



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

FEBRUARY 4, 2025

AGENDA

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

A. OPENING

1. Invocation by Pastor Mike Swingle of First Baptist Church of Harbor Oaks
2. Pledge of Allegiance
3. Roll Call
4. Public Comments on Consent Agenda Items Only

B. CONSENT AGENDA

5. Approval of Minutes
 - a. January 21, 2025 - Regular City Council Meeting
6. Bid Awards and Contract Items
 - a. Award of RFP #24-16 to Top Line Recreation, Inc. for the City Center Playground Project
 - b. Approval of Task Authorization No. 2 to DJ Design, Inc. for design of the All Children's Park Restroom Replacement
7. Resolution No. 25-04 - Approval of Local Agency Program (LAP) Agreement 446285-2-58-01 for construction of the Willow Run Blvd Sidewalk Project from Harms Way to Clyde Morris Blvd
8. Resolution No. 25-05 - Approval of Local Agency Program (LAP) Agreement 448772 for the Williamson Blvd./Willow Run Blvd. Sidewalk from south of Town Park Dr. to Chardonnay Dr.
9. Resolution No. 25-07 - Approval of FDOT Locally Funded Agreement 446285-1-62-02 Construction Engineering Inspection (CEI) for the Willow Run Blvd Sidewalk from Harms Way to Clyde Morris Blvd

10. Resolution No. 25-08 - Approval of FDOT Locally Funded Agreement 448772-1-62-02 Construction Engineering Inspection (CEI) for Williamson Blvd / Willow Run Blvd Sidewalk from south of Town Park Dr to Chardonnay Dr
11. Resolution No. 25-10 - Ratification of Emergency Powers Taken During Hurricane Milton and Temporarily Extending the Waiver of Certain Permit Fees
12. Removal of a Storm Damaged Historic Tree at 940 N Lakewood Terrace in HOA Common Area

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

D. COMMENTS AND ADDITIONAL ITEMS

13. Council Members
14. City Attorney
15. City Manager

E. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

16. Environmental Advisory Board Report - Kristine Cunningham

F. REGULAR AGENDA

17. First Reading - Ordinance No. 2025-06 - Designating Registered Agent for Service of Process on the City
18. Request for Approval of Waiver of Species of Animals

G. COUNCIL COMMITTEE REPORTS

19. City Council Committee Reports
 - a. Volusia Flagler TPO - Jonathan Foley

H. ADJOURNMENT

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



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



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

Regular City Council Meeting

2/4/2025

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

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

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

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JANUARY 21, 2025

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

Silent Invocation

Pledge of Allegiance

Roll Call	Present:	Councilman Jonathan Foley Councilman Shawn Goepfert Councilman Lance Green Vice Mayor Tracy Grubbs Mayor Scott Stiltner
	Also Present:	City Manager Wayne Clark City Attorney Matthew Jones Deputy City Clerk Amanda Bonin

CONSENT AGENDA

4. Public Comments on Consent Agenda Items Only

There were none.

5. Agenda Approval

Motion to approve the Agenda as presented was made by Councilman Jonathan Foley and Seconded by Councilman Shawn Goepfert. Motion carried unanimously by roll call vote.

6. Approval of Minutes

a. December 10, 2024 - Regular City Council Meeting

7. Public Utilities Field Operations Facility

a. Approval of Amendment No. 1 to the AIA Agreement with Wharton-Smith for Public Utilities Field Operations Facility Construction Project amending Exhibit A - Guaranteed Maximum Price Amendment, establishing the Guaranteed Maximum Price (GMP) for the construction phase of the project.

b. Approval of Task Authorization No. 6 with Schenkel & Shultz, Inc. under the Master Contract for Architectural Services as it relates to the Construction Administration Phase for the Public Utilities Field Operations Facility

c. Resolution No. 25-02 - Reimbursement Resolution for Public Utilities Field Operations Facility

8. Resolution No. 25-03 - Approval of First Quarter Budget Amendments for Fiscal Year 2024-2025

Motion to approve the Consent Agenda as presented was made by Vice Mayor Tracy Grubbs and Seconded by Councilman Jonathan Foley. Motion carried unanimously by roll call vote.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Barbara Ann Heegan, Port Orange/South Daytona Chamber of Commerce President and CEO introduced a new program that starts on February 1, 2025. This is a ten-week program that focusses on marketing and writing a business plan. Ms. Heegan also invited the Council members to the Mayor's dinner on February 26, 2025, at the Shores Resort.

Kristin Johansson, Vice Chair for Workforce Development with the Port Orange/South Daytona Chamber of Commerce, thanked City Council and staff for all they do to aid in the Workforce Development Program. The Teen Job Fair was a new program that started last May. This program provides an opportunity for businesses that cater to younger students, approximately age 16 through Senior year. The Teen Job Fair is scheduled to run again this year on May 17, 2025.

Mayor Scott Stiltner encouraged anyone who knows of any businesses in our City that would be interested in offering an opportunity for high school aged students, to contact either Ms. Johansson or Ms. Heegan.

Several citizens expressed their concerns regarding fluoride in the City's water supply. They mentioned there are several other cities and counties that don't use fluoride in their water, and requested this item be placed on the agenda for further discussion.

Several other citizens expressed their thoughts and concerns regarding the substantial damaged letters that were sent out, talked about drainage, asked for the status on the stormwater master plan, and would like to continue discussions on local hazard mitigation.

Mayor Scott Stiltner mentioned there is a comprehensive workshop coming in March for the Stormwater Master Plan and encouraged citizens to watch for meeting information to be published.

Heather Curry, resident, shared her story about the hoarder property in Sugar Forest and how it altered her life. Ms. Curry explained the activities that took place by her former neighbor, and how she lost everything after Hurricane Ian due to a fire that started in his home.

COUNCIL COMMENTS

9. Comments/Concerns from Council Members

Councilman Lance Green mentioned the emails he has received regarding fluoride and would like to discuss this, to see where we go moving forward. Councilman Green also mentioned he had a meeting with Charter/Spectrum regarding right-of-way permits and asked if the City can look into the status.

Councilman Shawn Goepfert thanked Ms. Curry for sharing her story. Councilman Goepfert would also like more information regarding fluoride. He also commented on flooding and the amount of water the City received in a short period of time. Tomorrow night's meeting is to discuss citizens' concerns. Council is willing to give staff the tools they need. Councilman Goepfert thanked staff for all their hard work during the holiday events. Halifax Health opened a new center on Williamson Blvd.

Vice Mayor Tracy Grubbs thanked City staff for their monumental progress on sidewalk repairs on Town West Blvd. and in Town Park. Since the organizational changes, things are coming together and getting completed. Thank you for getting these tasks done. Vice Mayor Grubbs mentioned the City recently received funding from past hurricanes. City projects are moving along and explained permitting through the State and Federal Government can take time.

Vice Mayor Grubbs said the City tries to get as much State funding as possible, so we don't have to raise taxes. The meeting tomorrow is for residents to discuss with staff the problems regarding flooding/drainage that you see. Vice Mayor Grubbs mentioned there is a cell tower/5G repeater that was installed in front of a home in an easement and asked, when the companies submit a permit, do they show a diagram as to what that looks like and can we put it in the common area instead of in front of someone's house? Lastly, Arthaus started the first segment of the Down Under Project. All of the major columns have been painted, and they will be stenciling the mural design next.

Councilman Johnathan Foley expressed his appreciation for the proactive approach on the flashing beacons near Sugar Mill Elementary. He also thanked the City Manager and the Fire Chief for their help with a local church that is putting in a school for autistic children. Councilman Foley briefly commented on the substantially damaged letters, and the story that Ms. Curry shared. The City is not the all-powerful being in the United States Government System, and we have things we need to do, and rules that we need to follow. Part of those rules help us to receive funding to do projects for our citizens. FEMA says we have to send out the substantially damaged letters. It's not staff coming up with the letters. They are just trying to do their job.

Councilman Foley would like more information from the City on the fluoride issue so they can discuss it but it doesn't need to be an agenda item. The food truck operation is opening in the March/April timeframe. Lastly, Councilman Foley thanked the crews for the maintenance on the Cambridge Canal.

Mayor Scott Stiltner attended the Legislative Delegation meeting in DeLand and talked about projects that are going to Tallahassee. Staff will be going to Tallahassee in February advocating for State dollars.

Mayor Stiltner attended the Roundtable of Elected Officials meeting. He mentioned that every city talked about stormwater, not just Port Orange. This is a statewide issue. There is going to be a formation of a County wide committee that will be co-chaired by Jake Johansson of Volusia County Council and Nancy Martin, Mayor of Daytona Beach Shores. This committee will look at projects for the County and how one project could affect another community as well. Some of these projects will include Army Corps of Engineers and federal dollars. Mayor Stiltner said Council members will be meeting with staff and the outside engineering firm to go over these projects and Council will bring this to the public in March. The Stormwater Master Plan is just about wrapped up while many other cities are just starting.

Mayor Stiltner mentioned there are FEMA regulations that the City has to comply with. While the substantially damaged letters may be uncomfortable, it is a requirement set by FEMA. Additionally, everything we do and send out to comply with FEMA's regulations has to touch the City Attorney's office to ensure the City is doing what they are required to do, and to make sure we stay out of trouble.

BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

10. Citizen Advisory Committee for TPO

Bobby Ball, CAC member, mentioned the Department of Transportation has a 5-year work program. A couple of those projects include the widening design of Williamson Blvd. from Madeline Avenue to Town West Blvd., as well as the intersection improvements at Madeline Avenue and Nova Road and Nova Road and Dunlawton Avenue. There was a presentation on the long-range transportation plan which is starting now. This comes up every five years. The Department of Transportation reports the Nova drainage system cleaning has been completed and the new traffic signal at Miles Drive and Nova Road intersection is starting soon.

11. Parks and Recreation Advisory Board Report

Bobby Ball, Chair, provided the quarterly meeting report. Project designs are underway. A couple of these include Willow Run Park and White Place. Regarding the REC Center West project, Mr. Ball previously asked staff where some of the participants of the REC Center are coming from. Staff was able to verify that 27% of the daily check ins are from residents West of I-95. That means of the six-thousand visitors the REC sees per month, they have approximately 1,500 coming from West of I-95.

The Director's report indicated there are at least ten major projects underway, from an athletic perspective, all of the programs have more participants than last year, and there is a huge number of special events coming up for the REC. These events can be found on the City's website.

PUBLIC HEARING

12. Second Reading - Ordinance No. 2024-25 - Comprehensive Plan Amendment/Annual Capital Improvements Element Update (Case No. CPAM-24-0004)

Matt Jones, City Attorney, read Ordinance No. 2024-25.

ORDINANCE NO. 2024-25

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN CAPITAL IMPROVEMENT ELEMENT; PROVIDING FOR THE FY2025-2030 FIVEYEAR SCHEDULE OF CAPITAL IMPROVEMENTS AND SUPPORTING DATA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve was made by
Councilman Jonathan Foley and
Seconded by Vice Mayor Tracy Grubbs.
Motion carried unanimously by roll call
vote.

13. First Reading - Ordinance No. 2025-01 - LDC Amendment/Chapter 15 -
Signs (Case No. DCAM-24-0002)

This item was continued as requested by the applicant and will be brought back at a later date.

REGULAR AGENDA

14. First Reading - Ordinance No. 2025-02 - Revising Defined Contribution
Retirement Plan

Matt Jones, City Attorney, read Ordinance No. 2025-02.

ORDINANCE 2025-02

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE VI, 2003 GENERAL EMPLOYEES' RETIREMENT SYSTEM, AMENDING SECTION 54-175, DEFINED CONTRIBUTION RETIREMENT PLAN, TO RELY ON THE PLAN ADOPTION AGREEMENTS APPROVED BY CITY COUNCIL DESCRIBING THE TERMS APPLICABLE TO EACH OF THE PLANS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve was made by
Councilman Jonathan Foley and

Seconded by Vice Mayor Tracy Grubbs.

Mr. Jones explained this is a clean-up item.

Motion carried unanimously by roll call vote.

15. Adoption of Port Orange City Council Local Rules of Procedure (Local Rules) for 2025

Mr. Clark explained that modifications to the agenda were made based on Council member's previous comments. The section for public comments on Consent Agenda items was moved outside of the Consent Agenda. The City Manager and City Attorney comments were moved up to follow Council Comments.

Council members agreed there is a need to update the agenda outline. Councilman Foley suggested combining items D and E in the sample agenda together. This would be the Council Comments and the Additional Items sections.

Robert Reinhausen, resident, doesn't believe there is enough back up information on the consent agenda items, and would like a better explanation of these items moving forward.

Mayor Scott Stiltner advised that if anyone has questions or concerns about agenda items, to please reach out to staff or Council members for clarification as they are here to help.

Motion to approve the Adoption of Port Orange City Council Local Rules of Procedure (Local Rules) for 2025 as presented to include the combination of the Council Comments and Additional Items sections into one section was made by Councilman Jonathan Foley and Seconded by Vice Mayor Tracy Grubbs. Motion carried unanimously by roll call vote.

ADDITIONAL ITEMS

16. City Attorney

There was nothing further.

17. City Manager

Wayne Clark, City Manager, explained the process for the Vulnerability Assessment Study meeting being held tomorrow night. This public meeting is to hear from residents

and allows the City to be eligible for funding from the Resilient Florida program.

The County has money available through their Transform 386 program that the City is applying for. They are providing funds to do a regional drainage basin study for each of the basins in the city.

Mr. Clark also explained the FEMA 50% Rule and why the letters were sent out. He also clarified how the City was reimbursed from FEMA after Hurricane Irma and clarified a few other items that were discussed earlier this evening.

Mayor Scott Stiltner mentioned there seems to be support at the County level for purchasing property for stormwater solutions, and suggested the City at least look at any of the available properties to see if it may be beneficial for the City.

COUNCIL COMMITTEE REPORTS

18. City Council Committee Reports

a. First Step Shelter - Councilman Shawn Goepfert

Councilman Shawn Goepfert attended his first board meeting at the First Step Shelter and provided an update from their meeting

b. Port Orange/South Daytona Chamber of Commerce - Councilman Shawn Goepfert

Councilman Shawn Goepfert reported the Chamber had a great turn out for the Morning Mix and Mingle at the Ocean Oaks Apartment Complex. The Business after hours was held at the new Tiki Adventure Park. The Mayor's dinner is coming up soon and there are nine new Chamber members.

ADJOURNMENT - 8:09 p.m.

Mayor Scott Stiltner

Attest:

Robin Fenwick, MMC
City Clerk



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B6a) Award of RFP #24-16 to Top Line Recreation, Inc. for the City Center Playground Project

DEPARTMENT: Parks & Recreation

GOAL: 2. Infrastructure

RECOMMENDED MOTION: Move to approve the Award of RFP #24-16 to Top Line Recreation, Inc. for the design and construction of City Center Playground Project in an amount not to exceed \$297,695.63 and authorize Mayor and City Clerk to sign all necessary documents.

SUMMARY: The City sought proposals for the design and construction of a replacement playground located at Port Orange City Center Sports Complex. After the selection committee reviewed the submitted proposals on December 18, 2024, City Staff recommended awarding the project to Top Line Recreation, Inc., who has been deemed responsive and responsible, in an amount not to exceed \$297,695.63.

The scope of work for this project consists of all demolition and disposal of the old equipment, grading of the site, survey, design, permitting (City Building, City Site, and any applicable outside agencies), outside agency application, and inspection fees (the contractor will handle any City fees), labor, materials, equipment, tools, apparatus transportation, services and incidentals to perform all work necessary to construct a new playground at City Center Sports Complex. The budget was approved as part of FY2024 - 2025 CIP.

Some unique equipment on the playground includes an accessible slide that allows children to transfer back onto the playground without hitting the ground, percussion that plays "Take me out to the Ball Game", and a fun movement inclusive electronic game.

This project is partially funded with ECHO Grant funding, as authorized through Resolution No. 24-17.

PRESENTER: Susan Lovallo

ATTACHMENTS:

1.	Top Line Recreation, Inc. RFP 24-16 Standard Contract for Services (Entire	Top Line Recreation, Inc. RFP 24-16 Standard Contract for Services - City
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2.	Agreement) - City Center Playground	Center Playground.pdf
3.	City-of-Port-Orange- GL and AUTO - 2025	City-of-Port-Orange- GL and AUTO - 2025.pdf
4.	City-of-Port-Orange- WC - 2025	City-of-Port-Orange- WC - 2025.pdf
5.	Sunbiz	Sunbiz.pdf
6.	ITB 24-16 Solicitation Request Form	ITB 24-16 Solicitation Request Form.pdf
7.	Addn 2	Addn 2.pdf
8.	Addn 3	Addn 3.pdf
9.	Addn 1	Addn 1.pdf
10.	Evaluation Ranking Summary 11.22	Evaluation Ranking Summary 11.22.pdf
11.	RFP 24-16 Notice of Intent to Award	RFP 24-16 Notice of Intent to Award.pdf
12.	RFP 24-16 Presentation Ranking Summary	RFP 24-16 Presentation Ranking Summary.pdf
13.	Sunbiz	Sunbiz.pdf
14.	RFP 24-16 Final	RFP 24-16 Final.pdf
	TopLine 01 -RFP #24-16 - complete bid package	TopLine 01 -RFP #24-16 - complete bid package.pdf

Peter Ferreira
Susan Lovallo
Linda Truitt
Matthew Jones
Wayne Clark

Created/Initiated - 1/16/2025
Approved - 1/21/2025
Approved - 1/22/2025
Approved - 1/24/2025
Final Approval - 1/29/2025



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2025, 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 **TOP LINE RECREATION, INC.** ("Contractor"), a Florida corporation whose principal address is 2922 Howland Boulevard, Suite #4, Delton, Florida 32725-2900. The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide the design and construction of the City Center Playground Replacement in accordance with Request for Proposal 24-16 ("RFP 24-16"). This Contract, together with RFP 24-16, Addendum No. 1, Addendum No. 2, Addendum No. 3, and Contractor's Proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services of RFP 24-16 and the Contractor's Proposal as submitted by Contractor, are attached hereto as Exhibit "1." In the event of any inconsistencies or conflicts between this Contract, RFP 24-16, Contractor's Proposal, Addendum No. 1, Addendum No. 2, and Addendum No. 3, precedence shall be given to the documents in the following order: 1) the terms and conditions of this Contract; 2) RFP 24-16; 3) Addendum No. 1, Addendum No. 2, and Addendum No. 3; and 4) Contractor's Proposal. A complete copy of all solicitation documents is available in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: This Contract shall become effective on the last date the Contract is signed by the Parties ("Effective Date"). The work as set forth in Paragraph 1(a), hereinabove, shall be substantially completed within one hundred ninety (190) days from issuance of a Notice to Proceed ("Term"). Substantial Completion shall be defined as the time and date at which the work has progressed to the point where, in the opinion of the City, the work is sufficiently complete, in accordance with this Contract, so that the Work can be utilized for the purposes for which it is intended.

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

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

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be upon issuance of a Notice

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

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," in an amount not to exceed Two Hundred Ninety-Seven Thousand Six Hundred Ninety-Five and 63/100 Dollars (\$297,695.63). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Documents. The following forms, attached as Exhibit "2," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:

- (a) Front Page for Bond (F.S. § 255.05)
- (b) Combination Payment and Performance Bond (F.S. § 255.05)

4. Contract Administration. The Parks and Recreation Director, Susan Lovallo, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

6. Termination for Convenience of the City

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

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

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

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

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

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or

work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

8. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

9. Examination of Records

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

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

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance

of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

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

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

11. Termination for Non-Appropriation of Funds

- (a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.
- (b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

12. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements				
	Insurance	Standards		Additional Requirements
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City.	<u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage – \$ <u>To be determined.</u>	
☐	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$200,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods.		

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

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

15. Modifications or Changes to this Contract

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

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

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

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

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

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

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

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

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

20. **Inspection**

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

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

delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

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

21. Liability for Loss or Damage.

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

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

22. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

23. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager,

appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

25. E-Verify. Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract and shall expressly require any sub-contractors performing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the sub-contractor during the term of this Contract.

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

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

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: Susan Lovallo, Parks and Recreation Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5852

Contractor: Top Line Recreation, Inc.
Attention: Sonia M. Perkins, President
2922 Howland Boulevard
Suite #4
Deltona, Florida 32725
(386) 575-8359 – Telephone
SONIAP@TOPLINEREC.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.

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:

TOP LINE RECREATION, INC.

Printed Name: _____

By: _____

Sonia M. Perkins, President

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

Printed Name: _____

Date: _____

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

CITY OF PORT ORANGE

By: _____
Scott Stiltner, Mayor

Date: _____

ATTEST:

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

Date: _____

EXHIBIT “1”

Contractor's Quote

Consisting of 25 Pages

(ATTACHMENT 1) – SERVICES COSTS/FEES PROPOSAL



(ATTACHMENT 1) SERVICES COSTS/FEES PROPOSAL

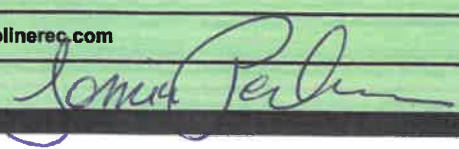
CITY OF PORT ORANGE

RFP #24-16

City Center Playground Replacement

Completed (Attachment 1) Services Costs/Fees Proposal form MUST be included with Submittal.

Proposers are required to complete all fields shaded in green.

NAME OF BUSINESS:		TOP LINE RECREATION INC
CONTACT PERSON:		SONIA M PERKINS
EMAIL ADDRESS:		soniap@toplinerec.com
AUTHORIZED SIGNATURE:		
ITEM #	DESCRIPTION	PRICE
1	Demolition and Removal	\$ 6,957.32
2	Clearing, Grubbing and Site Prep	\$ 14,479.27
3	Survey, Design and Permitting	\$ 17,486.42
4	Products and Equipment	\$ 198,910.67
5	Installation and Construction Labor	\$ 59,861.95
TOTAL PRICE:		\$ 297,695.63

Complete, sign and date and include this document under Tab F in proposal



QUOTE #	TLRQ5741-02
PROJECT:	Rfp #24-16

Bill to: Chip Kent, Purchasing Agent
 City of Port Orange
 Purchasing Division
 1000 City Center Circle
 Port Orange, FL 32129
 386-506-5718
ckent@port-orange.org, purchdiv@port-orange.org

Top Line Recreation Inc.
 2922 Howland Blvd, Suite 3, Deltona, FL 32725
 386-575-8359

Ship to: Chip Kent
 City of Port Orange
 Port Orange City Center Sports Complex
 4625 City Center Drive
 Port Orange, FL 32129

SALESPERSON	PAYMENT TERMS	QUOTE CREATED	QUOTE EXPIRES
Debbie Lloyd	Net 30	Oct 23, 2024	Dec 18, 2024

#	PART #	DESCRIPTION	UNIT PRICE	TOTAL PRICE
City Center Sports Complex Playground				
1	134-190096-3	Burke City Center Playground Port Orange • Project Number: 134-190096-3 • User Capacity: 118 • Age Groups: 5 to 12, 2 to 12 • Dimensions: 99' 10" x 34' 11" Inclusive including chimes song "Take Me Out to the Ball Game"	\$168,135.00	\$168,135.00
1	SPECPRICE	Burke Special Price	-\$42,431.00	-\$42,431.00
1	CUSTOM	Burke Custom Panel "How High Can You Jump"	\$266.67	\$266.67
1	MyTunes	Percussion Play My Tunes to Play the tune of "Take Me Out to the Ball Game" *Includes freight	\$7,175.00	\$7,175.00
1	ENG2R	FL Engineer Sealed Drawings & Calculations	\$2,378.05	\$2,378.05
1	FREIGHT	Burke truckload charges to Port Orange 32129	\$6,554.88	\$6,554.88
1	INSTALL	Buildworx Installation Burke #134-190096-3 & Percussion MyTunes	\$59,861.95	\$59,861.95
1	DEMO	Demo, Removal and dispose of existing playground structure.	\$6,957.32	\$6,957.32
1	SITE	Site Prep includes excavate & haul away 4,295 SF at 6" depth of mulch.	\$14,479.27	\$14,479.27
1	LOCATE	Ground Penetrating Radar (GPR) Locate and Mapping)	\$1,219.51	\$1,219.51
1	TURF	4,452 SF Total PlayHard Turf with rollover edge to fence perimeter. 2" Pad 1,554 SF Playground, 2" Pad 1,344 SF Swing, 1" Pad 1,554 SF Center.	\$59,210.12	\$59,210.12
1	PERMIT	Volusia County *Includes Permit Submittal, County Permit Fees, Inspection, Final COC	\$2,439.02	\$2,439.02
1	BOND	Bid Bond cost premium for project City Center Port Orange	\$11,449.84	\$11,449.84
			SUBTOTAL	\$297,695.63
			TAX RATE	
			SALES TAX	\$0.00
			TOTAL	\$297,695.63

SECTION 3 – DESIGN and BUILD OF CITY CENTER PLAYGROUND SCOPE OF SERVICES

PROJECT DESCRIPTION:

The City is seeking proposals for the replacement of one playground located at the Port Orange City Center Sports Complex. The Playground is located south of the restroom building (as outlined in Exhibit B attached hereto), at 4625 City Center Dr., Port Orange, Fl. The Playground area is approximately 4000 square feet (100ft x 40ft).

The work of this project consists of all demolition and disposal of the old playground equipment, including grading of the site, survey, design, permitting, outside agency application and inspection fees (any City fees will be handled by the contractor), labor, materials, equipment, tools, apparatus transportation, services, incidentals, and all work necessary to construct the new playground.

The City desires to have the design of the equipment and layout be consistent with a sports theme. The playground equipment shall meet all the functional requirements as well as bring the latest in recreation design and philosophy to the layout. The selected firm will be required to post a Performance and Payment Bond for the Construction.

