposit(s) shall be paid to Seller; provided how-
 48 ever, if the failure to close is due to: (i) Seller's failure or refusal to close or Seller otherwise fails to meet the terms of the Contract, or (ii) Buyer's lender
 49 fails to receive and approve an appraisal of the Property in an amount sufficient to meet the terms of the Loan Approval, then the deposit(s) shall be
 50 returned to Buyer.
 51* ☐ (c) Assumption of existing mortgage (see rider for terms); or
 52* ☐ (d) Purchase money note and mortgage to Seller (see Standards B and K and riders; addenda; or special clauses for terms).
- 53* V. TITLE EVIDENCE: At least _____ days (if blank, then 5 days) before Closing a title insurance commitment with legible copies of instruments listed as
 54 exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see Standard A for terms) shall be obtained by:
 55* (CHECK ONLY ONE): ☐ (1) Seller, at Seller's expense and delivered to Buyer or Buyer's attorney; or
 56* ☐ (2) Buyer at Buyer's expense.
 57* (CHECK HERE): ☐ If an abstract of title is to be furnished instead of title insurance, and attach rider for terms.
- 58* VI. CLOSING DATE: This transaction shall be closed and the closing documents delivered on _____ ("Closing"), unless
 59 modified by other provisions of this Contract. In the event of extreme weather or other conditions or events constituting "force majeure", Closing will be
 60 extended a reasonable time until: (i) restoration of utilities and other services essential to Closing, and (ii) availability of Hazard, Wind, Flood, or Homeowners'
 61* insurance. If such conditions continue more than _____ days (if blank, then 14 days) beyond Closing Date, then either party may cancel this Contract.

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62 VII. RESTRICTIONS; EASEMENTS; LIMITATIONS: Seller shall convey marketable title subject to: comprehensive land use plans, zoning, restrictions,
63 prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivi-
64 sion; outstanding oil, gas and mineral rights of record without right of entry; unplatted public utility easements of record (located contiguous to real property
65 lines and not more than 10 feet in width as to the rear or front lines and 7 1/2 feet in width as to the side lines); taxes for year of Closing and subsequent years;
66 and assumed mortgages and purchase money mortgages, if any (if additional items, see addendum); provided, that there exists at Closing no violation of the
67* foregoing and none prevent use of the Property for _____ purpose(s).

68 VIII. OCCUPANCY: Seller shall deliver occupancy of Property to Buyer at time of Closing unless otherwise stated herein. If Property is intended
69 to be rented or occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant to Standard F.
70 If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable
71 for maintenance from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.

72 IX. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions, riders and addenda shall control all printed pro-
73 visions of this Contract in conflict with them.

74* X. ASSIGNABILITY: (CHECK ONLY ONE): Buyer ☐ may assign and thereby be released from any further liability under this Contract; ☐ may
75* assign but not be released from liability under this Contract; or ☐ may not assign this Contract.

76 XI. DISCLOSURES:

77 (a) The Property may be subject to unpaid special assessment lien(s) imposed by a public body ("public body" does not include a
78 Condominium or Homeowners' Association). Such lien(s), if any, whether certified, confirmed and ratified, pending, or payable in installments,
79* as of Closing, shall be paid as follows: ☐ by Seller at closing ☐ by Buyer (if left blank, then Seller at Closing). If the amount of any
80 assessment to be paid by Seller has not been finally determined as of Closing, Seller shall be charged at Closing an amount equal to the
81 last estimate or assessment for the improvement by the public body.

82 (b) Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to per-
83 sons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida.
84 Additional information regarding radon or radon testing may be obtained from your County Public Health unit.

85 (c) Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information
86 regarding mold, Buyer should contact an appropriate professional.

87 (d) Buyer acknowledges receipt of the Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.

88 (e) If the Real Property includes pre-1978 residential housing then a lead-based paint rider is mandatory.

89 (f) If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act, the parties shall comply with that Act.

90 (g) BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIA-
91 TION/COMMUNITY DISCLOSURE.

92 (h) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT
93 OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNER-
94 SHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES.
95 IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

96 XII. MAXIMUM REPAIR COSTS: Seller shall not be responsible for payments in excess of:

97* (a) \$ _____ for treatment and repair under Standard D (if blank, then 1.5% of the Purchase Price).