The Scope of the Design is more fully defined below:

1. All equipment shall be IPEMA (International Play Equipment Manufacturer's Association) certified.
2. The use of multiple levels.
3. The target audience is focused on children under twelve years of age, as well as those with special needs, but should be appropriate for all age groups.
4. Shade Structures
5. ADA Compliant ground surface

SECTION 4 – STANDARD PURCHASING DEFINITIONS

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

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a solicitation. Plural: Addenda
2. **Amendment** is a formal written agreement, signed by both parties, that modifies and existing contractual agreement.
3. **Appropriate, Appropriated or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
4. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design and workmanship.
5. **Bid Guaranty (Bid Bond)** guarantees that the Bidder will not withdraw the Bid within the period specified for acceptance and will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the solicitation unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
6. **Bidder or Respondent** is a person, firm or entity that submits a Response to a Solicitation. Any Bidder/Respondent may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
7. **City** means the City of Port Orange.
8. **Competitive Negotiation** means a method for acquiring good, services and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit Responses through a competitive process, regardless of the method or procurement.
9. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive Bidders or Respondents in accordance with the terms of a competitive process, regardless of the method of procurement.
10. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.



Top Line Recreation, Inc.

2922 Howland Blvd | Deltona, FL 32725 | 800-921-4509

Proposal 134-190096-3 | 10/15/2024

DESIGN SUMMARY

Top Line Recreation, Inc. is very pleased to present this Proposal for consideration for the City Center Playground Port Orange located in Port Orange. BCI Burke Company, LLC has been providing recreational playground equipment for over 100 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of Port Orange. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

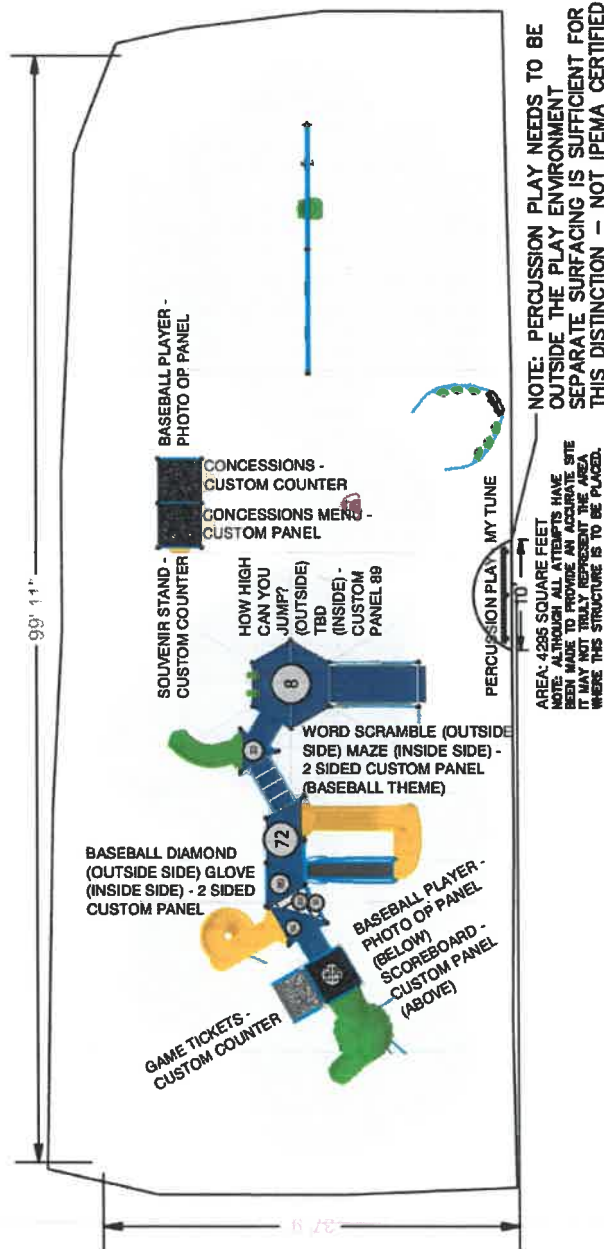
The following is a summary of some of the key elements of our Proposal:

- Project Name: City Center Playground Port Orange
- Project Number: 134-190096-3
- User Capacity: 118
- Age Groups: 5 to 12, 2 to 12
- Dimensions: 99' 10"x34' 11"
- Designer Name: Brandy Janke

Top Line Recreation, Inc. has developed a custom playground configuration based on the requirements as they have been presented for the City Center Playground Port Orange playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 134-190096-3 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the City Center Playground Port Orange playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.



The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.
STRUCTURE SIZE: 9"x99' 11"
POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus | Burke Basics

SITE PLAN VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

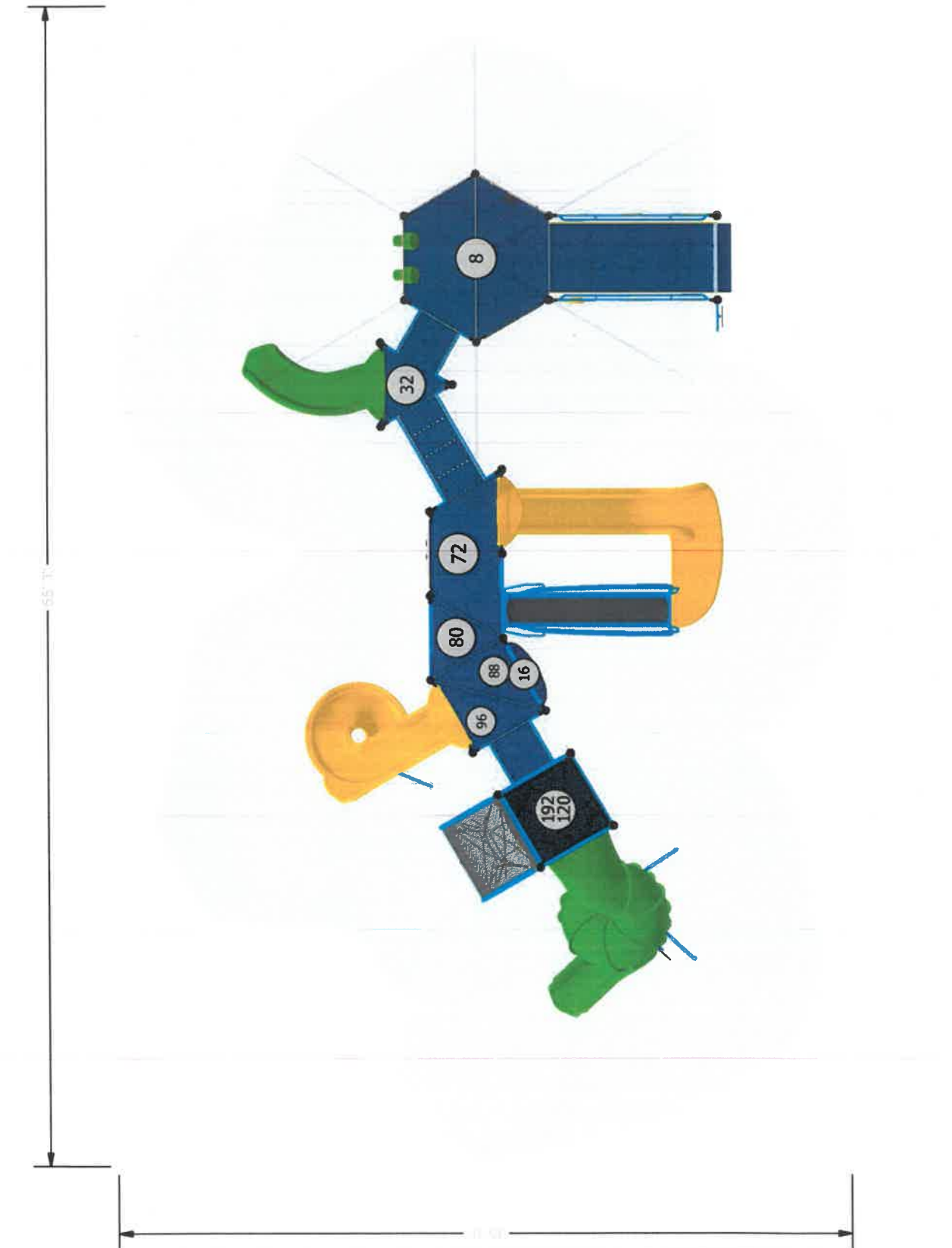
10/15/2024

DESIGNED FOR AGES:
5 to 12, 2 to 12

Burke
PLAY THAT MOVES YOU

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke



The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

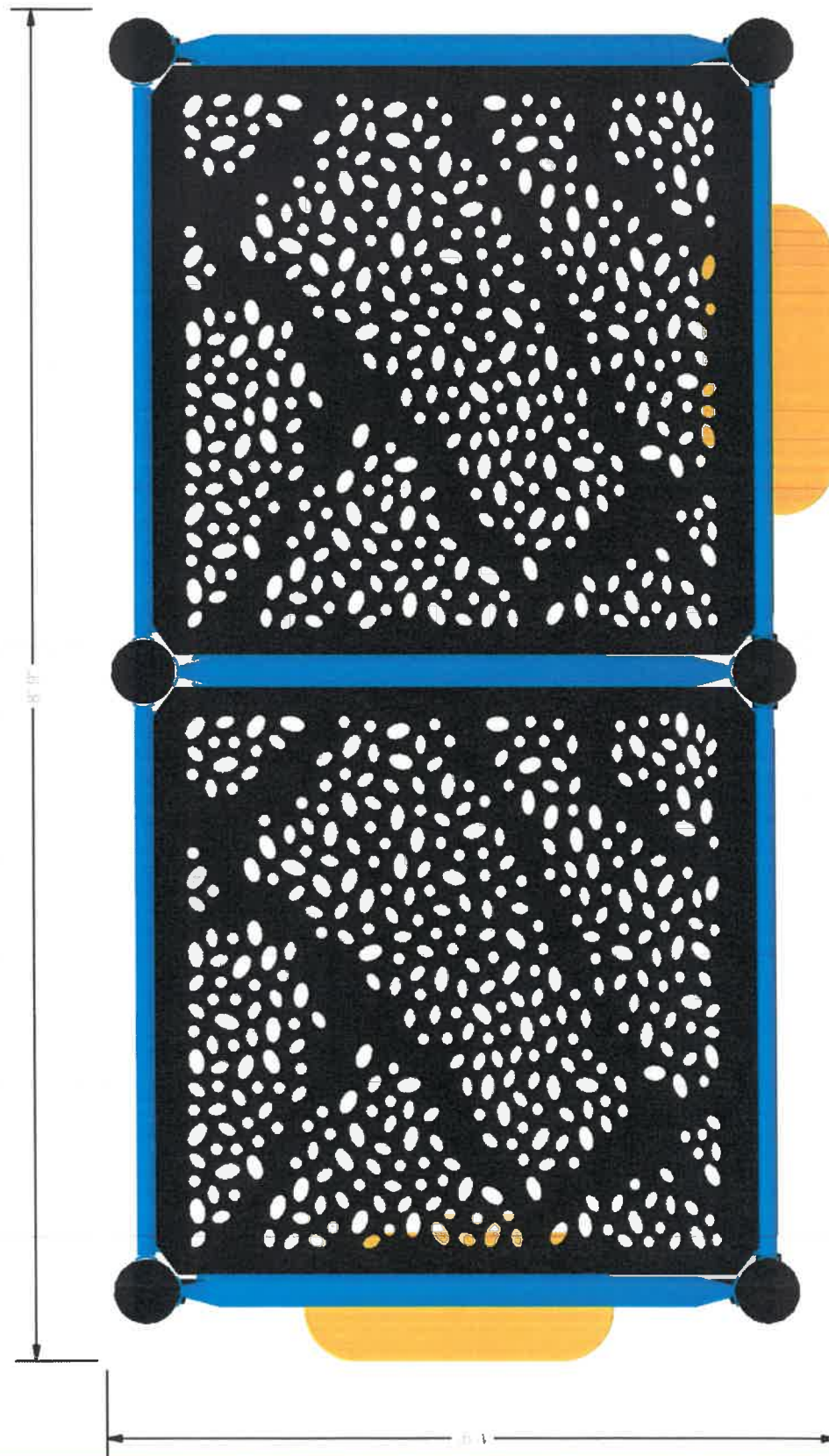
Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.

STRUCTURE SIZE: 9'x99' 4 11"

POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus		SITE PLAN VIEW	
GROUP: Structure		10/15/2024	
DESIGNED FOR AGES: 5 to 12		Top Line Recreation, Inc. 134-190096-3 Designer: Brandy Janke	
City Center Playground Port Orange Port Orange, FL 32129 			
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM			



OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.
STRUCTURE SIZE: 9'x99' 11"
POST SIZE(8):

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus

SITE PLAN VIEW

GROUP:
Concession Stand

City Center Playground Port Orange
Port Orange, FL 32129

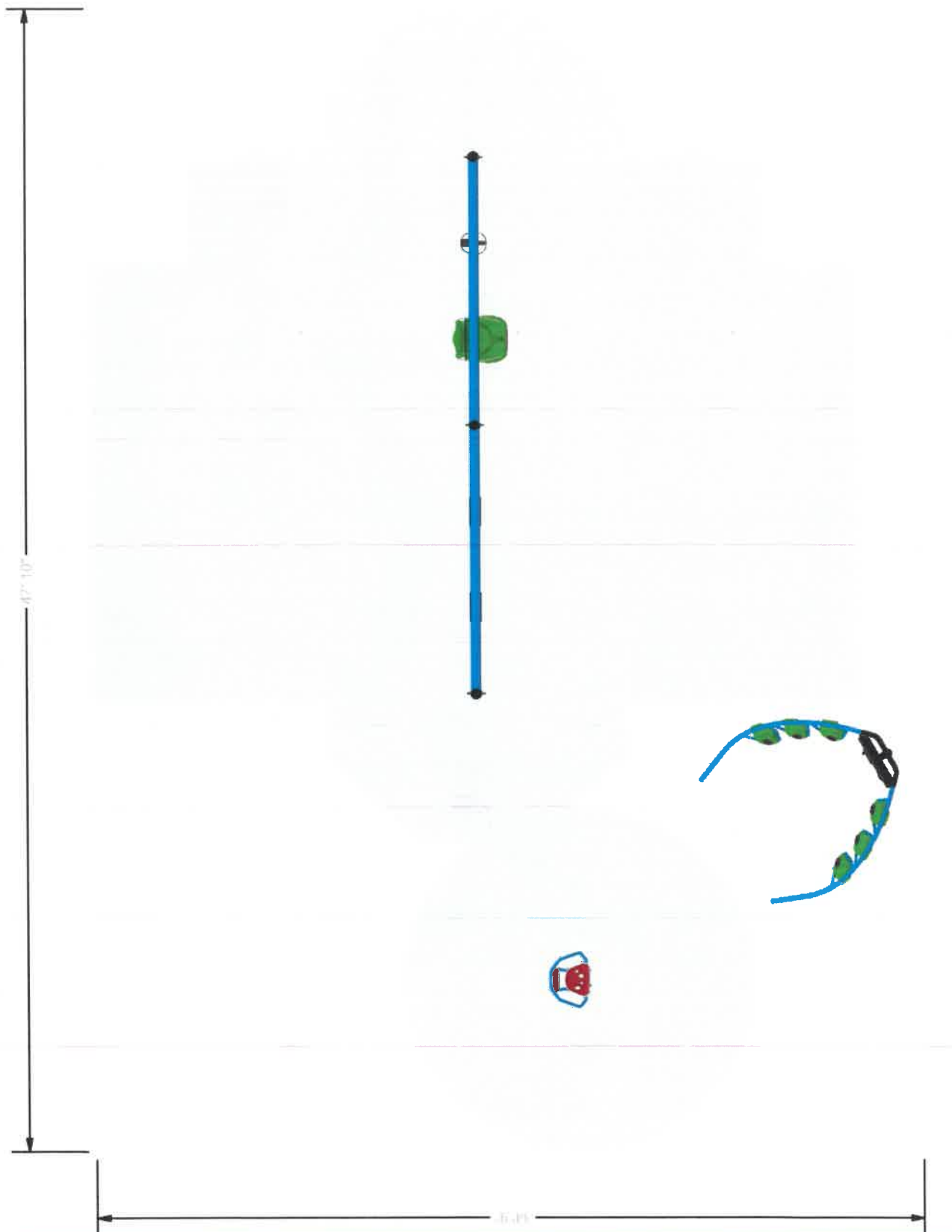
10/15/2024

DESIGNED FOR AGES:
2 to 12

Burke
PLAY THAT MOVES YOU

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke



PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.
STRUCTURE SIZE: 9'x99' 11"
POST SIZE(S):

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Burke Basics

GROUP: Freestanding

DESIGNED FOR AGES: 2 to 12

City Center Playground Port Orange
Port Orange, FL 32129

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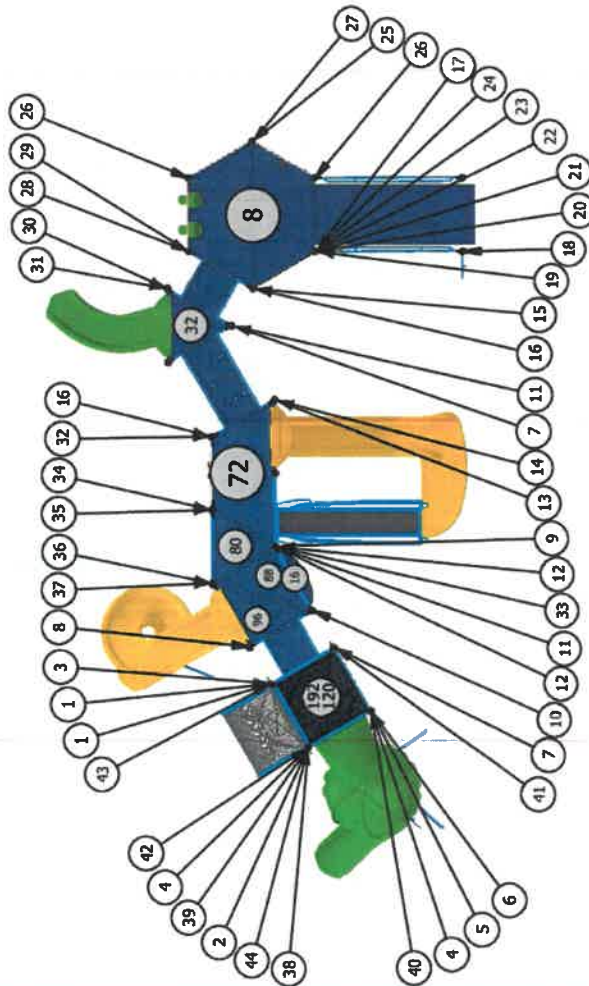
SITE PLAN VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

ITEM	COMP.	DESCRIPTION
1	270-0130	SQUARE PLATFORM
2	570-0701	CUSTOM PANEL 56 WITH COUNTER
3	370-1649	EVOLUTION, DECK TO ROOF CLIMBER
4	570-1545	EVOLUTION 6' OPENING BARRIER
5	570-0849	CUSTOM PHOTO PANEL 57
6	570-0692	CUSTOM PANEL 25 BELOW PLATFORM
7	370-0099	EVOLUTION 24" TRANSITION STAIR W/ BARRIERS
8	270-0301	SPLIT SQUARE PLATFORM/CLOSURE PLATE
9	470-0128	FLYLOW POOL
10	570-0130	EVOLUTION BARRIER W/ KALEIDOSCOPE
11	270-0129	TRIANGLE PLATFORM
12	270-0009	8" CLOSURE PLATE, ELLIPSE
13	270-0132	HALF HEXAGON PLATFORM
14	370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS
15	270-0131	HEXAGONAL PLATFORM SSP
16	570-2634	CUSTOM CURVED 41 2 SIDED
17	270-0125	SENSORY RAIL 8" RISE ENTRANCE RAMP
18	570-2705	SPINNER CRESCENT PANEL
19	570-0117	MELODY SENSORY EVENT, TOP
20	570-0105	SENSORY RAIL MIDDLE PANEL
21	570-0109	CHROMA SENSORY EVENT, LOWER
22	570-0104	SENSORY RAIL TOP PANEL
23	570-0127	GRASS SENSORY EVENT, MIDDLE
24	570-0106	SENSORY RAIL LOWER PANEL
25	570-2668	CAR ACCESSIBLE REACH PANEL
26	570-0622	PLATFORM ROLL GUARD
27	570-1700	CUSTOM PANEL 89
28	570-2670	DRUM ACCESSIBLE REACH PANEL
29	470-0775	EZ TENSION HEX SHADEPLAY CANOPY
30	470-0802	MONACO SLIDE, 32"-40"
31	470-0967	SLIDE HOOD, LOW SIDE WALL
32	570-2734	CLASSIC GAME PANEL, BELOW
33	470-0966	360 LOOP
34	370-1666	SHASTA CLIMBER, 80"-96"
35	270-0122	EVOLUTION OFFSET ENCLOSURE
36	470-0831	VIPER SPIRAL 96 W/O HOOD
37	470-0805	SLIDE HOOD, HIGH SIDE WALL
38	470-0124	CORBRA SLIDE CORNSCREW RIGHT 192"
39	570-1544	EVOLUTION SHORT CURVED TOP BARRIER
40	570-1546	EVOLUTION TALL BARRIER
41	570-1557	EVOLUTION TALL CURVED TOP BARRIER, LEFT
42	470-0015	EVOLUTION SQUARE ROOF
43	470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT
44	470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT



SERIES Nucleus

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

City Center Playground Port Orange
Port Orange, FL 32129

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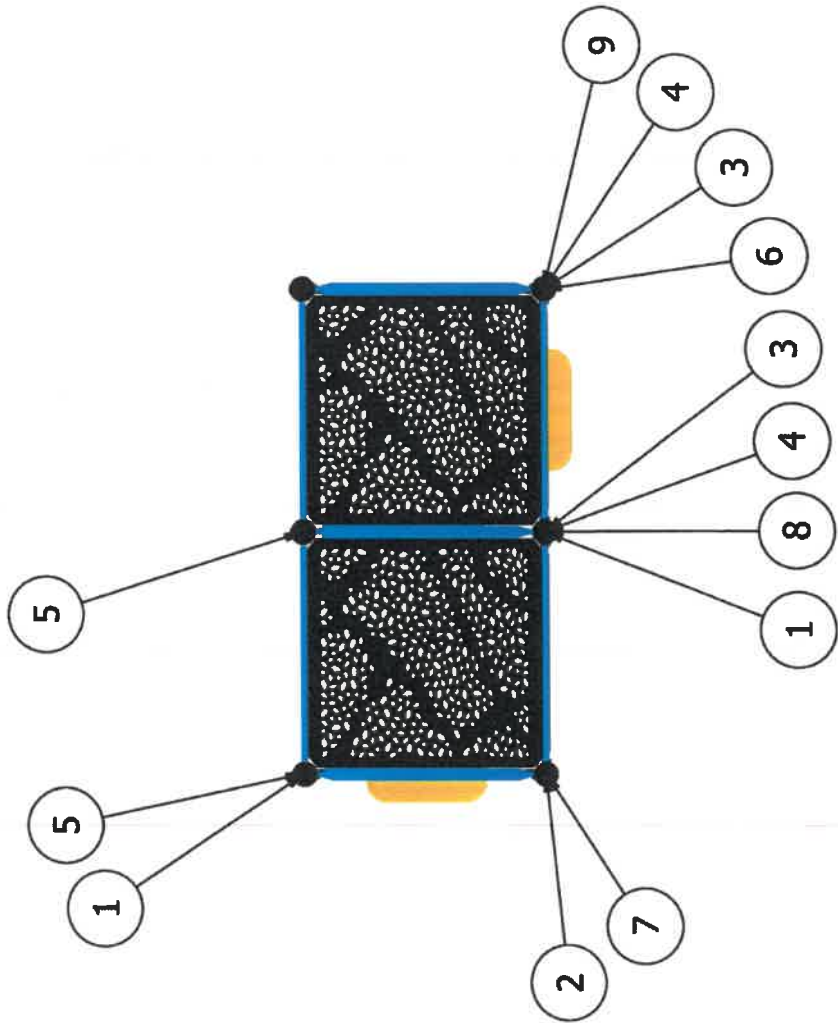
COMPONENT VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

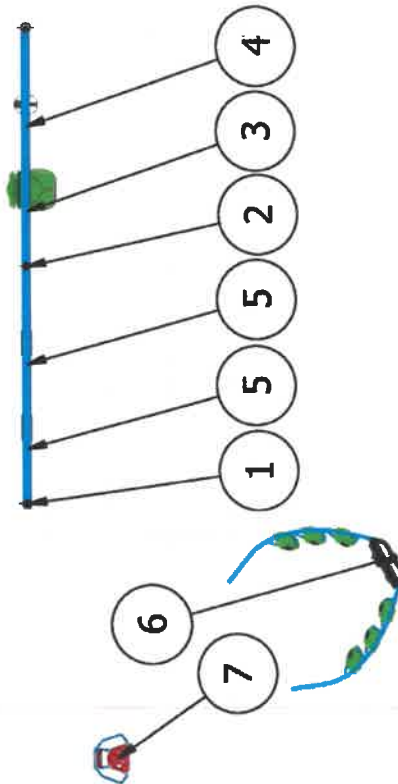
Designer: Brandy Janke

ITEM	COMP.	DESCRIPTION
1	570-0701	CUSTOM PANEL 56 WITH COUNTER
2	570-0696	CUSTOM PANEL 57 BELOW PLATFORM
3	470-0015	EVOLUTION SQUARE ROOF
4	470-0006	EVOLUTION BOTTOM ROOF SUPPORT, SINGLE
5	470-0003	EVOLUTION TOP ROOF SUPPORT, SINGLE
6	470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT
7	470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT
8	470-0010	EVOLUTION MIDDLE ROOF SUPPORT
9	570-0849	CUSTOM PHOTO PANEL 57