98* (b) \$ _____ for repair and replacement under Standard N not caused by Wood Destroying Organisms (if blank, then 1.5% of the Purchase Price).

99* XIII. HOME WARRANTY: ☐ Seller ☐ Buyer ☐ N/A will pay for a home warranty plan issued by _____
100* at a cost not to exceed \$ _____.

101 XIV. RIDERS; ADDENDA; SPECIAL CLAUSES: CHECK those riders which are applicable AND are attached to and made part of this Contract:

102* ☐ CONDOMINIUM ☐ VA/FHA ☐ HOMEOWNERS' ASSN. ☐ LEAD-BASED PAINT ☐ COASTAL CONSTRUCTION CONTROL LINE

103* ☐ INSULATION ☐ "AS IS" ☐ EVIDENCE OF TITLE (SOUTH FLORIDA CONTRACTS) ☐ Other Comprehensive Rider Provisions ☐ Addenda

104* Special Clause(s): _____

105* _____

106* _____

107* _____

108 XV. STANDARDS FOR REAL ESTATE TRANSACTIONS ("Standards"): Buyer and Seller acknowledge receipt of a copy of Standards A
109 through Y on the reverse side or attached, which are incorporated as part of this Contract.

110 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

111 THIS FORM HAS BEEN APPROVED BY THE FLORIDA ASSOCIATION OF REALTORS® AND THE FLORIDA BAR.

112 Approval does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transac-
113 tion. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

114 AN ASTERISK(*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

115* _____

116 (BUYER) _____ (DATE) _____ (SELLER) _____ (DATE) _____

117* _____

118 (BUYER) _____ (DATE) _____ (SELLER) _____ (DATE) _____

119* Buyers' address for purposes of notice _____ Sellers' address for purposes of notice _____

120* _____

121* _____ Phone _____ Phone _____

122 BROKERS: The brokers (including cooperating brokers, if any) named below are the only brokers entitled to compensation in connection with
123 this Contract:

124* Name: _____

125 Cooperating Brokers, if any _____ Listing Broker _____

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STANDARDS FOR REAL ESTATE TRANSACTIONS

A. TITLE INSURANCE: The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in Paragraph VI and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving the Title Commitment to examine it, and if title is found defective, notify Seller in writing specifying defect(s) which render title unmarketable. Seller shall have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within 5 days after expiration of the 30 day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) within the time provided. If, after diligent effort, Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract. If Seller is to provide the Title Commitment and it is delivered to Buyer less than 5 days prior to Closing, Buyer may extend Closing so that Buyer shall have up to 5 days from date of receipt to examine same in accordance with this Standard.

B. PURCHASE MONEY MORTGAGE; SECURITY AGREEMENT TO SELLER: A purchase money mortgage and mortgage note to Seller shall provide for a 30 day grace period in the event of default if a first mortgage and a 15 day grace period if a second or lesser mortgage; shall provide for right of prepayment in whole or in part without penalty; shall permit acceleration in event of transfer of the Real Property; shall require all prior liens and encumbrances to be kept in good standing; shall forbid modifications of, or future advances under, prior mortgage(s); shall require Buyer to maintain policies of insurance containing a standard mortgagee clause covering all improvements located on the Real Property against fire and all perils included within the term "extended coverage endorsements" and such other risks and perils as Seller may reasonably require, in an amount equal to their highest insurable value; and the mortgage, note and security agreement shall be otherwise in form and content required by Seller, but Seller may only require clauses and coverage customarily found in mortgages, mortgage notes and security agreements generally utilized by savings and loan institutions or state or national banks located in the county wherein the Real Property is located. All Personal Property and leases being conveyed or assigned will, at Seller's option, be subject to the lien of a security agreement evidenced by recorded or filed financing statements or certificates of title. If a balloon mortgage, the final payment will exceed the periodic payments thereon.