SERIES Nucleus		COMPONENT VIEW	
GROUP: Concession Stand		10/15/2024	
DESIGNED FOR AGES: 2 to 12		Top Line Recreation, Inc. 134-190096-3	
City Center Playground Port Orange Port Orange, FL 32129		Designer: Brandy Janke	
			
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM			

ITEM	COMP.	DESCRIPTION
1	550-0201	SINGLE POST SWING ASSEMBLY 5" OD
2	550-0202	SINGLE POST SWING ADD-ON 5" OD
3	550-0171	FREEDOM SWING SEAT, 8' BEAM, STD CHAIN
4	550-0099	TOT SEAT, 7' & 8' SINGLE, STD CHAIN
5	550-0111	BELT SEAT, 8' SINGLE, STD CHAIN
6	560-2625	MOVWMT INCLUSIVE, PRESTANDING
7	560-2735	ARD SPINNING CHAIR



SERIES Burke Basics

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

City Center Playground Port Orange
Port Orange, FL 32129

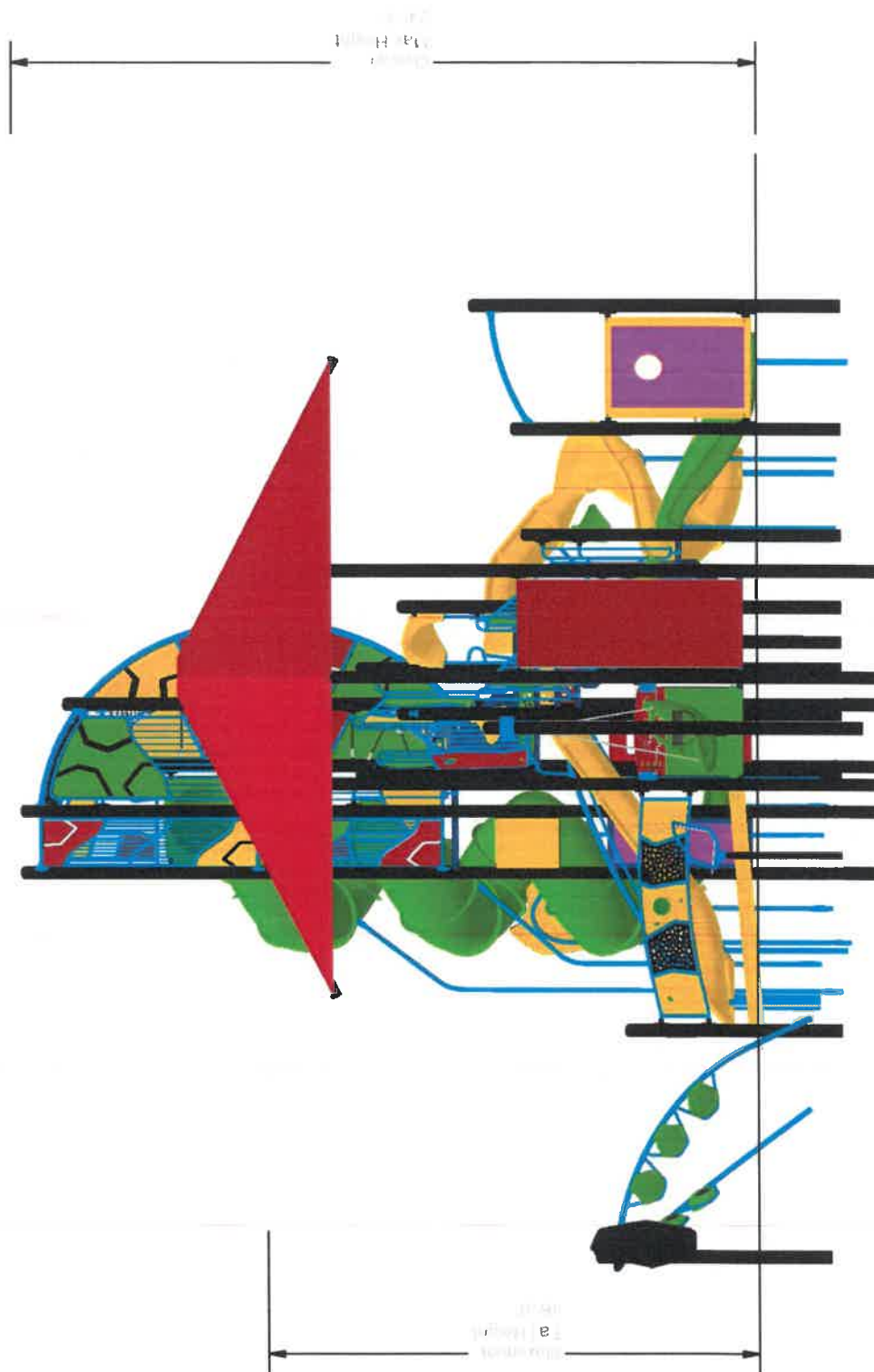
Burke
PLAY THAT MOVES YOU

COMPONENT VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke



SERIES Nucleus | Burke Basics

ELEVATION VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

DESIGNED FOR AGES:
5 to 12, 2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus

ELEVATION VIEW

GROUP:
Structure

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

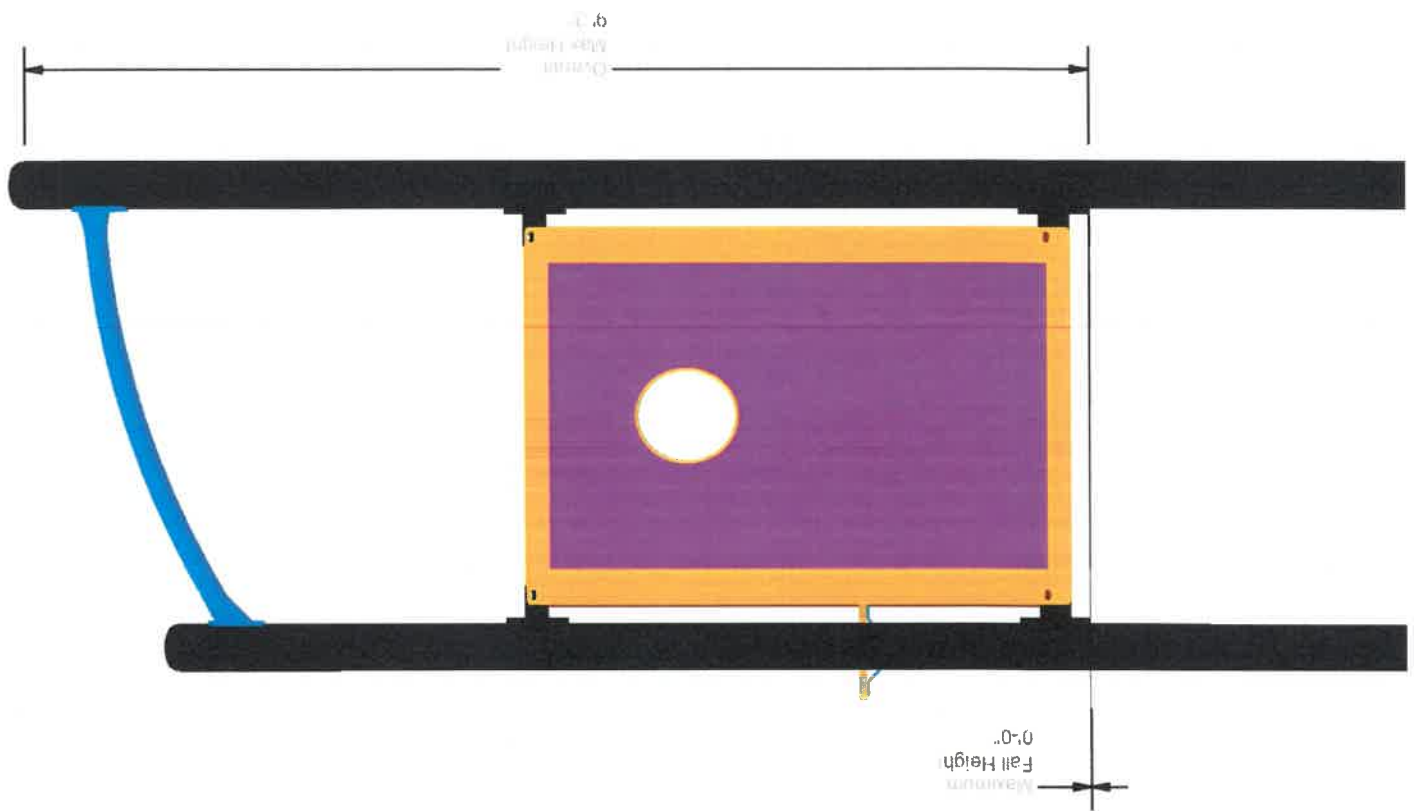
DESIGNED FOR AGES:
5 to 12

Top Line Recreation, Inc.
134-190096-3

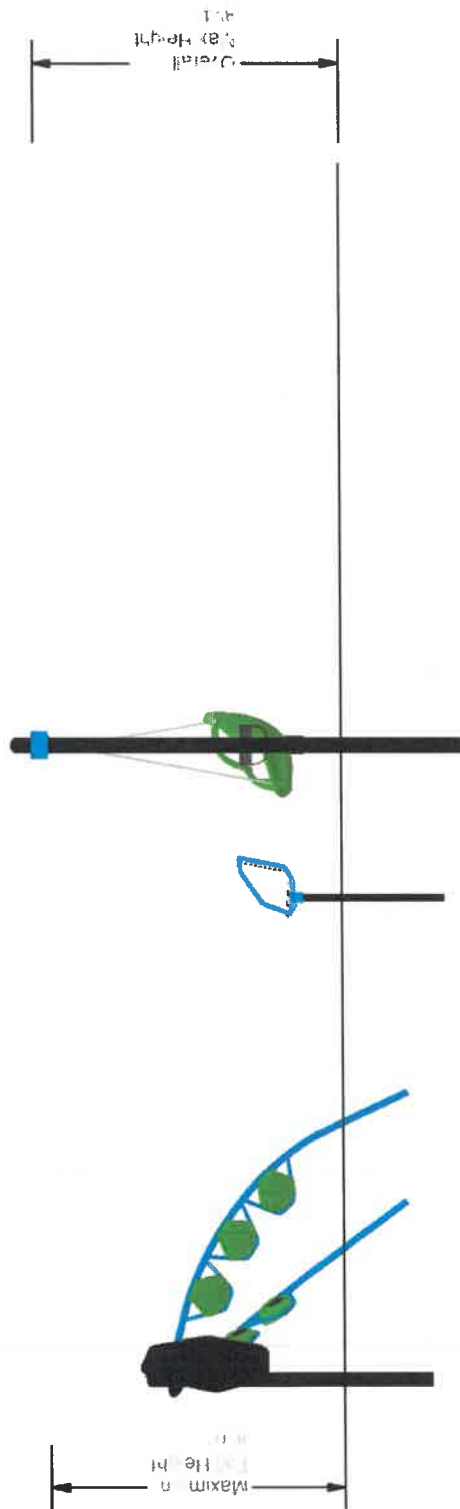
Burke.
PLAY THAT MOVES YOU

Designer: Brandy Janke

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SERIES Nucleus		ELEVATION VIEW
GROUP: Concession Stand	City Center Playground Port Orange Port Orange, FL 32129	10/15/2024
DESIGNED FOR AGES: 2 to 12		Top Line Recreation, Inc. 134-190096-3
		Designer: Brandy Janke
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM		



SERIES Burke Basics

ELEVATION VIEW

GROUP:
Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

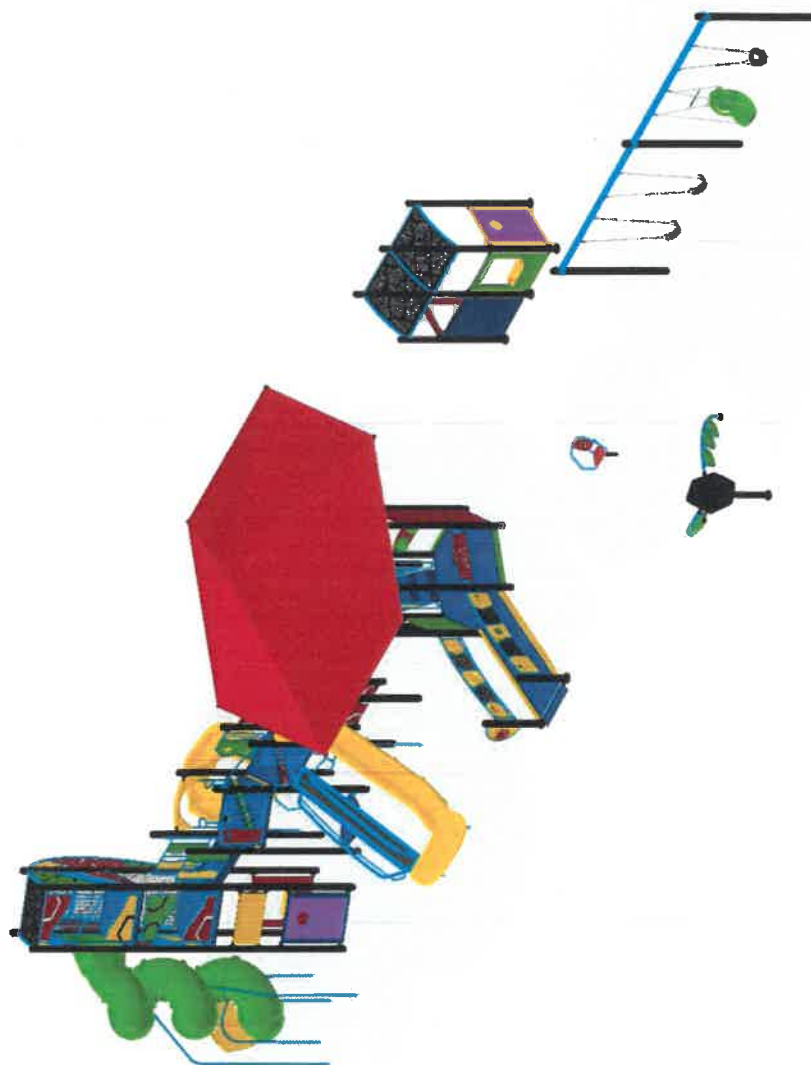
DESIGNED FOR AGES:
2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

Burke
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SERIES Nucleus | Burke Basics

ISOMETRIC VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

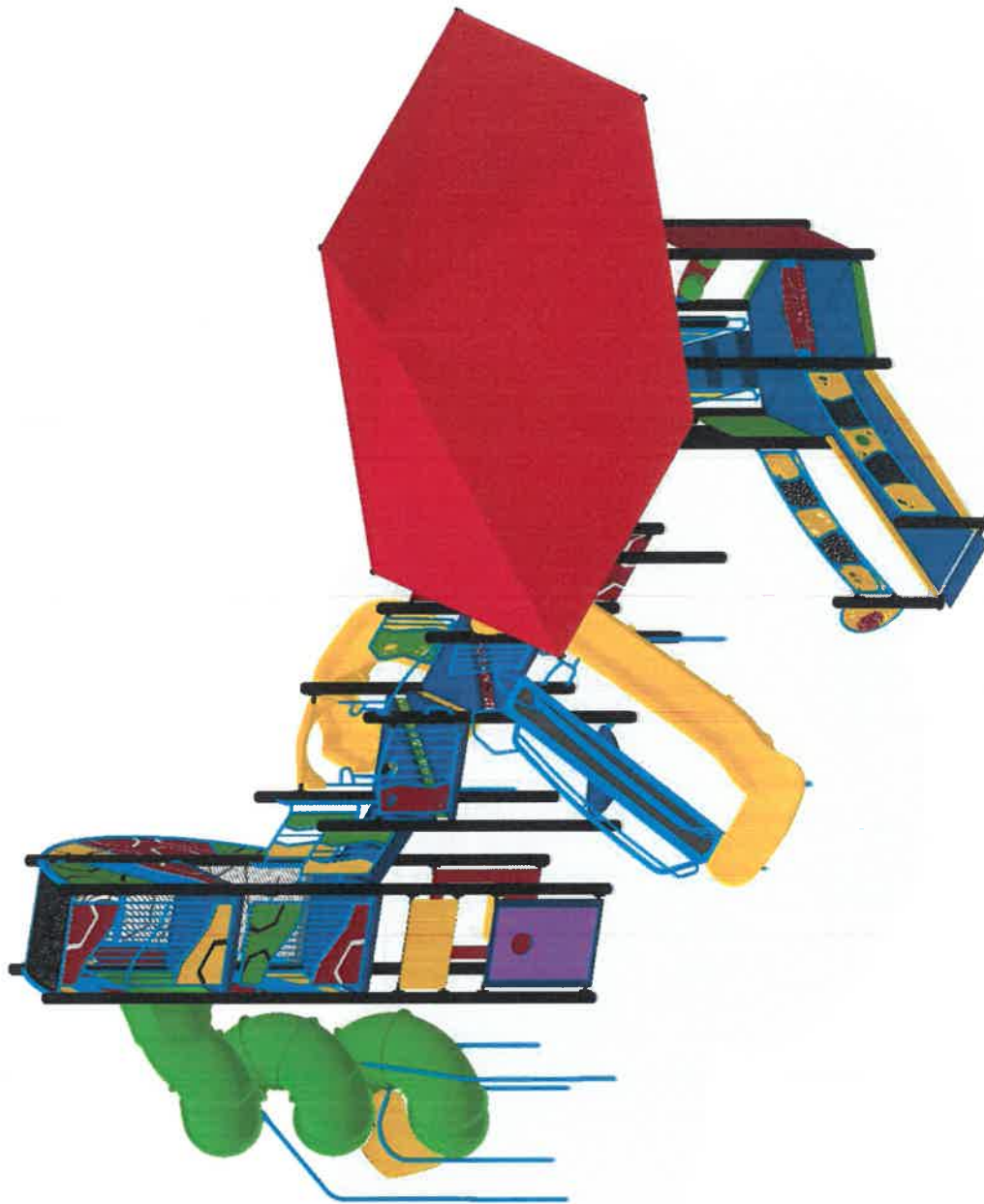
DESIGNED FOR AGES:
5 to 12, 2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

City Center Playground Port Orange
Port Orange, FL 32129

Burke
PLAY THAT MOVES YOU

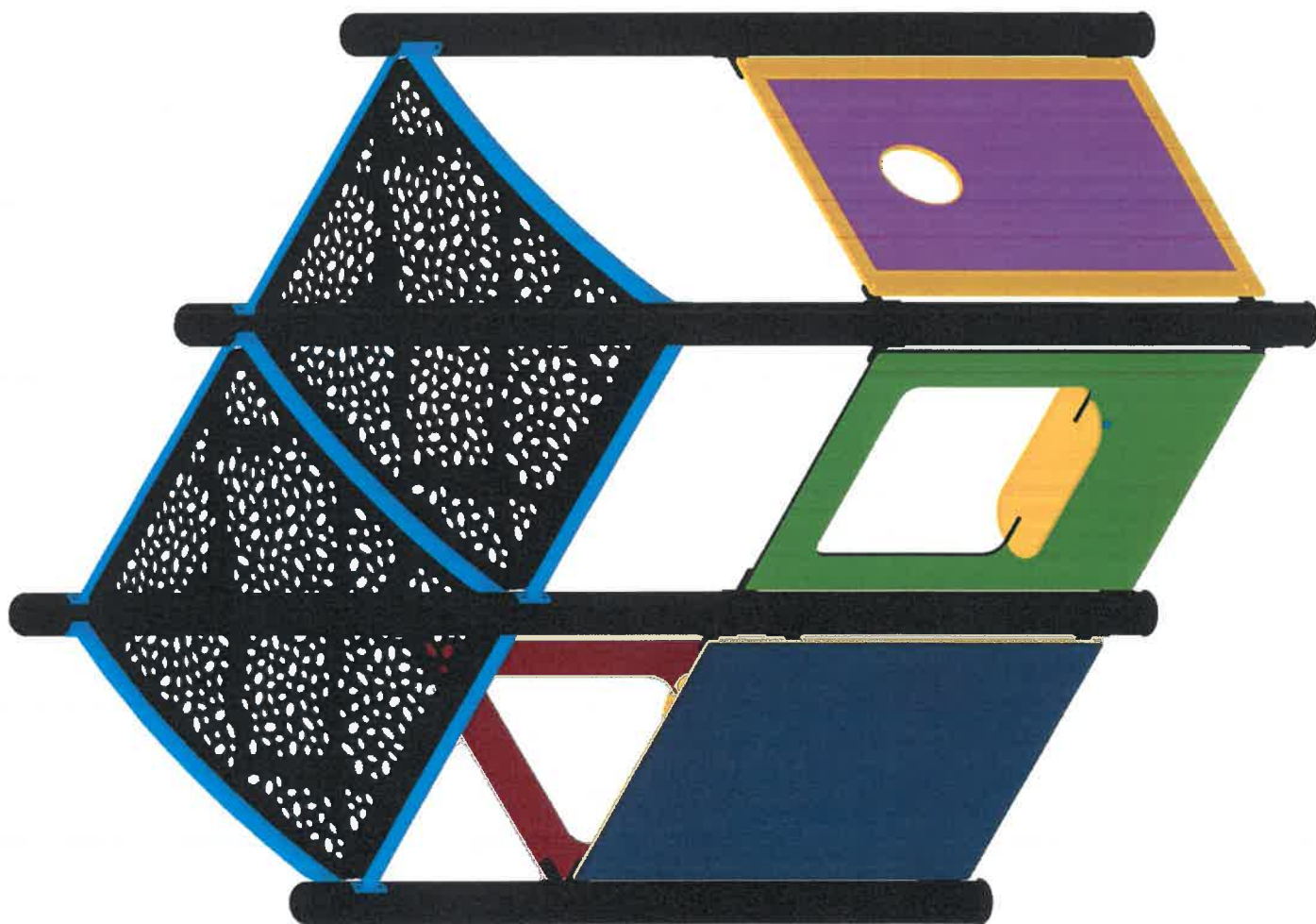
ISOMETRIC VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM



SERIES Nucleus

ISOMETRIC VIEW

GROUP:
Concession Stand

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

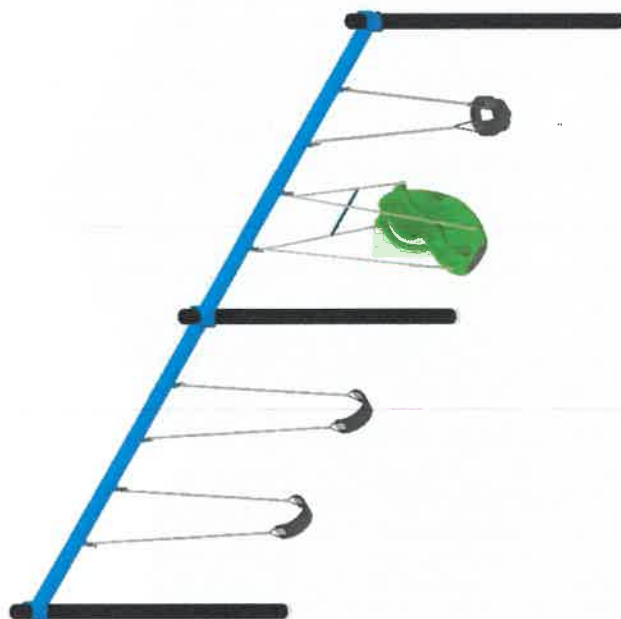
DESIGNED FOR AGES:
2 to 12

Burke
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Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM



SERIES Burke Basics

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

City Center Playground Port Orange
Port Orange, FL 32129

Burke
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ISOMETRIC VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

The play components identified in this proposal are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1487. To verify product certification, visit www.ipema.org.



The space requirements shown in this proposal are to ASTM standards. Requirements for other standards may be different.

Component No.	Description	Qty	User Cap	Ext. User Cap	Weight	Ext. Weight
Structure						
Nucleus						
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-124C	5" OD X 124" CAPPED POST	2	0	0	65	130
072-0500-148C	5" OD X 148" CAPPED POST	2	0	0	78	156
072-0500-156C	5" OD X 156" CAPPED POST	1	0	0	82	82
072-0500-164C	5" OD X 164" CAPPED POST	1	0	0	86	86
072-0500-172C	5" OD X 172" CAPPED POST	2	0	0	90	180
072-0500-188C	5" OD X 188" CAPPED POST	2	0	0	99	198
072-0500-76C	5" OD X 76" CAPPED POST	1	0	0	40	40
072-0500-84C	5" OD X 84" CAPPED POST	1	0	0	44	44
072-0502-204S	5" OD X 204" SWAGED POST	6	0	0	107	642
072-0502-220S	5" OD X 220" SWAGED POST	4	0	0	115	460
072-5503-104T	5" OD X 104" TOP ALUMINUM CAP...	2	0	0	20	40
072-5503-88T	5" OD X 88" TOP ALUMINUM CAPP...	2	0	0	18	36
270-0009	8" CLOSURE PLATE, ELLIPSE	2	0	0	8	16
270-0122	EVOLUTION OFFSET ENCLOSURE	1	0	0	34	34
270-0125	SENSORY RAIL 8" RISE ENTRANCE...	1	0	0	440	440
270-0129	TRIANGLE PLATFORM	2	2	4	48	96
270-0130	SQUARE PLATFORM	2	6	12	106	212
270-0131	HEXAGONAL PLATFORM S5P	1	12	12	287	287
270-0132	HALF HEXAGON PLATFORM	1	6	6	144	144
270-0301	SPLIT SQUARE PLATFORMCLOSURE ...	1	4	4	108	108
370-0039	EVOLUTION 24" TRANSITION STAI...	2	4	8	181	362
370-0041	EVOLUTION 40" TRANSITION STAI...	1	8	8	301	301
370-1649	EVOLUTION, DECK TO ROOF CLIMBER	1	7	7	472	472
370-1666	SHASTA CLIMBER, 80"-96"	1	4	4	32	32
470-0008	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0009	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0015	EVOLUTION SQUARE ROOF	1	0	0	42	42
470-0124	COBRA SLIDE CORKSCREW RIGHT 192"	1	3	3	597	597
470-0128	FLYLOW POD	1	2	2	27	27
470-0775	EZ TENSION HEX SHADEPLAY CANOPY	1	0	0	531	531
470-0802	MONACO SLIDE, 32"-40"	1	2	2	70.6	70.6
470-0805	SLIDE HOOD, HIGH SIDE WALL	1	0	0	32	32
470-0831	VIPER SPIRAL 96 W/O HOOD	1	4	4	270	270
470-0966	360 LOOP	1	6	6	557	557
470-0967	SLIDE HOOD, LOW SIDE WALL	1	0	0	37	37
570-0104	SENSORY RAIL TOP PANEL	1	0	0	7	7
570-0105	SENSORY RAIL MIDDLE PANEL	1	0	0	7	7
570-0106	SENSORY RAIL LOWER PANEL	1	0	0	8	8
570-0109	CHROMA SENSORY EVENT, LOWER	1	0	0	13	13
570-0117	MELODY SENSORY EVENT, TOP	1	0	0	20	20
570-0127	GRASS SENSORY EVENT, MIDDLE	1	0	0	16	16

570-0130	EVOLUTION BARRIER W/ KALEIDOS...	1	1	1	64	64
570-0622	PLATFORM ROLL GUARD	2	0	0	8	16
570-0692	CUSTOM PANEL 25 BELOW PLATFORM	1	1	1	41	41
570-0701	CUSTOM PANEL 56 WITH COUNTER	1	4	4	76	76
570-0849	CUSTOM PHOTO PANEL 57	1	2	2	73	73
570-1544	EVOLUTION SHORT CURVED TOP BA...	1	0	0	50	50
570-1545	EVOLUTION 6' OPENING BARRIER	2	0	0	78	156
570-1546	EVOLUTION TALL BARRIER	1	0	0	78	78
570-1557	EVOLUTION TALL CURVED TOP BAR...	1	0	0	114	114
570-1700	CUSTOM PANEL 89	1	1	1	111	111
570-2634	CUSTOM CURVED 41 2 SIDED	2	1	2	48	96
570-2668	CAR ACCESSIBLE REACH PANEL	1	2	2	23	23
570-2670	DRUM ACCESSIBLE REACH PANEL	1	2	2	23	23
570-2705	SPINNER CRESCENT PANEL	1	1	1	17	17
570-2734	CLASSIC GAME PANEL, BELOW	1	2	2	65	65
660-0103	MAINTENANCE KIT, STRUCTURE	1	0	0	7	7
660-0104	INSTALLATION KIT, STRUCTURE	1	0	0	5	5
670-0427	5" OD X 11 GA POST EXTENSION	4	0	0	10	40

Total User Capacity: 100
Total Weight: 7977 lbs.
Total Price: \$131,020

Freestanding

Burke Basics

550-0099	TOT SEAT, 7' & 8' SINGLE, STD...	1	1	1	12	12
550-0111	BELT SEAT, 8' SINGLE, STD CHAIN	2	1	2	10	20
550-0171	FREEDOM SWING SEAT, 8' BEAM, ...	1	1	1	38	38
550-0201	SINGLE POST SWING ASSEMBLY 5" OD	1	0	0	220	220
550-0202	SINGLE POST SWING ADD-ON 5" OD	1	0	0	145	145
560-2625	MOVMT INCLUSIVE, FREESTANDING	1	2	2	328	328
560-2735	ARO SPINNING CHAIR	1	1	1	42	42
660-0101	INSTALL KIT, BURKE BASICS - P...	1	0	0	2	2

Total User Capacity: 7
Total Weight: 807 lbs.
Total Price: \$23,812

Concession Stand

Nucleus

072-0500-128C	5" OD X 128" CAPPED POST	3	0	0	67	201
072-0500-144C	5" OD X 144" CAPPED POST	3	0	0	76	228
470-0003	EVOLUTION TOP ROOF SUPPORT, S...	2	0	0	13	26
470-0006	EVOLUTION BOTTOM ROOF SUPPORT...	2	0	0	13	26
470-0008	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0009	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0010	EVOLUTION MIDDLE ROOF SUPPORT	1	0	0	18	18
470-0015	EVOLUTION SQUARE ROOF	2	0	0	42	84
570-0696	CUSTOM PANEL 57 BELOW PLATFORM	1	1	1	73	73
570-0701	CUSTOM PANEL 56 WITH COUNTER	2	4	8	76	152
570-0849	CUSTOM PHOTO PANEL 57	1	2	2	73	73

Total User Capacity: 11
Total Weight: 913 lbs.
Total Price: \$13,303

Special Notes:

Prices do not include freight, unloading, material storage, site excavation/preparation, removal of existing equipment, removal of excess soil from footing holes, site security, safety surfacing, installation, or sales tax (if applicable). Prices are based on standard colors per CURRENT YEAR BCI Burke Catalog. Custom colors, where available, would be an extra charge. **Pricing is valid for 30 days from the date of this proposal.**

COLOR SELECTION LIST | PlaygroundColorOption:1

GROUP 1 (Concession Stand)

Post: Black
Acc: Sky
Flat: Yellow
Panel: Lime-Black-Lime | Blue-Yellow-Blue | Red-White-Red

GROUP 2 (Freestanding)

Post: Sky | Black
Deck: Blue
Plastic: Lime
Panel: Yellow-Black-Yellow | Red-White-Red
Acc: Sky

GROUP 3 (Structure)

Deck: Blue
Post: Black
Acc: Sky | Lime | Yellow | Red
Flat: Yellow | Blue | Lime | Red
Panel: Red-White-Red | Lime-Black-Lime | Yellow-Black-Yellow
Plastic: Blue | Lime | Yellow
Canopy: Red

COLORS THAT MOVE YOU

POWDER COAT PAINT



PLATFORMS



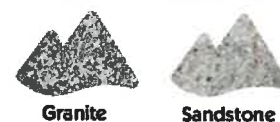
SOLIS HUE TOPPERS



TRADITIONAL SERIES SITE AMENITIES



ROCKIT CLIMBERS



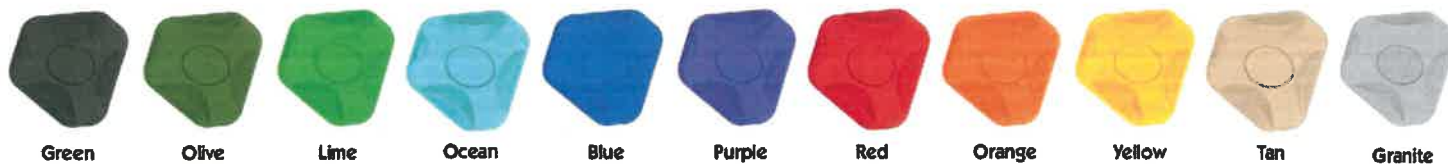
HDPE PLASTIC PANELS



SHADE CANOPIES



ROTOMOLD PLASTIC



VISIT BCIBURKE.COM/COLOR TO CUSTOMIZE YOUR PLAYGROUND COLORS!

BCIBURKE.COM

Burke

800.266.1250

BURKE GENERATIONS WARRANTY®

BCI Burke Company, LLC ("Burke") warrants that all standard products are warranted to be free from defects in materials and workmanship, under normal use and service, for a period of one (1) year from the date of shipment.

We stand behind our products.

In addition, the following products are warranted, under normal use and service from the date of shipment as follows:

- One Hundred (100) Year Limited Warranty on aluminum and steel upright posts (including Nucleus®, Nucleus Evolution®, Nucleus Aspire™, Intensity®, Level X®, Synergy®, Synergy Imagination® & 4Me® against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on KoreConnect® clamps against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on Hardware (nuts, bolts, washers)
- One Hundred (100) Year Limited Warranty on bolt-through fastening and clamp systems (Synergy®, Intensity®, Nucleus®).
- Twenty-Five (25) Year Limited Warranty on spring assemblies and aluminum cast animals.
- Fifteen (15) Year Limited Warranty on structure platforms and decks, metal roofs, table tops, bench tops, railings and barriers against structural failure due to materials or workmanship.
- Fifteen (15) Year Limited Warranty on all plastic components including StoneBorders against structural failure due to materials or workmanship.
- Ten (10) Year Limited Warranty on ShadePlay® Canopies-fabric, threads, and cables against degradation, cracking or material breakdown resulting from ultra-violet exposure, natural deterioration or manufacturing defects. This warranty is limited to the design loads as stated in the specifications.natural deterioration or manufacturing defects. This warranty is limited to the design loads as stated in the specifications.
- Ten (10) Year Limited Warranty on NaturePlay® Boulders and GFRC products against structural failure due to natural deterioration or workmanship. Natural wear, which may occur with any concrete product with age, is excluded from this warranty.
- Ten (10) Year Limited Warranty on Full Color Custom Signage against manufacturing defects that cause delamination or degradation of the sign. Full Color Custom Signs also carry a two (2) year warranty against premature fading of the print and graphics on the signs.
- Five (5) Year Limited Warranty on Nucleus®, Intensity®, and RopeVenture® cables against premature wear due to natural deterioration or manufacturing defects. Determination of premature wear will be at the manufacturer's discretion.
- Five (5) Year Limited Warranty on rubber belt material against premature wear due to natural deterioration or manufacturing defects. Determination of premature wear will be at the manufacturer's discretion.
- Five (5) Year Limited Warranty on moving parts, including swing components, against structural failure due to materials or workmanship.
- Five (5) Year Limited Warranty on PlayEnsemble® cables and mallets against defects in materials and workmanship.
- Three (3) Year Limited Warranty on electronic panel speakers, sound chips and circuit boards against electronic failure caused by manufacturing defects.

The warranty stated above is valid only if the equipment is erected in conformity with the layout plan and/or installation instructions furnished by BCI Burke Company, LLC using approved parts; have been maintained and inspected in accordance with BCI Burke Company, LLC instructions. Burke's liability and your exclusive remedy hereunder will be limited to repair or replacement of those parts found in Burke's reasonable judgment to be defective. Any claim made within the above stated warranty periods must be made promptly after discovery of the defect. A part is covered only for the original warranty period of the applicable part. Replacement parts carry the applicable warranty from the date of shipment of the replacement from Burke. After the expiration of the warranty period, you must pay for all parts, transportation and service charges.

Burke reserves the right to accept or reject any claim in whole or in part. Burke will not accept the return of any product without its prior written approval. Burke will assume transportation charges for shipment of the returned product if it is returned in strict compliance with Burke's written instructions.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IF THE FOREGOING DISCLAIMER OF ADDITIONAL WARRANTIES IS NOT GIVEN FULL FORCE AND EFFECT, ANY RESULTING ADDITIONAL WARRANTY SHALL BE LIMITED IN DURATION TO THE EXPRESS WARRANTIES AND BE OTHERWISE SUBJECT TO AND LIMITED BY THE TERMS OF BURKE'S PRODUCT WARRANTY. SOME STATES DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

Warranty Exclusions: The above stated warranties do not cover: "cosmetic" defects, such as scratches, dents, marring, or fading; damage due to incorrect installation, vandalism, misuse, accident, wear and tear from normal use, exposure to extreme weather; immersion in salt or chlorine water, unauthorized repair or modification, abnormal use, lack of maintenance, or other cause not within Burke's control; and

Limitation of Remedies: Burke is not liable for consequential or incidental damages, including but not limited to labor costs or lost profits resulting from the use of or inability to use the products or from the products being incorporated in or becoming a component of any other product. If, after a reasonable number of repeated efforts, Burke is unable to repair or replace a defective or nonconforming product, Burke shall have the option to accept return of the product, or part thereof, if such does not substantially impair its value, and return the purchase price as the buyer's entire and exclusive remedy. Without limiting the generality of the foregoing, Burke will not be responsible for labor costs involved in the removal of products or the installation of replacement products. Some states do not allow the exclusion of incidental damages, so the above exclusion may not apply to you.

The environment near a saltwater coast can be extremely corrosive. Some corrosion and/or deterioration is considered "normal wear" in this environment. Product installed within 500 yards of a saltwater shoreline will only be covered for half the period of the standard product warranty, up to a maximum of five years, for defects caused by corrosion. Products installed in direct contact with saltwater or that are subjected to salt spray are not covered by the standard warranty for any defects caused by corrosion.

Contact your local Burke Representative for warranty information regarding Burke Turf® and Burke Tile products.

Terms of Sale

Pricing: Prices published in this catalog are in USD, are approximate and do not include shipping & handling, surfacing, installation nor applicable taxes. All prices are subject to change without notice. Contact your Burke representative for current pricing. Payments are to be made in USD.

Weights: Weights are approximate and may vary with actual orders.

Installation: All equipment is shipped unassembled. For a list of factory-certified installers in your area, please contact your Burke representative.

Specifications: Product specifications in this catalog were correct at the time of publication. However, product improvements are ongoing at Burke, and we reserve the right to change or discontinue specifications without notice.

Loss or Damage in Transit: A signed bill of lading is our receipt from a carrier that our shipment to you was complete and in good condition upon arrival. Before you sign, please check the Bill of Lading carefully when the shipment arrives to make sure nothing is missing and there are no damages. Once the shipment leaves our plant, we are no longer responsible for any damage, loss or shortage.

For more information regarding the warranty, call Customer Service at 920-921-9220 or 1-800-356-2070.

01/2024

EXHIBIT "2"

Payment and Performance Bond

Consisting of 4 Pages

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. _____

PRINCIPAL:

Developer or Contractor: **TOP LINE RECREATION, INC.**
Principal Business Address: 2922 Howland Boulevard
Suite #4
Deltona, Florida 32725
Contact Person: Sonia M. Perkins, President
Phone Number: (386) 575-8359

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: \$297,695.63

City Case/Project No. PK246/RFP 24-16 City Center Playground Replacement

Description of Work: RFP 24-16 City Center Playground Replacement

Project Location: Port Orange, Volusia County, Florida
Legal Description: Portions of Parcel ID#: 6308-00-03-0010
See Attached **Exhibit "A"**

Front Page

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

4625 City Center Drive, Port Orange, Florida 32129

Full Parcel ID:

08-16-33-00-03-0010

Short Parcel ID:

6308-00-03-0010

Legal Description:

Commence at a Concrete Monument marked "3290" at the Southwest corner of Twin Gates Mobile Estates as recorded in Map Book 33, at Page 48 of the Public Records of Volusia County, Florida, said Point being at the intersection of the East line of the Northwest $\frac{1}{4}$ of Section 8, Township 16 South, Range 33 East, Volusia County, Florida as now monumented and the Northerly Right-of-Way line of Herbert Street as now laid out (Right-of-Way Varies); Thence go S01 37'37"W along the aforesaid monumented East line of the Northwest $\frac{1}{4}$ of Section 8 a distance of 967.01 feet to the Point of Beginning; Thence Continue S01 37'37" W along the aforesaid Monumented East line of the Northwest $\frac{1}{4}$ of Section 8 a distance of 658.19 feet to a Concrete Monument at the Southeast corner of the Northwest $\frac{1}{4}$ of the aforesaid Section 8, said Monument being in the North Line of a Florida Power & Light Company Right-of-Way Easement as Recorded in Official Records Book 1544, at Page 84 of the Public Records of Volusia County, Florida; Thence departing the aforesaid Monumented East Line of the Northwest $\frac{1}{4}$ of Section 8 go N88 20'55"W along the South Line of the Northwest $\frac{1}{4}$ of Section 8, A Distance of 331.49 Feet; Thence departing the aforesaid South Line of the Northwest $\frac{1}{4}$ of Section 8 go N01 43'40"E a distance of 658.19 feet; Thence go S88 20'55"E a distance of 330.33 feet to an intersection with the aforesaid Monumented East line of the Northwest $\frac{1}{4}$ of Section 8 and The Point of Beginning.

TOP LINE RECREATION, INC.
RFP 24-16 City Center Playground Replacement

Bond No. _____

**COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION**

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

BY THIS BOND, We, **TOP LINE RECREATION, 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 **Two Hundred Ninety-Seven Thousand Six Hundred Ninety-Five AND 63/100 DOLLARS (\$297,695.63)**, 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 _____, 2025, entered into by and between the Principal and the City, for City Center Playground Replacement, 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 shall be deemed an original, this _____, day of _____, 2025.

Attest:

TOP LINE RECREATION, INC.
(Name of Principal)

(As to Corporate Principal) Secretary

By: _____
Sonia M. Perkins, 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.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/3/2025

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

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

PRODUCER Cooper Risk Advisors, LLC PO Box 638 904 N Main Street Lapel IN 46051	CONTACT NAME: Bill Hodgkins PHONE (A/C, No, Ext): 321-214-1990 E-MAIL: billh@cooperindiana.com ADDRESS:	FAX (A/C, No): 765-534-2067
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Cincinnati Specialty Un Ins Co		13037
INSURER B : Old Dominion Insurance Company		40231
INSURER C : Evanston Insurance Company		35378
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER: 1150957611** **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 SUBR INSD 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 ☒ PRO-JECT ☐ LOC OTHER:	Y Y	CSU0142752	11/21/2024	11/21/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y Y	CA00021590	1/1/2025	1/1/2026	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 0.00	Y Y	EZXS3137652	11/21/2024	11/21/2025	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐ N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability/E&O		CSU0142752	11/21/2024	11/21/2025	Occurrence Aggregate 1,000,000 3,000,000

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

Project : City Center Playground Replacement
City of Port Orange, Florida is named as Additional Insured with respect to General Liability & Auto Liability when required by written contract/agreement.
Coverage is Primary and Non-Contributory for completed and ongoing operations. Waiver of Subrogation is in favor of the Additional Insured. Excess policy follows form.

CERTIFICATE HOLDER

City of Port Orange, Florida 1000 City Center Circle Port Orange FL 32129 USA	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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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US - PER CONTRACT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to Paragraph 8. **Transfer of Rights of Recovery Against Others to Us** of **SECTION IV - CONDITIONS**:

If you have agreed, in a written contract or agreement, to provide a waiver of any right of recovery against a person or organization, we will waive any right of recovery we may have against that person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to that person or organization for which you have agreed to in a written contract to provide said waiver.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED(S) - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU - OPERATIONS AND COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions in the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2. above;
2. The acts or omissions of those acting on your behalf in the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2. above; or
3. "Your work" performed for the additional insured described in Paragraph 1. or 2. above and included in the "products-completed operations hazard".

If not specified otherwise in the written contract or agreement described in A.1. of this endorsement, a person's or organization's status as an additional insured under this endorsement ends one year after your operations for the additional insured(s) are completed. The written contract or agreement must be currently in effect or become effective during the term of this Coverage Part. The contract or agreement must be executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains.

However:

1. The insurance afforded to such additional insured described above only applies to the extent permitted by law; and
2. If coverage provided to an additional insured described above is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide.

B. With respect to the insurance afforded to these additional insured(s), the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.
2. "Bodily injury" or "property damage" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.
3. "Bodily injury", "property damage" or "personal and advertising injury" to any employee of you or to any obligation of an additional insured to indemnify another because of damages arising out of such injury.

4. "Bodily injury", "property damage" or "personal and advertising injury" for which the Named Insured is afforded no coverage under this policy of insurance:

- C. With respect to the insurance afforded to these additional insureds, **SECTION III - LIMITS OF INSURANCE** is amended to include:

The limits applicable to an additional Insured described herein are those specified in the written contract or agreement described in **A.1.** of this endorsement or in the Declarations of this Coverage Part, whichever is less. If no limits are specified in the written contract or agreement, the limits applicable to the additional insured(s) are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

- D. With respect to the insurance afforded to these additional Insured(s), **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance** is amended to include:

Any coverage provided herein will be excess over any other valid and collectible insurance available to an additional insured whether primary, excess, contingent or on any other basis unless you have agreed in a written contract or written agreement executed prior to any loss that this insurance will be primary. This insurance will be noncontributory only if you have so agreed in a written contract or written agreement executed prior to any loss and this coverage is determined to be primary.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE ELITE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary:
 - (a) That is an "insured" under any other automobile policy or
 - (b) That would be an "insured" under such a policy but for (i) its termination or (ii) the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership, joint venture or limited liability company,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1 - **WHO IS AN INSURED OF SECTION II - LIABILITY COVERAGE** is amended to add:

Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1 - **WHO IS AN INSURED OF SECTION II - LIABILITY COVERAGE** is amended to add:

e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

- (1) The agreement requires you to provide direct primary insurance for the lessor and
- (2) The "auto" is leased without a driver. Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

2. ADDITIONAL INSURED BY CONTRACT, PERMIT OR AGREEMENT

The following is added to A.1 **WHO IS AN INSURED OF SECTION II - LIABILITY COVERAGE**:

Any person or organization for whom you are required to name as an additional insured in a written contract or agreement that is executed or signed by you prior to a "bodily injury" or "property damage" occurrence is an "insured" for liability coverage, but only to the extent that person or organization qualifies as an "insured" under the **Who Is An Insured** provision contained in **Section II** of the coverage form.

If specifically required by the written contract or agreement referenced in the paragraph above, any coverage provided by this endorsement to

an additional insured shall be primary and any other valid and collectible insurance available to the additional insured shall be non-contributory with this insurance. If the written contract does not require this coverage to be primary and the additional insured's coverage to be non-contributory, then this insurance will be excess over any other valid and collectible insurance available to the additional insured.

3. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The **OTHER INSURANCE** Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos" you hire or borrow, subject to the following limit. The most we will pay for "loss" to any hired "auto" is:

- (1) \$50,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1,000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE – ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. OF SECTION III – PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$75 per day and a maximum limit of \$2,250.

6. EXTRA EXPENSE – BROADENED COVERAGE

Under paragraph A. OF SECTION III – PHYSICAL DAMAGE COVERAGE, the following Coverage is added:

We will pay for the expense of returning a stolen covered "auto" to you subject to Paragraph C. Limit of Insurance.

7. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, if a long-term leased or financed "auto" is a covered "auto", we will pay in the event of a total "loss" your additional legal obligation to the lessor or loss payee for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees.

8. AIRBAG COVERAGE

Under Paragraph B. Exclusions of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an air bag.

9. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

The requirement in **LOSS CONDITIONS 2.a – DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS – of SECTION IV – BUSINESS AUTO CONDITIONS** that you must notify us of an “accident” applies only when the “accident” is known to:

- (1) You, if you are an individual
- (2) A partner, if you are a partnership; or
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

10. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

11. WAIVER OF SUBROGATION

Transfer Of Rights Of Recovery Against Others To Us of SECTION IV – BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization to or for whom we make payment and with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

12. RESULTANT MENTAL ANGUISH COVERAGE

The definition of “bodily injury” in **SECTION V – DEFINITIONS** is replaced by the following:

“Bodily injury” means bodily injury, sickness, or disease sustained by any person, including mental anguish or death resulting from any of these.

13. NOTICE OF CANCELLATION TO THIRD PARTY

The following is added to **A.2., Cancellation of COMMON POLICY CONDITIONS**

If we initiate a cancellation or non-renewal for any reason, other than non-payment of premium, we will mail notice of cancellation to the person or organization scheduled on the policy as an additional insured 30 days before the effective date of cancellation. We will mail such notice to the address of the Additional Insured scheduled on the policy and in at least 30 days before the effective date of the cancellation or non-renewal.

If the Insured initiates the cancellation or in case of non-payment of premium, we will not mail advance notice but, a final cancellation notice will be sent to the person or organization scheduled on the policy as an additional insured. We will mail such notice to the additional insured address upon final cancellation of the policy.

14. VEHICLE WRAP COVERAGE

Paragraph A. Coverage of Section III – PHYSICAL DAMAGE COVERAGE is amended to include the following additional paragraph:

Vehicle Wrap

In the event of a “loss” to a covered “auto”, we will provide the following coverage if such “loss” is caused by:

- a. Other than collision only if the Declarations indicates that comprehensive Coverage is provided for the covered “auto”;
- b. Specified Causes of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for the covered “auto”; or
- c. Collision only if the Declarations indicates that Collision Coverage is provided for the covered “auto”.

We will pay for “loss” to a “vehicle wrap” that is installed on the covered “auto”. The most we will pay for “loss” is \$5,000 per policy period.

We will not pay for “loss” due to and confined to wear and tear; or damage to paint or the vehicle caused by faulty installation of a “vehicle wrap”.

The “vehicle wrap” is subject to the Comprehensive deductible for the covered “auto”, except in the event of a “loss” to a covered “auto” for which such vehicle is involved in a collision and there is both:

- (1) Collision damage to the vehicle; and
- (2) Damage to the “vehicle wrap”

Then the collision deductible will apply.

If the “vehicle wrap” is damaged in a collision the lesser of replacement cost or original purchase cost of the “vehicle wrap” will apply.

SECTION V. DEFINITIONS is amended to include the following additional definition.

"Vehicle Wrap" means self-adhesive vinyl decals or sheets applied to the exterior body or window of a covered "auto". Signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

15. GARAGEKEEPERS

The most current version of endorsement CA 99 37 that is approved in your state is added to the policy on an Excess insurance basis with a maximum limit of \$10,000 and a \$500 deductible for each Customer's Auto for all perils. The limit is applicable on a blanket basis to all Insured owned locations.

16. ORIGINAL EQUIPMENT MANUFACTURER REPLACEMENT PARTS

SECTION III – PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance, Paragraph 1. Is amended to include:

However, if the covered "auto" has less than 36,000 miles on its odometer, then the following condition will apply:

We will pay the cost to replace the damaged parts (excluding glass and mechanical parts) with new Original Equipment Manufacturer replacement parts if the damaged parts cannot be repaired.