C. SURVEY: Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulations, the same shall constitute a title defect.

D. WOOD DESTROYING ORGANISMS: "Wood Destroying Organisms" (WDO) shall be deemed to include all wood destroying organisms required to be reported under the Florida Structural Pest Control Act, as amended. Buyer, at Buyer's expense, may have the Property inspected by a Florida Certified Pest Control Operator ("Operator") within 20 days after the Effective Date to determine if there is any visible active WDO infestation or visible damage from WDO infestation, excluding fences. If either or both are found, Buyer may within said 20 days (1) have cost of treatment of active infestation estimated by the Operator; (2) have all damage inspected and cost of repair estimated by an appropriately licensed contractor; and (3) report such cost(s) to Seller in writing. Seller shall cause the treatment and repair of all WDO damage to be made and pay the costs thereof up to the amount provided in Paragraph XII(a). If estimated costs exceed that amount, Buyer shall have the option of canceling this Contract by giving written notice to Seller within 20 days after the Effective Date, or Buyer may elect to proceed with the transaction and receive a credit at Closing equal to the amount provided in Paragraph XII(a). If Buyer's lender requires an updated WDO report, then Buyer shall, at Buyer's expense, have the opportunity to have the Property re-inspected for WDO infestation and have the cost of active infestation or new damage estimated and reported to Seller in writing at least 10 days prior to Closing, and thereafter, Seller shall cause such treatment and repair to be made and pay the cost thereof; provided, Seller's total obligation for treatment and repair costs required under both the first and second inspection shall not exceed the amount provided in Paragraph XII (a).

E. INGRESS AND EGRESS: Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in Paragraph VII hereof and title to the Real Property is insurable in accordance with Standard A without exception for lack of legal right of access.

F. LEASES: Seller shall, at least 10 days before Closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature and duration of the tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant. If Seller is unable to obtain such letter from each tenant, the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant to confirm such information. If the terms of the leases differ materially from Seller's representations, Buyer may terminate this Contract by delivering written notice to Seller at least 5 days prior to Closing. Seller shall, at Closing, deliver and assign all original leases to Buyer.

G. LIENS: Seller shall furnish to Buyer at time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for 90 days immediately preceding date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at the Closing of this Contract.

H. PLACE OF CLOSING: Closing shall be held in the county wherein the Real Property is located at the office of the attorney or other closing agent ("Closing Agent") designated by the party paying for title insurance, or, if no title insurance, designated by Seller.

I. TIME: Calendar days shall be used in computing time periods except periods of less than six (6) days, in which event Saturdays, Sundays and state or national legal holidays shall be excluded. Any time periods provided for herein which shall end on a Saturday, Sunday, or a legal holiday shall extend to 5:00 p.m. of the next business day. Time is of the essence in this Contract.

J. CLOSING DOCUMENTS: Seller shall furnish the deed, bill of sale, certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish mortgage, mortgage note, security agreement and financing statements.

K. EXPENSES: Documentary stamps on the deed and recording of corrective instruments shall be paid by Seller. All costs of Buyer's loan (whether obtained from Seller or third party), including, but not limited to, documentary stamps and intangible tax on the purchase money mortgage and any mortgage assumed, mortgagee title insurance commitment with related fees, and recording of purchase money mortgage to Seller, deed and financing statements shall be paid by Buyer. Unless otherwise provided by law or rider to this Contract, charges for related closing services, title search, and closing fees (including preparation of closing statement), shall be paid by the party responsible for furnishing the title evidence in accordance with Paragraph V.

L. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses of the Property shall be prorated through the day before Closing. Buyer shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing, or occupancy, if occupancy occurs before Closing. Advance rent and security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties; failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of current year's tax bill.