17. FIRE DEPARTMENT SERVICE CHARGE

Paragraph **A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE** is amended by adding the following:

c. Fire Department Service Charge

When a fire department is called to save or protect a covered "auto", its equipment, its contents, or occupants from a covered cause of loss, we will pay up to \$1,500 for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance

No deductible applies to this additional coverage.

18. LOSS OF USE TO RENTAL CAR

Paragraph **A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE** is amended to add the following:

d. Rental Expense

We will pay the following expenses that you or any of your "employees" are legally obligated to pay because of a written contract or agreement entered into for use of a rental vehicle in the conduct of your business:

MAXIMUM WE WILL PAY FOR ANY ONE CONTRACT OR AGREEMENT:

1. \$1,000 for loss of income incurred by the rental agency during the period of time that vehicle is out of use because of actual damage to, or "loss" of, that vehicle, including income lost due to absence of that vehicle for use as a replacement;
2. \$500 for administrative expenses incurred by the rental agency, as stated in the contract or agreement

19. EXTENDED COVERAGE – BAIL BONDS

Paragraph **A.2.a. (2) of SECTION II – LIABILITY COVERAGE** is replaced by the following:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds

20. EXTENDED COVERAGE – LOSS OF EARNINGS

Paragraph **A.2.a. (4) of SECTION II – LIABILITY COVERAGE** is replaced by the following:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

21. LOCKOUT REIMBURSEMENT COVERAGE

We will reimburse up to \$75 per occurrence to cover your actual expenses incurred when a locksmith must be called:

- (1) To open a covered "auto" because the keys are locked inside the auto; or
- (2) To make a key for a covered "auto" because the key has been lost or stolen.

No deductible applies

22. NON-OWNED TRAILER – INCREASED LOAD CAPACITY

The following is added to C. of **SECTION I – COVERED AUTOS**:

Non-owned "trailers" with a load capacity of 5,000 pounds or less designed primarily for travel on public roads

23. EXTENDED COVERAGE – BUSINESS PERSONAL PROPERTY AND PERSONAL EFFECTS

Paragraph A.4 of **SECTION III - PHYSICAL DAMAGE COVERAGE** is amended by the following:

Physical Damage Coverage on a covered "auto" may be extended to "loss" to your "business personal property" or "personal effects", not otherwise covered in the policy or, if you are an individual, the personal property of a family member, that is in the covered "auto" at the time of "loss". The most we will pay for any one "loss" under this coverage extension is \$500.

SECTION V - DEFINITIONS is amended by adding the following:

"Business Personal Property" and "Personal Effects" means tangible property that is worn or carried by an "insured". It does not include tools, jewelry, money or securities.

24. RENTAL REIMBURSEMENT COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

- (1) We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto." Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto." No deductibles apply to this coverage.
- (2) We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:
 - (a) The number of days reasonably required to repair or replace the covered "auto." If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the

covered "auto" and return it to you; or

(b) 30 days.

(3) Our payment is limited to the lesser of the following amounts:

(a) Necessary and actual expenses incurred; or

(b) \$50 per day.

(c) The Maximum Payment is \$1,500

(4) This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

(5) If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the **PHYSICAL DAMAGE COVERAGE Extension**.

If Rental Reimbursement Coverage is already on the policy at higher limits, then that coverage replaces, and is not added to, the coverage provided above.

25. TEMPORARY SUBSTITUTE PHYSICAL DAMAGE

Paragraph C. of **SECTION I – COVERED AUTOS** is amended by the addition of the following:

If Physical Damage Coverage is provided by this Coverage Form, the following type of vehicle is also a covered "auto" for Physical Damage Coverage:

Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:

- a. Breakdown
- b. Repair
- c. Servicing
- d. "Loss"; or
- e. Destruction

26. TOWING AND LABOR COVERAGE

Paragraph A.2. of **SECTION III – PHYSICAL DAMAGE COVERAGE** is replaced by the following:

We will pay up to \$200 for towing and labor costs incurred each time a covered "auto" of the private passenger type or a truck of less than

20,000 pounds gross vehicle weight is disabled. However, the labor must be performed at the place of disablement.

27. NEW AUTO REPLACEMENT

In the event of a total loss to your "new" "auto" of the private passenger type or a truck of less than 10,000 pounds gross vehicle weight to which this coverage applies, as shown in the Declarations, we will pay at your option either:

1. The verifiable new "auto" purchase price of your damaged auto, not including any insurance or warranties purchased; or
2. The purchase price, as negotiated by us, of a new "auto" of the same or similar make, model and equipment, not including any furnishing, parts or equipment not installed by the manufacturer or manufacturer's dealership;

This coverage is provided without deduction for depreciation.

CONDITIONS

"New" means an "auto" in which you are the original owner and the "auto" has not been previously titled.

Coverage under this endorsement shall be applicable:

1. for no more than 365 days from the date of purchase of the "auto" to which it applies, plus the remainder of the policy term in which the 365th day from purchase ends, and;
2. When the "auto" has less than 15,000 miles

All other provisions of this policy apply.

28. DRIVE OTHER CAR FOR EXECUTIVE OFFICERS

A. Changes In Covered Autos Liability Coverage

Any "auto" you do not own, hire or borrow is a covered "auto" for Liability Coverage while being used by any of your "executive officers", except:

- a. Any "auto" owned by that "executive officer" or any "family member", or
- b. Any "auto" used by that "executive officer" while working in a business of selling, servicing, repairing or parking "autos".

B. Changes In Auto Medical Payments and Uninsured and Underinsured Motorists Coverage

The following is added to **Who Is An Insured**:

Any "executive officer" is "insured" while "occupying" or while a pedestrian when being struck by any "auto" you do not own except:

Any "auto" owned by that "executive" or by any "family member".

C. Changes In Physical Damage Coverage

Any private passenger type "auto" you do not own, hire or borrow is a covered "auto" while in the care, custody or control of any of your "executive officers" except:

- (1) Any "auto" owned by that "executive officer" or any "family member".
- (2) Any "auto" owned by that "executive officer" while working in a business of selling, servicing, repairing or parking "autos".

D. Additional Definitions:

As used in this endorsement:

"Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and that person's spouse, while a resident of the same household.

"Family member" means a person related to the "executive officer" by blood, marriage or adoption who is a resident of the "executive officer's" household including a ward or foster child.

E. The Insurance provided under this provision will be:

Equal to the broadest of those coverages afforded any covered "auto", and Excess over any other collectible insurance.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/03/2025

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

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

PRODUCER Marsh McLennan Agency, LLC - Bouchard Region 101 North Starcrest Drive Clearwater, FL 33765	CONTACT NAME: PHONE (A/C, No, Ext): (727) 447-6481 FAX (A/C, No): E-MAIL ADDRESS:
INSURED FrankCrum 8, Inc. Alt. Emp: Topline Recreation Inc. 100 South Missouri Avenue Clearwater, FL 33756	INSURER(S) AFFORDING COVERAGE INSURER A: American Zurich Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 40142

COVERAGES**CERTIFICATE NUMBER:** 24FL0801030846**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
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	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/A ☒	WC 47-58-512-13	06/01/2024	06/01/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
				Location Coverage Period:	06/01/2024	06/01/2025	Client# 81940-FL

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

Coverage is provided for only those co-employees of, but not subcontractors to:
Topline Recreation Inc.
2922 Howland Blvd Ste 3
Deltona, FL 32725

Re: RFP #24-16 City Center Playground Replacement

Endorsements: Waiver of Subrogation

CERTIFICATE HOLDER

City of Port Orange, Florida
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

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

Schedule**IN FAVOR OF:**

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129

WORK PERFORMED BY CO-EMPLOYEES OF:

Topline Recreation Inc.
2922 Howland Blvd Ste 3
Deltona, FL 32725

ON THE FOLLOWING PROJECT:

Re: RFP #24-16 City Center Playground Replacement

FEE FOR THIS WAIVER IS:

Premium will be waived

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 01/03/2025

Policy No: WC 47-58-512-13

Endorsement No:

Insured: FrankCrum 8, Inc. Alt. Emp: Topline Recreation Inc.

Premium: \$

Insurance Company: American Zurich Insurance Company

Countersigned By:



Authorized Representative

2025 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# P11000073376

Entity Name: TOPLINE RECREATION INC.

Current Principal Place of Business:

2922 HOWLAND BLVD
SUITE # 4
DELTONA, FL 32725-2900

Current Mailing Address:

2922 HOWLAND BLVD
4
DELTONA, FL 32725 US

FEI Number: 45-3009109

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

M. STEWART AND COMPANY
570 LEXINGTON GREEN LANE
SANFORD, FL 32771 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: MARTA C STEWART

01/02/2025

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title PRESIDENT
Name PERKINS, SONIA M
Address 2922 HOWLAND BLVD
 SUITE # 4
City-State-Zip: DELTONA FL 32725-2900

Title VP
Name PERKINS, TERRY R
Address 2922 HOWLAND BLVD
 SUITE # 4
City-State-Zip: DELTONA FL 32725-2900

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: SONIA M PERKINS

PRESIDENT

01/02/2025

Electronic Signature of Signing Officer/Director Detail

Date



SOLICITATION REQUEST FORM (ITB, RFP, RFSQ, ITN)

24-16

(# will be assigned by Purchasing Division)

Assigned Purchasing Lead: Chip Kent

Section 1: Solicitation Name, Scope, Type

Project name: City Center Playground Replacement
General scope of project: Design build of City Center Playground

Type of project: ☐ ITB ☒ RFP ☐ RFSQ *Design/Professional Services (engineering, architect, surveying, landscape)* ☐ ITN
☒ Capital ☐ Non-Capital

Section 2: Solicitation Information

Requested by: Peter Ferreira
Department: Parks & Recreation
Special Legal Ad: ☐ Y or ☒ N *Per 180.24FS, see below *Section 9: Solicitation FAQ*
Estimated amount: \$300,000: \$150,000 ECHO grant and \$150,000 city
Bid Bond: ☒ Y or ☐ N
Grant funded: ☒ Y or ☐ N *(If yes, list date & requirements)* **Deadline Date: 2 years**
Type / Special Requirements:
Fund Account: 317
Project#: PK246
City Project Manager: Peter Ferreira
Contract Administrator: Jennifer Cox
Project Inspector:
Blueprint provided by:
Engineer of Record:

Section 3: List of Evaluation Committee Members (RFP/RFSQ/ITN) (Minimum 3)

Committee Member 1: Peter Ferreira
Committee Member 2: Josh Anderson
Committee Member 3: Gary Stauffer
Committee Member 4: Steve Parnell
Committee Member 5: Todd Conrey

Section 4: Suggested Solicitation Dates

All dates are subject to scheduling and availability

Release date urgency: ☒ High ☐ Medium ☐ Low Suggested Date: _____

Pre-Solicitation Conference Requested: ☒ Y or ☐ N

Pre-Solicitation Conference date: _____ Site Visit: ☐ Y or ☒ N Mandatory: ☐ Y or ☒ N

Due date/opening: _____

Delivery/Completion: _____

Award to Council: _____

Note: funding source must be listed on the agenda summary

Section 5: Creating Details/Specifications/Scope of Work

☒ Project Manager ☐ Project Engineer/Architect ☐ Other _____ ☐ Assistance from Purchasing*

***The department provides the specifications/scope of work to Purchasing in Word format. Purchasing reviews the specifications/scope of work, incorporates them into the draft of the solicitation and distributes and advertises it. If the Project Manager, Engineer or Architect prepares the specifications/scope of work, the department must review and approve them and ensure Purchasing receives a Word copy for incorporation into the solicitation draft.*

Section 6: Contract Type, Term, Completion Time

**** Discuss with Legal Dept. prior to releasing the solicitation to ensure the appropriate contract is placed in the solicitation document ****

Contract Type: ☒ Standard services ☐ EJCDC (Engineers Joint Contract Document Committee) ☐ AIA (American Institute of Architects)
(Supplies/Services) (Site/Structures & Design Build) (Building construction)

Contract Term: _____

Renewal Options: _____

(Days) Substantial Completion: 190 (Days) Final Completion: _____

P&P Bond: ☒ Y or ☐ N *Payment and Performance Bonds are required for construction projects on public property

** If the project engineer is responsible for contract administration and project inspection services, ascertain that the contract with the engineer provides for that service. If not, the Engineer's Contract needs to be approved by the City Manager.*

Section 7: Suggested Bidder's List (include email address of potential bidder)

Bidder: Kompan, Stacy Moseley, 904-716-7605, stamos@kompan.com

Bidder: Game Time, Courtney Crawford, 800-432-0162 ext 109, courtney.crawford@gametime.com

Bidder: Rep Services, 407-831-9658, info@repservices.com

Bidder: Playmore Recreational Products, 239-791-2400, info@playmoreonline.com

Bidder: BCI Burke, 800-266-1250, info@bciburke.com

Bidder: _____

Bidder: _____

Section 8: Director's Approval

☐ Approved ☐ Rejected Date: 07/19/24

Susan Lovallo

Director's Name

X

Director's Signature

Section 9: Solicitation FAQ

Who fills out the Solicitation Request Form?

Sections 1-7 are to be completed by the Project Manager/Director.

When do I use this form?

When purchases exceed \$25,000 and do not fall under the exclusions listed in City Ordinance Code Sec 2-267. Ex: (Sole source, piggyback, utilities, travel, postage, registration fees, etc.)

How do I submit this form?

After Director/Department Head signs approval of Solicitation Request Form, the department sends an email to purchdiv@port-orange.org to request a Bid Kick-Off Meeting. The draft Solicitation Request Form must be attached to this email. Purchasing will contact the department within 10 days of receipt of the email to setup the Bid Kick-Off Meeting. The Solicitation Request Form will be reviewed in detail during the Bid Kick-Off Meeting. If edits to the form are needed, the department makes the edits and submits the completed form to CivicClerk in the Bid Requests section of Contract Management. The department will also include with the request the Scope of Work/Specifications for the solicitation.

How early should I plan for an ITB/RFP/RFSQ/ITN?

Departments should allow for at least 90 days from *receipt of bid specifications to opening* (120 days for council award date). An additional 30-60 days should be allowed for RFPs, RFSQs, and ITNs.

Advertising:

Florida Statutes mandate that Capital Projects with a projected cost of under \$200,000 shall be publicly advertised for a minimum of ten (10) days; over \$200,000 Twenty-one (21) days and over \$500,000 a minimum of thirty (30) days prior to bids being opened.

Per 180.24FS, public utility projects require additional advertising: two (2) consecutive ads or postings in three (3) conspicuous places around city hall, one (1) of which shall be the door of city hall. 180.07FS Examples: solicitations for jails, airports, hospitals, golf courses, reservoirs, pump stations, pipelines, & water/reclaim/sewage systems.

Distribution/Release:

The City is currently using Demand Star www.demandstar.com for releasing solicitation documents/addenda on the internet and the Daytona Beach News Journal to release the legal advertisement. Solicitation documents are also posted on the Purchasing Division's web page.

Specifications:

Document specifications should be sent to the assigned Purchasing Representative in WORD file format.

One envelope solicitation process:

One envelope shall be submitted. The envelope contains required forms, technical and price information. The envelopes from all timely bidders will be opened and read aloud at the time of the solicitation opening.

CCNA:

The City of Port Orange is also governed by Florida Statutes 287.055 the Consultants Competitive Negotiations Act, as the method of selecting architects, engineers, land surveyors and landscape architects.

Design-Build:

The City has written and enacted a set of Design-Build Policies and Procedures which sets forth very specific requirements the City must use for a design-build type of bid or contract. This was done to comply with Florida Statutes, Chapter 287.055 as amended; Consultants Competitive Negotiation Act. Public announcement/advertisement shall be made:

- If planning or study activity for professional services exceeds \$35K
- If basic construction costs estimated by the agency exceeds \$325K

Grants:

Grant Money Bids and Projects also have their own set of governing laws and regulations which require the City's compliance. The compliance with these laws is strictly the Project Manager's responsibility. The Project Manager must familiarize himself/herself with each and every grant to ensure that the City not only complies with those rules but fulfills every requirement that those grants contain so as not to forfeit the money that they bring.

Bonds:

When bid bond/deposits are required they are advertised in the public notices inviting bids. Normally, if a bid bond/deposit is required, it is in the amount of five (5%) percent of the bid amount. Payment and Performance Bonds are required for construction projects on public property in the amount equal to one hundred percent (100%) of the total contract amount.

Payment and Performance Bonds must also be recorded in the Office of the Clerk of the Circuit Court, Volusia County, Florida. Required bonds are included in the Invitation to Bid notice which will appear in a locally distributed newspaper.

Public Entity Crimes Form:

Every acquisition with Federal funds equal to or greater than \$10,000.00 and all formal solicitations must have a signed, notarized Public Entity Crimes Form.

Drug Free Tie Bid Form:

The Drug Free Tie Bid Preference Form is in accordance with Section 287.087, Florida Statutes and became law in January 1991. It takes precedence in determining tiebreaker in the event of tie bids.



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #2 **October 9, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

A. REVISIONS:

None

B. CLARIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

Question #1

What is the budget for the project?

Answer #1

The budget is \$300,000.

Question #2

Is the City partial to swings in this new design?

Answer #2

The City is open to all options, but the overall design is up to the contractor.

Question #3

Does the City want free standing shade structures, modular shade i.e. attached to equipment, or is it designer's choice?

Answer #3

The City is open to all options, but the overall design is up to the contractor.

Question #4

ADA Compliant ground surface: Engineered wood fiber mulch is considered an ADA compliant surface. Is the city seeking poured in place rubber surfacing, Turf, or engineered wood fiber mulch as the pricing does vary greatly?

Answer #4

The city's preference would be turf, but the overall design is up to the contractor.

Question #5

Where do we find accurate site plans?

Answer #5

See attached file RFP 24-16 PRR Playground at City Ballfields. Additionally, Please review Exhibit B in RFP #24-16 City Center Playground Replacement.

Question #6

Are there more images of the equipment to be removed?

Answer #6

See attached file RFP 24-16 City Center Playground Equipment Images.

Question #7

Sports themed – is that generic or related to specific local teams?

Answer #7

The City is open to all options, but the overall design is up to the contractor.

Question #8

What sports are of Interest?

Answer #8

Our city offers Youth Baseball, Youth Basketball, Youth Soccer, Youth Flag Football, and Youth Volleyball. However, the overall design is up to the contractor and shouldn't be limited to just the sports we offer.

Question #9

We work primarily with Eastern European Hardwood – Robina. It is as hard and durable as concrete, with a lifespan of up to 40 years even in water. Is the City open to this kind of Material?

Answer #9

The overall design and material used is completely up to the contractor.

Question #10

Can a respondent provide two (2) design options?

Answer #10

The City requests that respondents provide only one (1) playground design for this RFP.

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #2

Chip Kent
Purchasing Agent
ckent@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #3 **October 16, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

The due date for Bid Submittals is hereby changed to October 25, 2024, at 2:30 PM (EST).

A. REVISIONS:

None

B. CHANGES TO THE ITB:

None

C. CLARIFICATIONS:

None

D. QUESTIONS AND ANSWERS

None

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #3

Chip Kent
Purchasing Agent
ckent@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #1 **September 25, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

A. REVISIONS:

Due to the potential impacts from Tropical Storm Helene, the following change is hereby made to RFP #24-16 City Center Playground Replacement:

The mandatory Pre-Proposal Conference and site visit has been changed to a NON-MANDATORY Pre-Proposal Conference and site visit. Firms interested in submitting a proposal need not attend in order to be eligible.

B. CLARIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

None

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #1

Chip Kent
Purchasing Agent
ckent@port-orange.org



Evaluation Ranking Summary

Date: 11/22/2024

RFP #24-16 City Center Playground Replacement

Firm Name	Total Weighted Score
ET & T Distributors, Inc.	36.51
Playcore Wisconsin, Inc. dba Gametime	36.50
KOMPAN	35.00
Lanier Plans, Inc. dba KorKat	34.58
Ovation Construction Company	34.53
Playmore West, Inc. dba Playmore Recreational Products and Services	38.60
Rep Services, Inc.	34.25
Top Line Recreation	37.98

Comments

On November 21, an RFP Evaluation Committee scored eight (8) proposals (listed above) received for RFP #24-16 City Center Playground Replacement. The Evaluation Committee has determined and agreed by consensus to invite the top two (2) scoring respondents to make presentations to the Evaluation Committee at a date and time to be publicly noticed in the near future.

"Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes." The 72 hour posting requirement will elapse on November 29, 2024 at 4:30 p.m. EST.



NOTICE OF INTENT TO AWARD

RFP #24-16 City Center Playground Replacement

December 18, 2024

On December 18, 2024, an Evaluation Committee scored two (2) Presentations for RFP #24-16 City Center Playground Replacement.

After reviewing and scoring the presentations, City Staff has made a recommendation to award to:

TOP LINE RECREATION

Respectfully Submitted,

Chip Kent, Purchasing Agent

"Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes." The 72-hour posting requirement will elapse on December 27, 2024 at 3:00PM EST.



Presentation Evaluation Ranking Summary

Date: 12/18/2024

RFP #24-16 City Center Playground Replacement

Firm Name	Total Score
Playmore West dba Playmore Recreation Products & Services	448.00
Top Line Recreation	467.00

Comments

On December 18, 2024 an Evaluation Committee scored two (2) Presentations (listed above) for RFP #24-16 City Center Playground Replacement. The Evaluation Committee has agreed by consensus to award RFP #24-16 City Center Playground Replacement to TOP LINE RECREATION based on presentation scores and their abilities to meet the needs of the City.

"Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes." The 72 hour posting requirement will elapse on December 27, 2024 at 3:00PM EST.

2025 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# P11000073376

Entity Name: TOPLINE RECREATION INC.

Current Principal Place of Business:

2922 HOWLAND BLVD
SUITE # 4
DELTONA, FL 32725-2900

Current Mailing Address:

2922 HOWLAND BLVD
4
DELTONA, FL 32725 US

FEI Number: 45-3009109

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

M. STEWART AND COMPANY
570 LEXINGTON GREEN LANE
SANFORD, FL 32771 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: MARTA C STEWART

01/02/2025

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title PRESIDENT
Name PERKINS, SONIA M
Address 2922 HOWLAND BLVD
 SUITE # 4
City-State-Zip: DELTONA FL 32725-2900

Title VP
Name PERKINS, TERRY R
Address 2922 HOWLAND BLVD
 SUITE # 4
City-State-Zip: DELTONA FL 32725-2900

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: SONIA M PERKINS

PRESIDENT

01/02/2025

Electronic Signature of Signing Officer/Director Detail

Date

CITY OF PORT ORANGE, FLORIDA

REQUEST FOR PROPOSAL

RFP #24-16

CITY CENTER PLAYGROUND REPLACEMENT



City of Port Orange Purchasing Division

Prepared by Chip Kent, Purchasing Agent

Release Date: September 20, 2024

Proposal Due Date and Time:
October 18, 2024 @2:30 PM EST

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5740

purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Respondents

RFP #24-16 City Center Playground Replacement

Notice is hereby given that the City of Port Orange is soliciting proposals for RFP #24-16 City Center Playground Replacement. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 PM Eastern Standard Time (EST) on October 18, 2024**, which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the Respondent unopened. All proposals will be evaluated to ensure they contain all the required forms in order to deem the Respondent responsive or non-responsive. **Proposals will be opened, and Respondents' names will be read aloud at 2:30 PM EST in the Council Chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida 32129.**

There will be a **mandatory Pre-Proposal Conference and site visit at 10:00 AM EST on September 27, 2024** at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, FL 32129. **Only firms who attend the mandatory Pre-Proposal Conference and site visit will be eligible to submit a proposal.** All attendees to the Pre-Proposal Conference and site visit must sign in. The representative of each Respondent shall be an authorized employee of the Respondent and **MUST** sign in accordingly. Respondents are urged to obtain the RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference.

A Bid Guarantee in the form of a Bid Bond executed by the Respondent and an acceptable surety or a certified check or bank draft payable to the City of Port Orange, Florida in an amount equal to five percent (5%) of the proposed price must be submitted with each proposal. If awarded, the Respondent must also be able to obtain both payment and performance bonds equal to one hundred percent (100%) of project value from a surety company licensed in Florida and **must submit proof of their present bonding capacity with their submitted package in the form of a current (not older than 3 months) letter from bonding agent.** Failure to include the bonding capacity letter with submittal may result in rejection of submittal.

DESCRIPTION: The City of Port Orange is soliciting sealed Proposals to acquire the services of certified companies to design and build a new themed playground, replacing the current City Center Playground at 4625 City Center Dr. Port Orange.

Respondents must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein. Respondents must be properly registered and licensed to provide the services identified in the scope of work, by all applicable state and local agencies.

All Requests for Proposals (RFPs) are solicited and will be evaluated on the criteria outlined in the RFP. An Evaluation Committee comprised of City staff has been appointed to evaluate and rank the proposals received in accordance with the Policies and Procedures as set forth in the City's Purchasing Manual.

Copies of the proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange Purchasing web page at www.port-orange.org/bids.aspx and DemandStar at www.demandstar.com.

All questions must be directed in writing to Chip Kent, Purchasing Agent at ckent@port-orange.org and purchdiv@port-orange.org and reference **"Questions on RFP #24-16 City Center Playground Replacement" in the subject line.** Last day for questions will be **October 4, 2024 at 5:00 PM EST.**

The Cone of Silence begins with the issuance of the solicitation document and continues until City Council meets to make a final decision on an award. During this time respondents, suppliers, contractors and sub-contractors are prohibited from all communications regarding the solicitation with City staff, City consultants, City legal counsel, City agents, or elected officials. Any potential respondent who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation. While the Cone of Silence is in effect, all communications from potential respondents, suppliers, contractors and sub-contractors must be directed to the Purchasing Division at

purchdiv@port-orange.org.

Cut along the outer border and affix this label to the outside of your sealed proposal envelope/package to identify it as a “Sealed Proposal”. Be sure to include the name of the company submitting the proposal where requested.



SEALED PROPOSAL – DO NOT OPEN

SEALED PROPOSAL NO.: RFP #24-16

PROPOSAL TITLE: City Center Playground Replacement

DUE DATE/TIME: October 18, 2024 AT 2:30 PM EST

SUBMITTED BY: _____
(Name of Company)

ADDRESS: _____

DELIVER TO: City of Port Orange
Attn: Chip Kent, Purchasing Agent
Purchasing Division
1000 City Center Circle
Port Orange, FL 32129

DATE/TIME RECEIVED: _____
(To be stamped by Clerk’s office)

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose of this Request for Proposal (RFP) is to solicit competitive sealed proposals for the provision of providing the design and build of a new themed playground, replacing the current City Center Playground.

It is the intent and purpose of the City of Port Orange (City) that this RFP promotes competitive selection. It shall be the Respondent's responsibility to advise the Purchasing Division if any language, requirements, etc. or any combination thereof, inadvertently restricts or limits the requirements stated in the RFP to a single source.

SECTION 2 – INSTRUCTIONS TO RESPONDENTS

Firms or companies (Respondents) desiring to provide services, as described herein, shall submit sealed proposals, including one (1) original, five (5) copies and one (1) identical digital version in PDF format on USB flash/thumb drive, in conformance with the detailed submittal instructions.

TIMELINE (Eastern Standard Time)

The City reserves the right to alter dates as needed.

DESCRIPTION	DATE
Date of Distribution	Sept. 20, 2024
Mandatory Pre-Proposal Conference and Site Visit	Sept. 27, 2024 at 10:00 AM
Deadline for Questions	Oct. 4, 2024 by 5:00 PM
Addendum Posting (If needed)	Oct. 11, 23, 2024
Proposals Due	Oct. 18, 2024 by 2:30 PM
Evaluation Period	To Be Determined
Public Scoring Meeting	To Be Determined
City Council Meeting for Approval of Recommendation of Award	To Be Determined

Proposals must be delivered in a sealed envelope/package and delivered to:

City of Port Orange City Clerk's Office
Attn: Chip Kent, Purchasing Agent
1000 City Center Circle
Port Orange, FL 32129

Sealed Proposals must be delivered no later than the date and time listed in the Timeline above. All times referenced are local time.

Proposals shall be sealed, and Respondents must indicate on the outside of their proposal the following:

- Request for Proposal (RFP) Number and Title
- Date of Opening
- Name of Respondent
- Address of Respondent

Due to the timing of mail service, the City cautions Respondents to assure actual delivery of proposals to the City prior to the deadline set for receiving proposals. Carrier and hand deliveries of proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until the date and time referenced in the Timeline above or as amended by addendum issued by the City. Proposals received after the established deadline will not be considered.

Offers by telephone or email will not be accepted. Also, Respondents are instructed NOT to fax their proposal package. **Faxed proposals will be rejected as non-responsive regardless of where or when the fax is received.**

All proposals will be opened publicly, and the names of all Respondents shall be read aloud. All conferences and meetings regarding this RFP are recorded electronically (audio only). The City of Port Orange reserves the right to reject any or all proposals or parts of proposals, if it is in the best interest of the City.

PRE-PROPOSAL CONFERENCE

There will be a **mandatory Pre-Proposal Conference and site visit** on the date and time referenced in the Timeline above at City Hall, Council Chambers (1st Floor), 1000 City Center Circle, Port Orange, Florida 32129. All prospective Respondents must attend the meeting and site visit. **Only Respondents attending the mandatory Pre-Proposal Conference and site visit will be eligible to submit a proposal.** All attendees to the mandatory Pre-Proposal Conference and site visit MUST sign in. The representative of each Respondent shall be an authorized employee of the Respondent and must sign in accordingly. The site visit will immediately follow the meeting in Council Chambers.

QUESTIONS REGARDING THIS RFP

All questions shall reference “**Questions on RFP #24-16 City Center Playground Replacement**” in the subject line. All questions concerning this RFP shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Chip Kent, Purchasing Agent
1000 City Center Circle
Port Orange, FL 32129
ckent@port-orange.org and purchdiv@port-orange.org

ADDENDA

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. Addenda will be provided via the City website Purchasing web page at www.port-orange.org/bids.aspx and the DemandStar website at www.demandstar.com. Respondents should not rely on any representations, statements or explanation 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 Respondent’s responsibility to be sure all issued addenda have been received and reviewed. Respondents should acknowledge the correct number of addenda received as part of their proposals by completing Form 9.3 – Addendum and Change Order Procedure Acknowledgement contained herein. This provision exists solely for the convenience and administrative efficiency of the City of Port Orange. No Respondent or other third party gains any rights by virtue of this provision or the application thereof, nor shall any Respondent or third party have any standing to sue or cause action arising therefrom.

CLARIFICATIONS

It is the Respondent’s responsibility to become familiar with and fully informed regarding the terms, conditions and specifications of this RFP. Lack of understanding and/or misinterpretation of any portions of this RFP shall not be cause for withdrawal of your proposal after opening or for subsequent protest of award. Respondents must contact the Purchasing Representative, at the email provided, should clarification be required. Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

MINIMUM QUALIFICATIONS

Respondents must be commercially licensed to do business in the State of Florida and appropriately qualified in the areas specified in the scope of work and to perform the services identified herein. Respondents must be properly registered and licensed to engage in the scope of work pertaining to this RFP, by all applicable state and local agencies.

Respondents must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this RFP on the provided Form 9.8 – Professional References for Previous Experience. If references cannot be reached using the provided contact information and/or are not responsive, points for this criterion shall reflect as such. **The City of Port Orange is not to be used as a reference.**

NO LOBBYING

All Respondents are hereby placed on notice that the City of Port Orange Council, City Employees/Staff, nor Members of the Evaluation Committee (with the exception of the City of Port Orange Purchasing Division personnel designated to receive requests for interpretations or corrections) are not to be lobbied, directly or indirectly either individually or

collectively, regarding this RFP. During the entire procurement process, all Respondents and their subcontractors, sub-consultants, or agents are hereby placed on notice that they are not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit or have submitted proposals for this project. Any Respondent contacting individuals mentioned herein in violation of this warning may automatically be disqualified from further consideration for this RFP.

SERVICES COSTS/FEEES PROPOSAL

The Services Costs/Fees Proposal (Attachment 1) is to be completed as directed and without modification and returned as part of the RFP proposal prior to the RFP deadline for submission. Failure to fill out the Services Costs/Fees Proposal as directed and without modification may negatively affect the evaluation of your proposal.

EXCEPTIONS TO SPECIFICATIONS

If taking exception to any portion of the RFP specification, the Respondent must indicate those exceptions as stated on Form 9.2 – Respondent’s Acknowledgement Form.

PROPOSAL SUBMISSION AND WITHDRAWAL

Unless otherwise specified, Respondent 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 Respondents. Upon opening, Proposals become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

CORRECTION OF PROPOSALS

Correction of inadvertently erroneous proposals shall be permitted up to the time of the RFP opening. Respondents shall not be allowed to modify their proposals after the opening time and date.

WITHDRAWAL OF PROPOSALS

NO proposal shall be withdrawn for a period of one-hundred-twenty (120) days subsequent to the opening date without the consent of the City of Port Orange. Negligence on the part of the Respondent in preparing the proposal confers no right of withdrawal or modification after the proposal has been opened at the appointed time and place by the City of Port Orange. Any such withdrawn proposal shall not be resubmitted.

REJECTION OF PROPSALS

The City reserves the right to reject any and/or all proposals when such rejection is in the best interest of the City.

PROPOSALS MAY BE REJECTED AND/OR RESPONDENT(S) DISQUALIFIED FOR THE FOLLOWING REASONS:

- a. Failure to update the information on file including address, product, service or business descriptions.
- b. Failure to perform according to contract provisions.
- c. Conviction in a court of law of any criminal offense in connection with the conduct of business.
- d. Evidence of a violation of any federal or state antitrust law based on the submission of proposals or the awarding of contracts.
- e. Evidence that the Respondent has attempted to give a City of Port Orange employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part or the City of Port Orange purchasing activity.
- f. Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS

All documents resulting from this solicitation will become the sole property of the City of Port Orange. The Respondent must meet all requirements for retaining public records and transfer, at no cost, to the City all public records in the possession of the Respondent upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

AMERICANS WITH DISABILITIES ACT (ADA)

If you need special services provided under the Americans with Disabilities Act, contact the ADA Coordinator in our Human Resources office at 386-506-5560 at least 48 hours before the scheduled event.

SECTION 3 – DESIGN and BUILD OF CITY CENTER PLAYGROUND SCOPE OF SERVICES

PROJECT DESCRIPTION:

The City is seeking proposals for the replacement of one playground located at the Port Orange City Center Sports Complex. The Playground is located south of the restroom building (as outlined in Exhibit B attached hereto), at 4625 City Center Dr., Port Orange, Fl. The Playground area is approximately 4000 square feet (100ft x 40ft).

The work of this project consists of all demolition and disposal of the old playground equipment, including grading of the site, survey, design, permitting, outside agency application and inspection fees (any City fees will be handled by the contractor), labor, materials, equipment, tools, apparatus transportation, services, incidentals, and all work necessary to construct the new playground.

The City desires to have the design of the equipment and layout be consistent with a sports theme. The playground equipment shall meet all the functional requirements as well as bring the latest in recreation design and philosophy to the layout. The selected firm will be required to post a Performance and Payment Bond for the Construction.

The Scope of the Design is more fully defined below:

1. All equipment shall be IPEMA (International Play Equipment Manufacturer's Association) certified.
2. The use of multiple levels.
3. The target audience is focused on children under twelve years of age, as well as those with special needs, but should be appropriate for all age groups.
4. Shade Structures
5. ADA Compliant ground surface

SECTION 4 – STANDARD PURCHASING DEFINITIONS

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

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a solicitation. Plural: Addenda
2. **Amendment** is a formal written agreement, signed by both parties, that modifies and existing contractual agreement.
3. **Appropriate, Appropriated or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
4. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design and workmanship.
5. **Bid Guaranty (Bid Bond)** guarantees that the Bidder will not withdraw the Bid within the period specified for acceptance and will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the solicitation unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
6. **Bidder or Respondent** is a person, firm or entity that submits a Response to a Solicitation. Any Bidder/Respondent may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
7. **City** means the City of Port Orange.
8. **Competitive Negotiation** means a method for acquiring good, services and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit Responses through a competitive process, regardless of the method or procurement.
9. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive Bidders or Respondents in accordance with the terms of a competitive process, regardless of the method of procurement.
10. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.

11. **Construction** means the process of building, repairing, improving and alterations, conversion or extension of buildings, parks, utilities, streets or other improvements or alterations to real property.
12. **Contract** is a written agreement or purchase order issued for the purchase of goods or services.
13. **Contractor** means the person, firm or entity selling goods or services to the City under a Contract.
14. **Deliverables** means the goods, products, materials and/or services to be provided the City by a Bidder or Respondent.
15. **DemandStar** is the official online repository for all City competitive solicitations.
16. **Due Date** means the date and time specified for the receipt of responses to a solicitation.
17. **End User** is a person, program, agency or other eligible user who uses a contract to purchase a commodity or contractual service.
18. **Evaluation Committee/Team** is a temporary group of City personnel who are responsible for the evaluation of proposals as part of a Request for Proposals (RFP), Request for Statements of Qualifications (RFSQ) or competitive grant process.
19. **Evaluator** is a member of the evaluation committee/team
20. **Intent to Award** is a document that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
21. **Issues** means points, matters or concerns to be addressed during negotiations.
22. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
23. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a bid submitted in response to an Invitation to Bid, a proposal submitted in response to a Request for Proposal, a quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications or a reply submitted in response to an Invitation to Negotiate.
24. **Outlier** is a proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with competing bids or offers.
25. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Respondents to ask questions regarding the proposed Contract and particularly the Contract specifications with the City Department requesting the goods/services.
26. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
27. **Procurement Process** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration and disposal/service.
28. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture or registered surveying and mapping, as defined by the laws of the State, or those performed by any architect, professional engineer, landscape architect or registered surveyor and mapper in connection with his or her professional employment or practice.
29. **Proposal** is a complete, properly signed response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Respondent to perform the resultant Contract.
30. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
31. **Purchase Order** is an order placed by the Purchasing Division for the purchase of goods or services written on the City's standard Purchase Order form and which, when accepted by the Respondent, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for the goods or services specified and the City's commitment to accept the goods or services for an agreed upon price.
32. **Request for Proposal (RFP)** means a formal request to prospective Respondents requesting qualifications of the Respondent and pricing for a specified good or service which has been advertised for Proposal in a newspaper.
33. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation being issued.
34. **Response/Submission** means all materials submitted to the City by a Respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications or a reply, depending on the type of competitive solicitation being issued.

35. **Responsible (Respondent)** is a Respondent who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
36. **Responsive (Respondent)** is a Respondent that has submitted a bid, proposal, statement of qualifications or reply that conform in all material respects to the solicitation.
37. **Scope** means the extent of the area or subject matter that something deals with or to which is relevant.
38. **Scope of Work** means a description of the work activities, deliverable and/or timeline that a Respondent must execute in terms of delivering specific commodities or in performance of contractual services.
39. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
40. **Solicitation** means a formal request, as applicable, for prospective Bidders or Respondents to submit a response to an Invitation to Bid, Request for Proposal or Request for Statement of Qualifications.
41. **Solicitation Document** means a document or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to §287.057, Florida statutes.
42. **Stakeholder** means an individual, who is not likely to become a Respondent, who has and interest in the commodities/contractual services needed.
43. **Subcontractor** means a person, firm or entity providing goods or services to a Respondent to be used in the performance of the Respondent's obligations under the Contract.
44. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.

SECTION 5 – GENERAL TERMS AND CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Port Orange Purchasing Division. General Requirements apply to all Solicitations; however, **these may be superseded, in whole or 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. ADDENDA

When specifications are revised, the City of Port Orange Purchasing Division will issue an addendum addressing the nature of the change. Respondents should acknowledge all addenda by completing Form 9.3 contained herein. Failure to acknowledge the correct number of addenda issued may result in rejection of the Response. It is the responsibility of the Respondent to ensure all addenda have been received prior to submitting a proposal. All Addenda shall be posted by the City on www.demandstar.com and City of Port Orange Purchasing Web page at www.port-orange.org/bids.aspx. The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Solicitation Response Due Date. Respondents should not rely on any representations, statements or explanations other than those made in this Solicitation or in any addendum to the Solicitation. Where there appears to be a conflict between the Solicitation and any addenda issued, the last addendum issued shall prevail.

2. ANTI-COLLUSION STATEMENT

By submitting this Response to a Formal Solicitation, the Respondent affirms that this Response is without previous understanding, agreement or connection with any person, business or corporation submitting a Response for the same materials, supplies or equipment, and that this Response is in all respects fair and without collusion or fraud. Additionally, Respondent agrees to abide by all conditions of this Solicitation and certifies that they are authorized to sign this Response for the Respondent. In submitting a Response to the City of Port Orange, the Respondent offers and agrees that if the Response is accepted, the Respondent 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 Respondent.

3. APPLICABLE LAWS

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

4. ASSIGNMENT

The successful Respondent 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 Respondent from all contractual obligations.

5. AUTHORITY TO CONDUCT BUSINESS IN FLORIDA

A Florida corporation or partnership is required to provide evidence with its response that the Respondent is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful Respondent, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the Respondent is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful Respondent, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement. A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five (5) business days from the request of the Purchasing Manager.

6. AWARD AND EXECUTION OF CONTRACT

The Respondent(s) to whom the award is made shall execute the Contract(s) and return it, together with the properly executed bonds and insurance certificates to the office of the Owner, within the time specified.

7. AWARDS

The City does not award publicly funded contracts to those who knowingly employ unauthorized alien workers in violation of section 274A(e) of the Immigration and Naturalization Act, 8 United States Code s1324a(e). Such employment deprives legal workers of job opportunities. Violation of section 274A(e) shall be grounds for unilateral cancellation of the contract, proposal, or quote for purchase of services and goods by the City of Port Orange.

8. BONDS

If this Solicitation requires submission of bid guarantee and performance bonds, there will be a separate section explaining those requirements. When the Purchasing Manager deems it necessary, bid bonds/deposits shall be prescribed and are advertised in the public notices inviting bids. Responses submitted without the required bid bond or certified check shall be deemed non-responsive. 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 which will be recorded by the City, at the Contractor's sole cost and expense, with the Clerk of the Circuit Court, Volusia County, Florida. 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. Unsuccessful Respondents are entitled to the return of their bid bond. A successful Respondent shall forfeit any surety required by the Purchasing Manager upon failure of the Respondent to enter into a contract within the time specified after the award of bid.

9. CERTIFICATE OF INSURANCE

If required upon notice of intent to award contract resulting from this solicitation, the selected Respondent will be required to submit a Certificate of Insurance showing proof of adequate coverage for professional general liability,

errors and omissions and workers' compensation as identified under the insurance requirements of this solicitation and listing the City of Port Orange as a Certificate Holder prior to execution of the contract.

10. CHANGE ORDER REQUEST NOTIFICATION

The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar days' advance notice for any anticipated changes to time and/or scope of the awarded Contract. The Contractor **shall not** continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.

11. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

12. CLEAN UP

Upon completion of the delivery of materials, the Contractor shall restore any/all public and private property which was damaged during delivery. Restoration is meant to include removal of any spillage or restoring damage to the edge of pavement, sidewalks, driveways, landscaped areas, etc. Contractor shall make repairs consistent with or better than what existed prior to delivery. This shall be understood to include the use of sod or seed and mulch to replace (if necessary) existing grass that has been damaged. If sod is used it shall match the sod present on the effected property. Contractor shall make all repairs and restorations at his expense.

13. CONDUCT OF RESPONDENTS

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

14. CONE OF SILENCE

The Cone of Silence is designed to protect the integrity of the procurement process by shielding it from undue influences prior to the execution of the award. The Cone of Silence is defined as the period beginning with the issuance of the solicitation document and continues through the execution of the award document. During this time Respondents, service providers and the like are prohibited from all communications regarding the solicitation with City staff, City consultants, City legal counsel, City Agents, or elected officials. Any Respondent who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation.

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer.
- All communications occurring at Pre-Proposal Conferences.
- Oral presentations before publicly noticed committee meetings.
- Procurement of goods and services for Emergency situations; and
- Contractors already on contract with the City to perform services for the City are allowed discussions necessary for the completion of an existing contract.

15. CONFLICT OF INSTRUCTIONS

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

16. CONFLICT OF INTEREST

For purposes of determining any possible conflict of interest, all Respondents must disclose if any City of Port Orange employee is also an owner, corporate officer or employee of Respondents 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.

17. CONTRACT

Any acquisition above the \$100,000 level shall be done through one of the formal competitive methods except upon City Council waiver and/or shall have City Council approval. Only the Purchasing Manager and/or City Manager, have the authority to obligate the City by entering into a written contract to purchase goods and/or services up to \$25,000.00. The City of Port Orange, Florida reserves the right to reject any and all Responses or to waive any and all non-substantial irregularity in Responses received, whenever such waiver or rejection is in the best interest of the City.

18. 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 Respondent. 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.

19. CONTRACT RENEWALS

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

20. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

21. COPYRIGHT AND PATENT RIGHTS

Respondent warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this Response, and successful Respondent agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

22. COST INCURRED BY RESPONDENT

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

23. DEBARMENT HISTORY

The City will consider a Respondent's debarment history information in its review and determination of responsibility. All Respondents are required to disclose to the City all cases of debarment filed, pending or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Respondent, any parent or subsidiary of the Respondent or any predecessor organization. If the Respondent is a joint venture, the information provided should encompass the joint venture (if it is not newly formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Respondent's debarment history is an issue of responsibility, the failure to provide debarment history on Form 9.11 as required in the RFP may result in a recommendation of non-responsive by the Purchasing Manager.

24. DEFAULT PROVISIONS

In the event of default by the Respondent the City reserves the right to procure the item(s) solicited from other sources and hold the Respondent 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 Respondent for a period of 36 months from the date of default.

25. DISCLOSURE OF CONFLICTS

The award is subject to the provisions of Chapter 112.313, Florida Statutes. All Respondents must disclose with their Response the name of any officer, director or agent who is also an employee of the City. Further, all Respondents must disclose the name of any employee who owns, directly or indirectly, an interest in the

Respondent's firm or any of its branches. The Respondent 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 Respondent. 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 Respondent shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under the Solicitation.

26. E-VERIFY

Respondents shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Respondent during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract. Respondents shall complete Form 9.10 E-Verify Affidavit and include it in the returned Response package. Failure to include the affidavit may result in rejection of the Response.

27. EXCEPTIONS TO REQUIREMENTS

For purposes of evaluation, the Respondent must indicate any exception to the requirements, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the Respondent that are required to be signed by the City. If exceptions are not stated by the Respondent, in his/her proposal, it will be understood that the item(s)/services fully comply with the requirements, terms and/or conditions stated by the City. Exceptions are to be listed by the Respondent on Form 9.2 contained herein and if necessary, listing exceptions on an attachment included with the proposal. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

28. FACILITIES

The City reserves the right to inspect Respondent's facilities at any time.

29. FAILURE TO RESPOND

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

30. FINANCIAL STABILITY

Respondents shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.

31. 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.

32. FOREIGN COUNTRIES OF CONCERN

A governmental entity may not knowingly enter into a contract with an entity which would give access to an individual's personal identifying information if: a) the entity is owned by the government of a foreign country of concern to include the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern; b) the government of a foreign country of concern has a controlling interest in the entity; or c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

33. 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.

34. GOVERNING LAW

Respondents shall comply with all applicable federal, state and local laws and regulations. All Responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division

2, Section 2-263, and all Responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com. The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services. Every acquisition equal to or greater than \$35,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug- Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

35. 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 Respondent/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.

36. HIPAA COMPLIANCE

The Respondent 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 Respondent uses, discloses or has access to protected health information as defined by HIPAA.

37. 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.

38. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful Respondent 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 Respondent under this contract and that the successful Respondent has no authority to bind the City. The Respondent represents itself to be an independent Contractor offering such services to the public and shall not represent himself or his employees to be an employee of the City. Therefore, the Respondent shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The Respondent shall further understand that the City cannot save and hold harmless and or indemnify the Respondent and/or the Respondent's employees against any liability incurred or arising as a result of any activity of the Respondent or any activity of the Respondent's employees performed in connection with the Contract.

39. 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 Respondent cannot furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

40. INSURANCE

If required upon execution of a contract, the Respondent 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.

41. INSURANCE CANCELLATION

No change or cancellation in insurance shall be made without thirty (30) days' written notice by the Respondent 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.

42. INSURANCE REQUIREMENTS

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

IMPORTANT: The City does not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts. The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with and does not waive the insurance required by this.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

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Standard Insurance Requirements

Required	Insurance	Standards	Additional Requirements
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any Contractor using an employee leasing Company shall complete the Leased Employee Affidavit Exhibit Form.	<u>Contract Amount Limits</u> Up to \$10 million Statutory/\$500,000 \$10 - \$20 million Statutory/\$1,000,000 Contracts over \$20 million to be determined by the City	- If contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' coverage required. - If vessels involved, Jones Act coverage with limits of \$500,000 required
☒	Comprehensive General Liability (including completed operations and contractual liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage: \$1,000,000 each occurrence \$1,000,000 aggregate	When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles	<u>Limits:</u> Auto Liability Bodily Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	

Additional Insurance Requirements

☐	Property Insurance Builders Risk <u>Additional Coverage:</u>	<u>Limits:</u> Buildings – completed value of contract "All Risk" coverage on latest ISO or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If agreement required handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Installation Floater (IT)	<u>Limits:</u> Coverage – To Be Determined	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Professional Liability/Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage – To Be Determined	
☐	Payment and Performance Bond required	<u>Limits:</u> Coverage – equal to amount of contract	
	City Manager waives Payment and Performance Bond for all work under \$200,000 unless otherwise required by Department Director.		
	Unless otherwise required by law, City Manager waives insurance for FOB goods.		

43. INVOICES AND PAYMENTS

All invoices shall be sent to: City of Port Orange, Accounts Payable, P.O. Box 291759, Port Orange, Florida, 32129 or email apbilling@port-orange.org. 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 Respondent offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Respondents should state any payment discount in the space provided on the proposal form for construction services. If the awarded firm would like to receive payment via ACH, this can be accommodated after the contract is fully executed.

44. IRREVOCABILITY OF RESPONSES

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

45. LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Responses received after the response due date and time are late and shall not be considered. Modifications received after the response due date are also late and shall not be considered. Letters of withdrawal received after the response due date are late and shall not be considered. Letters of withdraw received after contract award shall be deemed a breach of contract, subject to penalties as set forth in the contract and solicitation.

46. LEGAL REQUIREMENTS

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

47. LICENSES, PERMITS AND TAXES

The Respondent 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 Respondent shall abide by all ordinances and laws pertaining to his/her operations and shall secure, at his/her expense, all licenses and permits necessary for construction and operation.

48. LITERATURE (if applicable)

If no brand, model or make is specified, Respondents shall submit descriptive literature and technical data, fully detailing all features, designs, construction, appointments, finishes and the like not covered in the specifications, necessary to fully describe the equipment, material and/or services he/she proposes to furnish.

49. 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.

50. NON-EXCLUSIVITY OF CONTRACT

The selected Respondent understands and agrees that any resulting contractual relationship is non-exclusive, and the City of Port Orange reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the City of Port Orange.

51. NON-PERFORMANCE

Failure to meet the expected quality of workmanship, schedule or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

52. 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.

53. 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.

54. POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

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

55. PRE-PROPOSAL CONFERENCE

The Purchasing Manager shall determine if a pre-proposal conference is required, and details of the conference shall appear in the Solicitation legal advertisement and Solicitation requirements. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow unless stated in the advertisement or this solicitation as mandatory, attendance to the pre-proposal conference is not mandatory. The representative of each Respondent shall be an authorized employee of the Respondent and shall sign in accordingly.

56. PROPOSAL EVALUATION

Respondents who wish to receive a copy of the proposal evaluation may obtain it via www.demandstar.com or on the City of Port Orange Purchasing web page at www.port-orange.org/bids.aspx.

57. PROPOSAL RETURNS

Respondents shall return all completed Responses to the City of Port Orange at the address set forth in Section 2 of this document on the date and at the time specified. Late submissions will not be accepted and shall be returned to Respondents unopened.

58. PROPRIETARY INFORMATION

Upon receipt by the City, responses to Solicitations, become public records subject to the provisions of 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 Respondent to submit in order to prequalify for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution. Respondent must complete Form 9.12 Non-Disclosure Agreement for confidential materials.

59. 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 Respondent during the term of contract, and the Respondent shall be held responsible for any damage to the property occurring by reason of his/her operation on the property.

60. PROTEST

Any person who is adversely affected by the City's decision or intended decision shall file with the City Purchasing Manager a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking Bids, Proposals, Statements, or Replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the Solicitation. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time established herein. The formal written protest shall be filed with the Purchasing Manager in writing within ten (10) days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings. Upon receipt of the formal written protest that has been timely filed, the City shall stop the solicitation or contract award process

until the subject of the protest is resolved by final City action. However, the City may continue the solicitation or award process, provided the City Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. The City shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy the City has established is as follows:

- a. As soon as possible after receipt, the Purchasing Manager shall provide written protest to City Manager, City Attorney, Department Head involved, and Supervisor directly involved in the acquisition.
- b. Purchasing Manager shall schedule within seven (7) business days, excluding weekends and holidays, a meeting with the above-mentioned individuals or designee and protestor. The intent of the meeting is to provide a review and/or solution prior to going before Council. After reviewing all relevant information, the City Manager shall render a decision.
- c. If the protestor disagrees, he/she may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council will issue their decision. The City Council's decision is final; however, the protestor can appeal the decision to the Circuit Court in Volusia County, Florida within thirty (30) days of the City Council's final decision. Decisions at all levels shall be in writing to the protestor.

61. PUBLIC ENTITY CRIMES

In accordance Section 287.133 (2)(a), Florida Statutes: A person or affiliate who has been placed on the convicted Respondent 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 Respondent list.

62. PUBLIC RECORDS COMPLIANCE

Contractor shall comply with public records laws as set forth in Section 119, Florida Statutes, and shall specifically:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided 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 on 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 THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 386-506-5563, cityclerk@port-orange.org, CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA, 32129.

The failure of Contractor to comply with a public records request shall constitute a material breach of the contract.

63. PUBLIC RECORDS/PUBLIC MEETING EXEMPTION STATEMENT

Section 119.071(1)(c), Florida Statutes: Any financial statement that an agency requires a prospective Respondent to submit in order to prequalify for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law. This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide

that sealed bids, proposals, or replies received by a Florida public agency shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Respondents will not be able to procure a copy of their competitor's proposals until an intended decision is reached, or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10-day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate proposals and negotiate contracts shall be closed in certain circumstances. Specifically, portions of such meetings may now be closed to the public during oral presentations made by a Respondent, or where a Respondent answers questions. In other words, neither Respondents, 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 Respondents, but the new law limits public attendance to portions of such meetings.

64. QUESTIONS/INTERPRETATIONS

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

65. RECORDS/AUDIT

The Respondent shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. At all reasonable times, these records, unless exempt or confidential, shall be subject to review, inspection, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract and in accordance with the requirements of public records retention as prescribed by general law. Records which relate to any litigation, appeals or settlements of claims arising from performance under this requirement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

66. REQUEST FOR ADDITIONAL INFORMATION

Prior to the final selection for award, Respondents may be required to submit additional information which the City may deem necessary to further evaluate the Respondent's qualifications to perform under the terms of the Solicitation and subsequent Contract.

67. REVIEW OF RESPONSES SUBMISSIONS

Each Response will be reviewed to determine if the Response is responsive to the submission requirements outlined in the Solicitation. A responsive Proposal is one which follows the requirements of the Solicitation, includes all required documentation, is submitted in the format outlined in the Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your Proposal non-responsive.

68. RIGHT OF NEGOTIATION

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

69. RIGHT OF WITHDRAWAL

A bid, proposal, statement or reply may not be withdrawn before the expiration of one-hundred-twenty (120) days from the Response due date.

70. RIGHTS TO SOLICITATION SUBMITTED MATERIAL

All Responses, inquiries or correspondence relating to or in reference to a Solicitation, and all reports, charts and other documentation submitted by Respondents shall become the property of the City when received.

71. RULES, REGULATIONS AND LICENSING REQUIREMENT

The Respondents shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Respondents 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. SCRUTINIZED COMPANIES LIST

The Contractor shall refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in section 215.473, Florida Statutes. Pursuant to section 287.135(5), Florida Statutes, the City may immediately terminate this Contract for cause if the Contractor is found to have submitted a false certification or if the Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations with Cuba or Syria during the term of the contract. The Contractor shall provide a completed Form 9.9 Scrutinized Company Certification, certifying the Contractor's compliance with this section, prior to the execution of this Agreement.

73. SEPARATION AND DISTRIBUTION

The Solicitation has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate.

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 Responses must show the company name and be signed by a company officer or employee who has the authority to bind the company or firm by their signature. **UNSIGNED RESPONSES WILL BE REJECTED.** All manual signatures must be original - no rubber stamp, photocopy, etc.

76. SIGNED RESPONSE CONSIDERED AN OFFER

The signed Response is considered an offer on the part of the Respondent, 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 Respondent, 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 Respondent after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

77. SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS

Pursuant to Florida Statute 287.05701, the governing body of a county, municipality, special district, or any other political subdivision of the state may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is responsible. Furthermore, an awarding body may not give preference to a vendor based on the vendor's social, political, or ideological interests.

78. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

Unless otherwise specified, Respondent shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Respondent's authorized representative. Responses containing erasures or corrections must be initialed by the Respondent in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: City of Port Orange, Purchasing Division, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 P.M. on the date indicated in the Solicitation documents or an addenda issued by the City. One (1) sealed envelope or package shall be submitted. The sealed envelope/ package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. Proposals (Envelope/Package) shall contain one (1) original and one (1) digital (flash drive) PDF version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/package shall be clearly marked on the outside to include the project name, proposal number, name and address of the Respondent.

79. 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 Respondent shall have met the license, certification and any other requirements of the state, county, city and/or

other agency of authority with jurisdiction in such matters and should provide copies of documentation that evidence such qualifications with the response to the Solicitation; and, that the Respondent shall provide follow-up evidence that the Respondent maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing the Respondent/Responder to do business in the State of Florida, or other evidence of legal authority to do business in the state, county, city and/or any other agency of authority should be provided with your response to the Solicitation. Information concerning certification with the Secretary of State may be obtained at <http://ccfcorp.dos.state.fl.us/index.html> . Contract documents shall be executed by the entity's duly authorized officer as evidence by entity records.

80. SUBCONTRACTING

The Respondent will not sub-contract or enter into any subcontracting agreements pertaining to this contract, without obtaining written approval from the City of Port Orange.

81. 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.

82. TERMINATION

For Convenience: The City of Port Orange reserves the right to terminate the 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. Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, postmarked or delivered to the Contractor at least thirty (30) days prior to the date of termination, and specifically setting forth the effective date of termination.

For Default: The City may terminate the Contract if the Contractor breaches any of the terms therein, including, but not limited to, warranties of the Contractor or if the Contractor becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but is not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Contractor with a written notice of such cancellation. Should the City exercise its right to cancel the Contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Contractor. 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 Contractor responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the Contractor as stipulated in City Code 2-276 Suspension and Disbarment.

For Non-Appropriation of Funds: 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.

83. USE OF SOLICITATION FORMS

The Respondent shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A." Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response. If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated. The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the Response. The original Response, and each copy submitted shall contain an original signature on the Respondent's Acknowledgement Form contained in each Solicitation.

84. VARIANCES

For purposes of Response evaluation, Respondents must indicate any variances, no matter how slight, contained in the Response. No variations or exceptions by a Respondent will be considered or deemed a part of the Response submitted unless such variances or exceptions are listed in the Response and referenced in the space provided on

the Response pages. If variances are not stated or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications. By receiving a Response, the City does not necessarily accept any variances contained in the Response. All variances submitted are subject to review and approval by the City. If any Response contains material variances that, in the City's sole opinion, make that Response conditional in nature, the City reserves the right to reject the Response or part of the Response that is declared, by the City, as conditional.

85. 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 Proposals will be considered. However, the City reserves the right to waive formalities or informalities in Proposals, to reject, with or without cause, any or all Proposals or portions of Proposals, or to interview or not interview individual Respondents and to accept any Proposals or portions of Proposals deemed to be in the best interest of the City. The city council shall grant the City Manager to waive any and all non-substantial irregularities in any and all formal Solicitations. (Code 1981, § 8-29; Ord. No. 2015-17, § 1, 5-19-2015)

SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

Proposals offered in this RFP must remain firm for a period of one-hundred-twenty (120) days from the RFP opening date.

CONTRACT TERM

The contract period shall be one-hundred ninety (190) days from the issuance of the Notice to Proceed until substantial completion.

ELIGIBILITY OF RESPONDENT

To be eligible to respond to this RFP, the Respondent must have prior experience working with the services described in this RFP. Please provide eligibility experience with your submittal by completing Form 9.7 Statement of Respondent's Qualifications in its entirety.

NOTICE

The City reserves the right to consider cooperative contracts, federal, state municipal etc., in the evaluation process. If in the City's best interest, the City may utilize a cooperative contract in lieu of making an award.

PAYMENT & PERFORMANCE BONDS

If awarded, the Respondent must be able to obtain payment and performance bonds from a surety company licensed in Florida and **must submit proof of their present bonding capacity with their submittal package in the form of a current (not older than 3 months) letter from Respondent's bonding agent.** The bonding capacity must be equal to or greater than 100% of the total price submitted. Respondents who do not include their present bonding capacity letter in their submittal package may be deemed non-responsive.

Upon award, the successful Respondent will be required to furnish and pay for a Payment and Performance Bond equal to one hundred percent (100%) of the contract amount to be recorded by the City, with the Clerk of the Circuit Court, Volusia County, Florida. After recording, the City will furnish to the awarded Respondent, the recording information for the bond to evidence that the Respondent has met the requirement of Florida law. The City will bill the cost of recording to the awarded Respondent.

BID BONDS:

A certified check or bank draft, payable to the City of Port Orange, FL or a satisfactory bid bond executed by the Respondent and an acceptable surety in the amount equal to (5%) of the total proposed amount, shall be submitted with each proposal. If submitting a bid bond in lieu of a certified check or bank draft, the original bid bond must be included with the submittal. If submitting a bid bond in lieu of a certified check or bank draft, Respondents who do not include their original bid bond with their submittal may be deemed non-responsive.

SAFETY:

The awarded Respondent will comply with all applicable OSHA, State of Florida Safety Regulations and comply with all construction safety requirements of local authorities having jurisdiction. The awarded Respondent shall exercise all due caution to exclude the public from the work area and especially from contact with any hazardous materials.

REPAIR OF DAMAGES:

It is the responsibility of the awarded Respondent to repair any damages incurred in the area that are directly related to the project. When damages occur, the City of Port Orange Representative is to be notified and shall inspect the repairs upon completion.

SECTION 7 – PROPOSAL SUBMITTAL & REQUIREMENTS

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluation of the proposal. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited.

Submittal of a proposal shall constitute the Respondent's agreement and intent to follow and adhere to all statements, offerings and monetary incentives contained within this proposal.

The sections of the submitted Proposals that will be scored during the evaluation process are identified with the maximum attainable points in "Section 8 – Evaluation of Proposals. Additional areas used for awarding evaluation points are also addressed in "Section 8 – Evaluation of Proposals."

In conjunction with other material and information requested in the RFP, all Respondents responding to this solicitation shall provide one (1) original, five (5) copies and one (1) identical digital version in PDF format on USB flash/thumb drive. The digital version must be an identical copy of the fully signed original submission. All required attachments are to be in 8 ½" by 11" format, clearly legible, tabbed and bound in the following order:

TABLE OF CONTENTS

The Table of Contents should outline in sequential order the areas of submittal. All pages, including enclosures, must be clearly and consecutively labeled and/or numbered and correspond to the Table of Contents.

STATEMENT OF INTEREST

The Respondent will provide a letter, on firm's letterhead, not exceeding two (2) pages which serves as a statement of interest and introduction to the submittal. The Statement of Interest shall show the RFP number and title. This letter must be signed by the person authorized to bind the firm, company, or corporate entity. The Statement of Interest should also include the name and contact information of a customer contract manager who will serve as the main point of contact for all issues related to the services performed under the scope of this RFP.

TAB A – REQUIRED DOCUMENTS

Include all required City of Port Orange forms. FAILURE TO PROVIDE ALL INFORMATION listed on each form may result in the rejection of your proposal, or a reduction in evaluation points. Required forms include:

- Form 9.1 Proposal Submittal Checklist
- Form 9.2 Respondent's Acknowledgement Form
- Form 9.3 Addendum & Change Order Procedure Acknowledgement Form
- Form 9.4 Drug Free Preference Statement
- Form 9.5 Sworn Statement on Public Entity Crimes
- Form 9.6 Anti-Collusion Form
- Form 9.7 Statement of Qualifications
- Form 9.8 Professional References for Previous Experience
- Form 9.9 Scrutinized Companies Certification
- Form 9.10 E-Verify Affidavit
- Form 9.11 Debarment, Suspension and Other Responsibility Matters

- Form 9.12 Affidavit of Compliance with Section 287.138 Florida Statutes
- Form 9.13 Non-Disclosure of Confidential Materials
- Exhibit A – Description of Confidential Materials
- Form 9.14 No Submittal Response Form
- Appendix A – 44 C.F.R. Part 18 – Certification Regarding Lobbying
- (Attachment 1) – Schedule of Unit Pricing
- Provide a copy of license to do business in the State of Florida Sunbiz report showing your company registered as “Active”.
- If applicable – copy of county business license of primary business operations
- Original Bid Bond
- Current Bonding Capacity Letter (as outlined in Section 6)

TAB B – QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT (Weight 30%)

1. Provide a brief company biography, two (2) pages maximum. Include general information on the company, number of years the company has been in business, the location of corporate headquarters, and the number of branch offices. Provide examples of projects, that are closely related to the SOW contained in this RFP by your firm in the last 2 years for Municipalities in the State of Florida.
2. Professional References from Form 9.8 (to be provided in Tab A only) will be contacted and provided a series of questions regarding your performance/relationship with them. Reference responses will be provided to the Proposal Evaluation Committee for their review and will be scored as part of Tab B to further demonstrate your firm’s ability to meet the requirements and needs of the City with regard to the Scope of Services in this RFP. **Contact information for references must be accurate and reference contacts must be responsive. If listed references are not reachable or otherwise non-responsive, scoring for this criterion could be adversely affected.**

TAB C – QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT’S KEY STAFF (Weight 20%)

1. For all employees that will be working with the City of Port Orange, provide a summary of relevant experience and qualifications including all current licenses and certifications. Detailed resumes should be submitted.
2. Provide a company staff organizational chart.

TAB D – DESIGN CONCEPT AND VALUE-ADDED SERVICES (Weight 30%)

1. Provide a detailed design concept for the new playground using a sports theme.
2. Identify project opportunities and challenges and how you would recommend that challenges be addressed along with value added services your firm can provide

TAB E – FINANCIAL HISTORY (Weight 10%)

All Respondents shall provide a financial statement with their proposal, preferably a certified audit of the last available fiscal year. A third party prepared financial statement **and** the latest Dunn & Bradstreet report will be accepted in lieu thereof.

TAB F – PROPOSED FEES (Weight 10%)

Respondents must complete (Attachment 1) – Services Costs/Fees Proposal and include in Tab F. Respondents may also include a detailed price proposal that reflects all components including equipment and labor as outlined in the scope of work.

SECTION 8 – EVALUATION OF PROPOSALS

EVALUATION PROCEDURE OF WRITTEN PROPOSALS

The Evaluation Committee comprised of City staff will evaluate and rank proposals based on a 10-point weighted score formula. Weights will be assigned to each criterion and will be applied by multiplying the points scored for each criterion by the weighted percentage of each criterion. Scores shall be in whole, half or quarter percent increments. Examples of acceptable scores are 5.25, 5.50 or 6.0 in the 10-point scale. Scores such as 5.10 or 5.80 are NOT acceptable. If an evaluator returns a score for any criterion other than whole, half or quarter percent increments, they

will be asked to round up or down based on standard rounding rules. Respondent's resulting weighted scores will be rounded to 2 decimal points also using standard rounding rules.

All interested firms are hereby cautioned not to contact any staff or Council member of the City of Port Orange, or any member of the Evaluation Committee. Any and all questions should be made through the Purchasing Agent noted in this RFP 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 Respondents 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 short-listed firm.

The City's evaluation criteria, for written proposals will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services.
2. The ability, capability, and skill of the Respondent 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 Respondent.
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.

Written proposals will be evaluated and scored based upon the following criteria:

EVALUATION CRITERIA FOR WRITTEN PROPOSALS

TAB B. QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT: (Weight 30%)

Company history, qualifications, ability and capacity; Experience with related Scope of Work as it relates to this RFP; Professional references..... (0-10 points)

TAB C. QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT'S KEY STAFF: (Weight 20%)

Resumes of key staff demonstrating relevant experience; Organizational chart of management and key staff.....(0-10 points)

TAB D. DESIGN CONCEPT AND VALUE-ADDED SERVICES: (Weight 30%)

Design Concept; Method of addressing possible opportunities and challenges and value-added services.....(0-10 points)

TAB E. FINANCIAL HISTORY: (Weight 10%)

Firm's financial strength as it relates to their ability to perform all services as outlined in this RFP(0-10 points)

TAB F. PROPOSED FEES: (Weight 10%)

Total Proposed Fees.....(0-10 points)

Total Maximum Points	(50 points)
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(Please note that fees may be negotiated in the best interest of the City after the scoring is completed.)

Scoring Guidelines (0 – 10 points):

0-2.0 = Did Not Meet: Not responsive to the question or topic; 2.25-4.0 = Below minimum standards: Responsive to the question or topic, but below acceptable standards; 4.25-6.0 = Marginal: Minimal acceptable performance standards and responsive to the question or topic; 6.25-8.0 = Satisfactory: Above minimum performance, effective and responsive to the question or topic; 8.25-10.0 = Exceeds Expectations for effectiveness and responsiveness to the question or topic. The Evaluator's score times the "weighted value" assigned to the criterion outlined above equals the total score for that section. Resulting scores will be rounded to 2 decimal points.

For example:

<i>Criterion:</i> Tab D: Design Concept and Value- Added Services	<i>Evaluator's Score</i> <i>10-point scale</i>	<i>Weighted Value of Total</i>	<i>Resulting Score</i>
Respondent A	8.50	30%	2.55
Respondent B	6.25	30%	1.88

FORMAL ORAL INTERVIEWS/PRESENTATIONS In Person (If Required)

Upon completion of the technical criteria evaluation of written proposals, rating and ranking, the City of Port Orange may conduct oral interviews and/or presentations with short listed firms. Evaluation criteria and scoring for the oral interviews and/or presentations are to be determined.

If the City chooses to allow oral interviews and/or presentations, such interviews and/or 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 Respondents will be notified via DemandStar at www.demandstar.com and the City of Port Orange Purchasing web page at www.port-orange.org/bids.aspx at least seven (7) calendar days in advance of the date, time and place of the oral interviews and/or presentations. The specific interview/presentation format will be provided to Respondents with the notifications.

The City will allot equal time for each Respondent and may divide into two sequential parts: formal presentations and questions and answers. The times allotted are maximums and no Respondent will be penalized for using less than the allotted time.

FINAL RANKING AND RECOMMENDATION FOR AWARD

After oral presentations are completed, the Evaluation Committee will score the oral interviews and or/presentations. A final ranking is determined of the short-listed Respondents considered to be most capable of performing the work outlined in this RFP and to be in the best interest of the City.

The Evaluation Committee's final ranking will be provided to the Purchasing Manager to read aloud. The Intent to Award will be posted on www.demandstar.com and the City of Port Orange Purchasing web page at www.port-orange.org/bids.aspx. The City project manager will create an agenda item recommending the award to the City Council. City Council's decision will be final.

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- ___ Form 9.2 – Respondent’s Acknowledgement
- ___ Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- ___ Form 9.4 – Drug Free Preference Statement
- ___ Form 9.5 – Public Entity Crimes Statement
- ___ Form 9.6 – Anti-Collusion Form
- ___ Form 9.7 – Statement of Qualifications
- ___ Form 9.8 – Professional References for Previous Experience
- ___ Form 9.9 – Scrutinized Companies Certification
- ___ Form 9.10 – E-Verify Affidavit
- ___ Form 9.11 – Debarment, Suspension and Other Responsibility Matters
- ___ Form 9.12 – Affidavit of Compliance with Section 287.138, Florida Statutes
- ___ Form 9.13 – Non-Disclosure Agreement for Confidential Material
- ___ Exhibit “A” – Description of Confidential Material
- ___ Form 9.14 – No Submittal Request Form
- ___ Appendix A, 44. C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements
- ___ Provide a copy of license to do business in the State of Florida Sunbiz report showing your company registered as “Active”.
- ___ If applicable – copy of county business license of primary business operations
- ___ Original Bid Bond
- ___ Current Bonding Capacity Letter (as outlined in Section 6)
- ___ (Attachment 1) – Services Costs/Fees Proposal Form
- ___ Submission of one (1) original marked “ORIGINAL”, five (5) copies and one (1) digital (USB flash drive) version in PDF format

BY: _____
Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 9.2 – RESPONDENT’S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposal (RFP), Instructions to Respondents, General and/or Special Conditions, Specifications and any other documents accompanying or made a part of this request.

I hereby propose to furnish the goods or services specified in the RFP at the prices or rates as finally negotiated. I agree that my proposal will remain firm for a period of up to one-hundred-twenty (120) days in order to allow the City of Port Orange adequate time to evaluate the proposal. Furthermore, I agree to abide by all conditions of the RFP.

I certify that all information contained in the proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the Respondent/Contractor as its act and deed and that the Respondent/Contractor is ready, willing and able to perform if awarded a contract.

I further certify that this proposal is made without prior understanding, contract, connection, discussion or collusion with any person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the City of Port orange City Council or of any other Respondent interested in said RFP; and that the undersigned executed this Respondent’s Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for the contract under which services will be performed, do hereby propose to furnish all labor, equipment and material to provide the services set forth in the RFP.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the “work” will be performed in strict accordance with such requirements and understands that any exceptions to the requirements of the specifications and documents may render the proposal non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

Name of Business

Mailing Address

Authorized Signature

City, State & Zip Code

Printed Name and Title

Telephone Number

Federal Identification No.

E-mail Address

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your submittal

FORM 9.3 – ADDENDUM AND CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposal (RFP), Instructions to Respondents, General and/or Special Conditions, Specifications and any other documents accompanying or made a part of this RFP.

I acknowledge receipt and incorporation of the following addenda and the cost, if any, of such revisions has been included in the price of the proposal.

Addendum# _____ Date: _____ Addendum# _____ Date: _____

Addendum# _____ Date: _____ Addendum# _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the above statement regarding Addendum Acknowledgement and Change Orders Procedures:

Name of Business

Authorized Signature

Printed Name and Title

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this

_____ day of _____, 2024, by _____ and who:

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

_____ Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

IDENTICAL TIE PROPOSALS – Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements or replies are equal with respect to price, quality and service are received by the City for 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 proposals will be followed if none of the tied respondents 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 a proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under the proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance the 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 an employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

Authorized Signature

Printed Name and Title

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐physical presence or ☐online notarization, this _____ day of _____, 2024, by _____ and who:

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

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.5 – SWORN STATEMENT ON PUBLIC ENTITY CRIMES
UNDER SECTION 287.133(3)(A), FLORIDA STATUTES

(To be signed in the presence of a notary public or other authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant _____, who, being by me first duly sworn, made the following statement:

1. The business address of _____ (name of Offeror or business) is _____.
2. My relationship to _____ (name of Offeror or business) is _____
_____ (relationship such as sole proprietor, partner, president, vice president.)
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such and agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. **(Draw a line through paragraph 6 if paragraph 7 below applies.)**
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted bidder list. The name of the convicted person or affiliate is: _____. A copy of the order of the Division Administrative Hearing is attached. **(Draw a line through paragraph 7 if paragraph 6 above applies)**

Name of Business

STATE OF: _____

Authorized Signature

COUNTY OF: _____

Printed Name and Title

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

By signing this form, the Respondent 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 RESPONDENT THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE RESPONDENT'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISION, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE RESPONDENTS 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 AND ZIP CODE: _____

TELEPHONE: _____

F.E.I.N.: _____

This document must be completed and returned with your Submittal

FORM 9.7 STATEMENT OF RESPONDENT'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true and correct to the best of his or her knowledge and belief. If necessary, questions may be answered on separate paper and attached with any additional information that may be pertinent.