M. (RESERVED - purposely left blank)

N. INSPECTION AND REPAIR: Seller warrants that the ceiling, roof (including the fascia and soffits), and exterior and interior walls, and foundation of the Property do not have any visible evidence of leaks, water damage, or structural damage and that dockage, seawalls, septic tank, pool, all appliances, mechanical items,

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STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)

heating, cooling, electrical, plumbing systems, and machinery are in Working Condition. The foregoing warranty shall be limited to the items specified unless otherwise provided in an addendum. Buyer may inspect, or, at Buyer's expense, have a firm or individual specializing in home inspections and holding an occupational license for such purpose (if required), or by an appropriately licensed Florida contractor, make inspections of, those items within 20 days after the Effective Date. Buyer shall, prior to Buyer's occupancy but not more than 20 days after Effective Date, report in writing to Seller such items that do not meet the above standards as to defects. Unless Buyer timely reports such defects, Buyer shall be deemed to have waived Seller's warranties as to defects not reported. If repairs or replacements are required to comply with this Standard, Seller shall cause them to be made and shall pay up to the amount provided in Paragraph XII (b). Seller is not required to make repairs or replacements of a Cosmetic Condition unless caused by a defect Seller is responsible to repair or replace. If the cost for such repair or replacement exceeds the amount provided in Paragraph XII (b), Buyer or Seller may elect to pay such excess, failing which either party may cancel this Contract. If Seller is unable to correct the defects prior to Closing, the cost thereof shall be paid into escrow at Closing. For purposes of this Contract: (1) "Working Condition" means operating in the manner in which the item was designed to operate; (2) "Cosmetic Condition" means aesthetic imperfections that do not affect the Working Condition of the item, including, but not limited to: pitted marcite or other pool finishes; missing or torn screens; fogged windows; tears, worn spots, or discoloration of floor coverings, wallpaper, or window treatments; nail holes, scratches, dents, scrapes, chips or caulking in ceilings, walls, flooring, fixtures, or mirrors; and minor cracks in floors, tiles, windows, driveways, sidewalks, or pool decks; and (3) cracked roof tiles, curling or worn shingles, or limited roof life shall not be considered defects Seller must repair or replace, so long as there is no evidence of actual leaks or leakage or structural damage, but missing tiles will be Seller's responsibility to replace or repair.

O. RISK OF LOSS: If, after the Effective Date, the Property is damaged by fire or other casualty ("Casualty Loss") before Closing and cost of restoration (which shall include the cost of pruning or removing damaged trees) does not exceed 1.5% of the Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to the terms of this Contract and if restoration is not completed as of Closing, restoration costs will be escrowed at Closing. If the cost of restoration exceeds 1.5% of the Purchase Price, Buyer shall either take the Property as is, together with the 1.5% or receive a refund of deposit(s) thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to tree damage by casualty or other natural occurrence shall be the cost of pruning or removal.

P. CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If the title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow and closing procedure required by this Standard shall be waived. Unless waived as set forth above the following closing procedures shall apply: (1) all closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 5 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 6 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, all deposits and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

Q. ESCROW: Any Closing Agent or escrow agent (collectively "Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of this Contract. Failure of funds to clear shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement or until a judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended. Any suit between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to the escrow, unless such misdelivery is due to willful breach of the provisions of this Contract or gross negligence of Agent.

R. ATTORNEY'S FEES; COSTS: In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation, which, for purposes of this Standard, shall include Seller, Buyer and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

S. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the time specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

T. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES: Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic media. A legible facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an original.

U. CONVEYANCE: Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph VII and those otherwise accepted by Buyer. Personal Property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

V. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.

W. SELLER DISCLOSURE: There are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

X. PROPERTY MAINTENANCE; PROPERTY ACCESS; REPAIR STANDARDS; ASSIGNMENT OF CONTRACTS AND WARRANTIES: Seller shall maintain the Property, including, but not limited to lawn, shrubbery, and pool in the condition existing as of Effective Date, ordinary wear and tear and Casualty Loss excepted. Seller shall, upon reasonable notice, provide utilities service and access to the Property for appraisal and inspections, including a walk-through prior to Closing, to confirm that all items of Personal Property are on the Real Property and, subject to the foregoing, that all required repairs and replacements have been made, and that the Property has been maintained as required by this Standard. All repairs and replacements shall be completed in a good and workmanlike manner, in accordance with all requirements of law, and shall consist of materials or items of quality, value, capacity and performance comparable to, or better than, that existing as of the Effective Date. Seller will assign all assignable repair and treatment contracts and warranties to Buyer at Closing.

Y. 1031 EXCHANGE: If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with Closing or deferred) with respect to the Property under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including the execution of documents; provided (1) the cooperating party shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