- A. Name of Respondent: _____
- B. Permanent main office address: _____
- C. Date organized: _____
- D. If a corporation, where incorporated: _____
- E. How many years have you been engaged in the business under your present firm or trade name? _____
- F. Contracts on hand: (List these, showing amount of each contract and the approximate anticipated dates of completion.) **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- G. Have you ever failed to complete any work awarded to you? If so, where and why? _____
- H. Have you ever defaulted on a contract? If so, where and why? _____
- I. List your major equipment currently owned or leased: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- K. Background and experience of the principal members of your organization, including the officers: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL**
- L. Credit currently available: \$ _____
- M. Give bank name, contact name and phone number: _____

Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? ☐Yes ☐No

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recitals comprising the Statement of Respondent's Qualifications.

STATE OF: _____	_____ Name of Business
COUNTY OF: _____	_____ Authorized Signature
	_____ Printed Name and Title

The foregoing instrument was acknowledged before me by means of ☐physical presence or ☐online notarization, this _____ day of _____, 2024, by _____ and who:

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

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

This document must be completed and returned with your Submittal

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Respondent submits that their firm is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein. **Please provide three (3) current and correct references from clients for similar services. (DO NOT include the City of Port Orange)**

1. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods/services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
2. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods/services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
3. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods/services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

This document must be completed and returned with your Submittal.

**LISTING OF PREVIOUS EXPERIENCE
COMMERCIAL CLIENT LIST**

The Respondent submits that they are qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. A minimum of three (3) projects must be listed below. The Owner reserves the right to check references and confirm information provided herein.

List clients to whom you currently provide or have in the past provided equal or similar to those required under the City's contract as outlined in this proposal package. A minimum of three (3) project shall be listed below in order to submit a proposal on this contract. The Owner reserves the right to check references and confirm information provided herein.

1. Contact Name: _____
Phone: _____
Current Client: ☐ Yes ☐ No
Number of years of service provided: _____
Description of service: _____

2. Contact Name: _____
Phone: _____
Current Client: ☐ Yes ☐ No
Number of years of service provided: _____
Description of service: _____

3. Contact Name: _____
Phone: _____
Current Client: ☐ Yes ☐ No
Number of years of service provided: _____
Description of service: _____

This document must be completed and returned with your Submittal

FORM 9.9 SCRUTINIZED COMPANIES CERTIFICATION

(To be signed in the presence of a notary public or other officer authorized to administer oaths.)

SCRUTINIZED COMPANIES CERTIFICATION PURSUANT TO SECTION 287.135, FLORIDA STATUTES

I, _____, on behalf
(Print Name and Title)

of _____ ("Company"), certify that _____
(Company Name) (Company Name)

does not:

1. Participate in a boycott of Israel; and
2. Is not on the Scrutinized Companies with Boycott Israel List; and
3. Is not on the Scrutinized Companies with Activities in Sudan List; and
4. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
5. Has not engaged in business operations in Syria.

Submitting a false certification shall be deemed a material breach of contract. The City of Port Orange shall provide notice, in writing, to the Company of the City's determination concerning the false certification. The Company shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Company does not demonstrate that the City's determination of false certification was made in error, then the City shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute § 287.135.

Section 287.135, Florida Statutes prohibits the City from: 1) Contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and 2) Contracting with companies for goods or services over \$1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Syria.

As the person authorized to sign on behalf of the Company, I hereby certify that the company identified above in the section entitled "Company Name" does not participate in any boycott of Israel, is not listed on the Scrutinized Companies that Boycott Israel List, is not listed on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List and is not engaged in business operations in Syria. I understand that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs. I further understand that any contract with the City for goods or services may be terminated at the option of the City if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

COMPANY NAME

SIGNATURE

PRINT NAME

TITLE

STATE OF FLORIDA

COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document to be completed and returned with your Submittal

FORM 9.10 - E-VERIFY AFFIDAVIT



**CITY OF PORT ORANGE
CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES**

Project Name: _____

Solicitation Number: _____

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

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

A true and correct copy of _____ (insert contractor company name) proof of registration in the E-Verify system is attached to this Affidavit.

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

Print or Type Name, Title

Signature of Affiant

Federal Employer ID Number (FEIN)

E-Verify Number

STATE OF FLORIDA

COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

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

This document to be completed and returned with your Submittal

FORM 9.11 - CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY

Matter Primary Covered Transactions
(To be completed by Prime Contractor)

1. The prospective participant certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by and Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal bee convicted for had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft forgery, bribery, falsification or destruction of records, making false statement or receiving stolen property.
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1. (b) of this certification;
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Proposal Number

Name and Title of Authorized Representative

Signature

Date

This document must be completed and returned with your Submittal

FORM 9.12 – AFFIDAVIT OF COMPLIANCE WITH SECTION 287.138, FLORIDA STATUTES

AFFIDAVIT OF COMPLIANCE WITH SECTION 287.138, FLORIDA STATUTES CONTRACTING WITH FOREIGN ENTITIES OF CONCERN

The undersigned (“Affiant”), on behalf of the entity listed below (“Entity”), hereby attests under penalty of perjury as follows:

1. Affiant is the _____ of _____
(Title) (Business Name)
which does business in the State of Florida, hereinafter called the “Entity”.
2. Entity is not owned by the government of a foreign country of concern, as defined in Section 287.138 (1) (c), Florida Statutes.
3. The government of a foreign country of concern does not have a controlling interest in Entity, as defined in Section 287.138 (1)(a), Florida Statutes.
4. Entity is not organized under the laws of, and does not have a principal place of business in, a foreign country of concern.
5. Entity is not owned or controlled by the government of a foreign country of concern.
6. For purposes of this affidavit, a foreign country of concern means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes.

The undersigned is authorized to execute this affidavit on behalf of the Entity.

Date: _____, 20____ Signed: _____

Entity: _____ Name: _____

Title: _____

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

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

(seal)

My commission expires: _____

This document must be completed and returned with your Submittal

FROM 9.13 – NON-DISCLOSURE AGREEMENT

FOR

CONFIDENTIAL MATERIALS

REFERENCE# _____

RETURN THIS FORM ONLY IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED WITH THE SUBMITTAL. PLEASE READ THE SECTION IN THE REQUEST FOR PROPOSAL TO DETERMINE IF THIS APPLIES.

Respondent: _____

Address: _____

This Agreement is entered into as of the date of the last signature set forth below between the City of Port Orange, a political subdivision of the State of Florida (hereinafter the “City”), and the above-named Respondent (hereinafter the “Respondent”). The City and the Respondent are collectively referred to as the “Parties” and may be referred to individually as a Party.

RECITALS

WHEREAS, the Respondent asserts that it possesses certain confidential trade secret materials that it wishes to disclose to the City for the purpose of responding to a solicitation or otherwise conducting business with the City; and WHEREAS, the City desires to review such materials in order to evaluate the City’s interest in negotiating and concluding an agreement for the purchase of certain products and services, or otherwise conducting business with the Respondent.

NOW THEREFORE, in consideration of the mutual promises and premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the City and the Respondent agree as follows:

1. Confidential Materials. The Respondent warrants and represents to the City that the materials described in the attached Exhibit A (Description of “Confidential Material”) constitute trade secrets as defined by Section 812.081(1)(c), Florida Statutes, or financial statements required by the City for projects as defined in 119.071(1)(c), Florida Statutes. Subject to the terms and conditions of this Agreement, the City agrees not to disclose such Confidential Materials to third parties.
2. Additional Materials. During the course of the review or the business relationship with the City, the Respondent may disclose additional confidential or trade secret information to the City in which case the restrictions and obligations on the use and disclosure of the Confidential Materials imposed by this Agreement shall also apply to such additional information to the extent permitted by Florida law. Any such additional confidential or trade secret information shall be duly marked and stamped “confidential” or “trade secret” prior to delivery to the City, and shall be subject to this Agreement and Section 812.081(2), Florida Statutes, only if written receipt is provided by the City acknowledging receipt of such materials.
3. Exclusions. For purposes of this Agreement, the term “Confidential Materials” does not include the following:
 - a. Information already known or independently developed by the City;
 - b. Information in the public domain through no wrongful act of the City;
 - c. Information received by the City from a third party who was legally free to disclose it;
 - d. Information disclosed by the Respondent to a third party without restriction on disclosure;
 - e. Information disclosed by requirement of law or judicial order, including without limitation Chapter 119 Florida Statutes; or
 - f. Information that is disclosed with the prior written consent of the Respondent, but only to the extent permitted by such consent.

4. **Non-Disclosure by Respondent.** In the event that the City discloses confidential or trade secret information to Respondent, the Respondent agrees to not disclose such information to any third party or copy such information or use it for any purpose not explicitly set forth herein without the City's prior written consent. Further, upon conclusion of discussions or business transactions between the City and the Respondent, or at any time upon request of the City, Respondent agrees to return such information (including any copies) to the City.
5. **Duty of Care.** Each Party agrees to treat the other Party's confidential or trade secret information with the same degree of care, but not less than reasonable care, as the receiving Party normally takes to preserve and protect its own similar confidential information and to inform its employees of the confidential nature of the disclosing Party's information and of the requirement of nondisclosure. In the event either Party has actual knowledge of a breach of the nondisclosure requirements set forth in this Agreement, the Party acquiring such knowledge shall promptly inform the other Party and assist that Party in curing the disclosure, where possible, and preventing future disclosures.
6. **Limitations of Florida Law.** Respondent understands and agrees that its assertion that any item is confidential or a trade secret does not, in and of itself, render such material exempt from the Florida Public Records Law, Chapter 119 of the Florida Statutes, and that the City's ability to prevent disclosure of confidential and trade secret information may be subject to determination by a Florida court that such materials qualify for trade secret protection under Florida law. In the event a third party makes a public records request for the Confidential Materials or other materials deemed by Respondent to be confidential or a trade secret, the City may submit the materials to the court for inspection in camera as set forth in Section 119.07(1)(g) Florida Statutes. Respondent further understands that the City may be required to disclose such information if directed by a court of competent jurisdiction.
7. **Indemnification by Respondent.** In the event of any litigation instituted by a third party to compel the City to disclose such materials, Respondent shall, at its sole cost and expense, provide assistance to the City in defending the denial of the records request, and shall hold the City harmless from any claim for statutory costs and attorney's fees arising from the City's refusal to disclose such materials.
8. **No Additional Obligations.** This Agreement shall not be construed in any manner to be an obligation for either Party to enter into any subsequent contract or agreement.
9. **Sovereign Immunity.** Nothing in this Agreement 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 has been or which may be adopted by the Florida Legislature, regardless of the nature of any claim which may arise, including but not limited to a claim sounding in tort, equity or contract. In no event shall the City be liable for any claim or claims for breach of contract, including without limitation the wrongful disclosure of confidential or trade secret information for an amount which exceeds, individually and collectively, the then current statutory limits of liability for tort claims. Nothing in this Agreement 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 by operation of law.
10. **Notice.** Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Respondent designates the address set forth above as its place for receiving notice, and the City designates the following address for such notice:

The City of Port Orange, Florida
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129

11. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida, and venue for any action arising out of or relating to the subject matter of this Agreement shall be exclusively in Volusia County, Florida, or the Federal City Court for the Middle City of Florida, Jacksonville Division.
12. Respondent and the City hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation related to or arising from this solicitation and resulting agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year as set forth below.

The City of Port Orange, FL

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Respondent

BY: _____

NAME: _____

TITLE: _____

DATE: _____

ATTEST:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT A - DESCRIPTION OF CONFIDENTIAL MATERIAL

FORM 9.14 – NO SUBMITTAL RESPONSE FORM

If your company **will not** be submitting a proposal in response to this solicitation, please complete this form and return via e-mail prior to the solicitation due date established within to:

City of Port Orange
Purchasing Division
1000 City Center Circle
Port Orange, FL 32129
purchdiv@port-orange.org

This information will assist the Purchasing Division in the preparation of future solicitations.

Solicitation: RFP #24-16 City Center Playground Replacement

Company Name: _____

Contact Person Name & Title: _____

Address: _____

Telephone: _____ Email Address: _____

Please check a reason for a “no response”.

☐ Specifications “too tight” or geared toward on brand or manufacturer (please explain below)

☐ Insufficient time to respond

☐ Specifications unclear (please explain below)

☐ We do not offer this product/service or an equivalent

☐ Our product schedule does not permit us to perform within stated timeline for the project

☐ Unable to meet specifications

☐ Unable to meet bond requirements

☐ Unable to hold prices firm throughout the term of the contract period

☐ Unable to meet insurance requirements

☐ Other: _____

Print Name: _____

Signature: _____

Date: _____

Additional Information:

If submitting this form, only this form needs to be returned. It is not necessary to return the entire solicitation package.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements

(Required for each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name & Title of Contractor's Authorized Official

Date: _____

(ATTACHMENT 1) – SERVICES COSTS/FEES PROPOSAL



(ATTACHMENT 1) SERVICES COSTS/FEES PROPOSAL

CITY OF PORT ORANGE

RFP #24-16

City Center Playground Replacement

Completed (Attachment 1) Services Costs/Fees Proposal form MUST be included with Submittal.

Proposers are required to complete all fields shaded in green.

NAME OF BUSINESS:		
CONTACT PERSON:		
EMAIL ADDRESS:		
AUTHORIZED SIGNATURE:		
ITEM #	DESCRIPTION	PRICE
1	Demolition and Removal	
2	Clearing, Grubbing and Site Prep	
3	Survey, Design and Permitting	
4	Products and Equipment	
5	Installation and Construction Labor	
TOTAL PRICE:		

Complete, sign and date and include this document under Tab F in proposal

BID BOND**BID BOND**

Bond No.:

KNOW ALL MEN BY THESE PRESENTS that _____, as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____, (hereinafter called "PRINCIPAL"), and _____, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____ (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel: (386) 506-5501, (hereinafter called "OBLIGEE" or CITY", in the penal sum of _____ dollars and (____)/100 (\$____), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated _____, 20____, for:

Project Name/Bid No.:

Project Address:

Legal Description:

Description of Work:

NOW, THEREFORE,

A. If the Principal shall not withdraw said bid withing one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds withing the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies. If the latter amount be in excess of the former, then the above obligations then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to the original bid bond and financial statement of Surety Company).

PRINCIPAL:

Signature

Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

SURETY:

Attorney-in-Fact (signature)

Name & Title

Name of Local Resident Agent

City, State, Zip

Telephone:

A.M. Best No.: _____ NAIC No.: _____

STATE OF _____

COUNTY OF _____

Before me this day personally appeared _____ (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the _____ (corporate surety) and that this person has been authorized by _____ (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

END OF BID BOND

This document must be completed and returned with your Submittal

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. _____

PRINCIPAL:

Developer or Contractor: _____

Principal Business Address: _____

Contact Person: _____

Phone Number: _____

SURETY:

Address: _____

Contact Person: _____

Phone Number: _____

OWNER:

City of Port Orange, Florida, a chartered municipal corporation
1000 City Center Circle
Port Orange, Florida 32129-4144

Contact Person: _____

Phone Number: _____

City Manager
(386) 506-5501

Amount: \$ _____

City Case: _____

Description of Work: _____

Project Location: _____

Legal Description: _____

Front Page

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

Bond No. _____

**COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION**

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

BY THIS BOND, We, _____, as Principal, and _____, a corporation, as Surety, are bound to _____, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of _____ AND ____/100 DOLLARS (\$____), for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain Standard Contract for Services, having an effective date of _____, entered into by and between the Principal and the City, for Police Department Duct/HVAC Mold Remediation, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and
3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.05(2), (8) and (10), Florida Statutes.

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

IN WITNESS WHEREOF, this performance and payment bond is executed and shall be deemed an original, this _____, day of _____, 20____.

Attest:

(Principal)

(As to Corporate Principal) Secretary

By: _____
Name, Title

(Corporate Seal)

(Witness to Principal)

(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.

IMPORTANT: This certificate must be completed and returned by the Awarded Respondent, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

AFFIDAVIT REGARDING WORKER'S COMPENSATION

State of _____ County of _____

I, _____, being duly sworn according to law, deposes and says (it, he, she, they) have accepted the Workers' Compensation laws of the State of Florida, with its supplements and amendments and has insured (its, his, her, their) liability there under accordance with the terms of said Laws with the _____ Company, under the terms of Policy Number _____ for a period from _____, 20____ to _____, 20____.

WITNESS:

By: _____

Company: _____

CONTRACTOR:

By: _____

Company: _____

Name/Title: _____

STATE OF _____

COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024, by _____ and who:

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

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

IMPORTANT: This certificate must be completed and returned by the Awarded Respondent, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange.

LEASED EMPLOYEE AFFIDAVIT

EXHIBIT CONTRACT # _____

☐ I hereby certify that I do not utilize an employee leasing company or employee leased employees. I further agree to notify the City in the event these circumstances change.

OR

☐ I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors, or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the City in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the City with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any City jobsite.

I further agree to notify the City if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Worker' Compensation Carrier: _____

A.M. Best Rating Carrier: _____

Inception Date of Leasing Agreement: _____

I further agree to notify the City in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the City that documents the change of carrier.

I hereby attest that the information provided in this affidavit is accurate. In addition, I certify that I have read and understand the above statements regarding my responsibility under the Workers' Compensation coverage.

Signature of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____

IMPORTANT: This certificate must be completed and returned by the Awarded Respondent, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange.

HUMAN TRAFFICKING AFFIDAVIT
(SECTION 787.06, FLORIDA STATUTES)

[illegible]

The undersigned ("Affiant"), on behalf of the entity listed below ("Entity"), after being duly sworn, hereby attests as follows:

1. My name is _____. I am over the age of Twenty-one years old. I am the _____ of _____, a non-
(Title) (Business Name)
governmental entity which does business in the State of Florida, hereinafter called the “Entity.”
2. I have personal knowledge of each and every statement of fact contained herein, and each and every statement of fact is true and correct.
3. Entity does not use coercion, as defined in Section 787.06, Florida Statutes, for labor or services.
4. The undersigned is an officer or representative of the entity and is authorized to execute this affidavit on behalf of the Entity.
5. Under penalties of perjury, I declare that I have read the foregoing Human Trafficking Affidavit and that the facts stated herein are true.
Further Affiant sayeth not.

Date: _____, 20__

Signed: _____

Print Name: _____

Title: _____

SUBSCRIBED AND SWORN before me by means of [XX] physical presence or [] online notarization on the ____ day of _____, 20__ by _____ as _____ on behalf of _____ who is personally known to me or who has produced _____ as identification.

(Notary Seal)

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

RFP #24-16 City Center Playground Replacement

Exhibit B (Location)





CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20____, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

(a) The Contractor hereby agrees to provide 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 term of this Contract shall commence on the date this Contract is signed on behalf of the City and shall continue until _____ (the "Term").

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: Contractor acknowledges that time is of the essence for the **Purchase Order(s) or Notice to Proceed** issued hereunder.

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

2. City Obligations. In return for the services identified above, the City agrees to compensate 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. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

6. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

8. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

9. Examination of Records

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

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

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

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

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

11. Termination for Non-Appropriation of Funds

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

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

12. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes

in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements											
	Insurance	Standards	Additional Requirements								
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr><tr><td colspan="2">Contracts over \$20 million To Be Determined by the City.</td></tr></table>	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	Contracts over \$20 million To Be Determined by the City.		☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>										
Up to \$10 million	Statutory/\$500,000										
\$10 - \$20 million	Statutory/\$1,000,000										
Contracts over \$20 million To Be Determined by the City.											

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☒	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
City Manager waives Payment and Performance Bond for work under \$200,000.00			
Unless otherwise required by law, City Manager waives Insurance for FOB goods.			

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

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

15. Modifications or Changes to this Contract

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

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

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

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

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

17. E-Verify. Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor on or after the effective date of this Contract and thereafter during the remaining term of this Contract, including all subcontractors. Any subcontract entered into by Contractor with any subcontractor performing work under this Contract shall include the following language: "The Sub-Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor on or after the effective date of this Contract and thereafter during the remaining term of the Contract. The Contractor covenants and agrees that if it is found in violation of this section of the Executive Order, such violation shall be in material breach of this Contract and Contractor shall indemnify, defend and hold harmless the City from any fines or penalties levied by a government agency, including the loss or repayment of grant funds by the City.

18. 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.

19. 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.

20. 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.

21. 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.

22. Liability for Loss or Damage.

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

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

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 City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, CMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

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

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

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: [REDACTED]
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-[REDACTED]
Contractor: [REDACTED]
Attention: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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]

By: _____

Printed Name: _____

Title: _____

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

Date: _____

CITY OF PORT ORANGE

By: _____

Wayne Clark, City Manager **OR**
Donald O. Burnette, Mayor

Date: _____

ATTEST:

By: _____

Robin L. Fenwick, MMC, City Clerk

Date: _____



End of Solicitation Documents

ORIGINAL



2922 HOWLAND BLVD – ST 4 – DELTONA, FL 32725 – 386-575-8359

SONIA M PERKINS – SONIAP@TOPLINEREC.COM

WWW.TOPLINEREC.COM



**CITY OF PORT ORANGE, FLORIDA
REQUEST FOR PROPOSAL
RFP #24-16
CITY CENTER PLAYGROUND REPLACEMENT**

City of Port Orange Purchasing Division
Prepared by Chip Kent, Purchasing Agent

Release Date: September 20, 2024

Proposal Due Date and Time:

October 25, 2024 @2:30 PM EST

City of Port Orange, Florida

1000 City Center Circle

Port Orange, FL 32129

(386)506-5740

purchdiv@port-orange.org

www.port-orange.org



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STAFF**
- 5- TAB D – DESIGN CONCEPT AND VALUE-ADDED SERVICES**
- 6- TAB E – FINANCIAL HISTORY**
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2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM



1- STATEMENT OF INTEREST

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

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2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM

October 22, 2024

To City of Port Orange, Florida

Dear Chip Kent, Purchasing Agent,

I am writing to express my interest in the RFP #24-16 City Center Playground Replacement, **DUE** DATE/TIME: October 25, 2024 AT 2:30 PM EAST, and hereby submit my Letter of Intent for Bidding.

As a successful, experienced and qualified company, I am confident that my bid will reflect the fair market value of the Playground Project requested. My company commitment to this endeavor is absolute, as I believe in the potential of your property and its strategic location. It is in this respect that I submit my formal intent to bid, backed by all documents requested, great playground design and a strong desire to close the deal to our mutual satisfaction.

I understand that the bidding process is a sensitive one and assure you that this Letter of Intent for Bidding is not just a procedural necessity for me. Rather, it is a testament to my sincere interest and a further promise to adhere to all rules, deadlines, and requirements the bidding process may necessitate.

I am positive that my bid will be a win-win proposition for us both and the community, enriching your City with one more beautiful park. Should you require any further information, do not hesitate to contact me via email addressed below.

Anticipating a positive response.

Sincerely,

Sonia M Perkins - President

soniap@toplinerec.com



2 -TAB A — REQUIRED DOCUMENTS

2922 HOWLAND BLVD — ST 4 - DELTONA, FL 32725

386-575-8359 — 800-921-4509

WWW.TOPLINEREC.COM

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- ☒ Form 9.2 – Respondent's Acknowledgement
- ☒ Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- ☒ Form 9.4 – Drug Free Preference Statement
- ☒ Form 9.5 – Public Entity Crimes Statement
- ☒ Form 9.6 – Anti-Collusion Form
- ☒ Form 9.7 – Statement of Qualifications
- ☒ Form 9.8 – Professional References for Previous Experience
- ☒ Form 9.9 – Scrutinized Companies Certification
- ☒ Form 9.10 – E-Verify Affidavit
- ☒ Form 9.11 – Debarment, Suspension and Other Responsibility Matters
- ☒ Form 9.12 – Affidavit of Compliance with Section 287.138, Florida Statutes
- ☒ Form 9.13 – Non-Disclosure Agreement for Confidential Material
- ☒ Exhibit "A" – Description of Confidential Material
- ☒ Form 9.14 – No Submittal Request Form
- ☒ Appendix A, 44. C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements
- ☒ Provide a copy of license to do business in the State of Florida Sunbiz report showing your company registered as "Active".
- ☒ If applicable – copy of county business license of primary business operations
- ☒ Original Bid Bond
- ☒ Current Bonding Capacity Letter (as outlined in Section 6)
- ☒ (Attachment 1) – Services Costs/Fees Proposal Form
- ☒ Submission of one (1) original marked "ORIGINAL", five (5) copies and one (1) digital (USB flash drive) version in PDF format

BY: **TOP LINE RECREATION INC**

Name of Business

Authorized Signature



10/22/2024

Date

This document must be completed and returned with your Submittal

FORM 9.2 - RESPONDENT'S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposal (RFP), Instructions to Respondents, General and/or Special Conditions, Specifications and any other documents accompanying or made a part of this request.

I hereby propose to furnish the goods or services specified in the RFP at the prices or rates as finally negotiated. I agree that my proposal will remain firm for a period of up to one-hundred-twenty (120) days in order to allow the City of Port Orange adequate time to evaluate the proposal. Furthermore, I agree to abide by all conditions of the RFP.

I certify that all information contained in the proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the Respondent/Contractor as its act and deed and that the Respondent/Contractor is ready, willing and able to perform if awarded a contract.

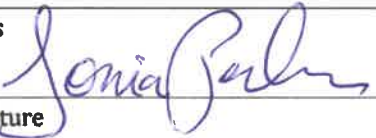
I further certify that this proposal is made without prior understanding, contract, connection, discussion or collusion with any person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Respondent interested in said RFP; and that the undersigned executed this Respondent's Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for the contract under which services will be performed, do hereby propose to furnish all labor, equipment and material to provide the services set forth in the RFP.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the "work" will be performed in strict accordance with such requirements and understands that any exceptions to the requirements of the specifications and documents may render the proposal non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

Please check one: ☒ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

TOP LINE RECREATION INC	2922 HOWLAND BLVD - ST 4
Name of Business	Mailing Address
	DELTONA, FL 32725
Authorized Signature	City, State & Zip Code
SONIA M PERKINS - PRESIDENT	386-575-8359
Printed Name and Title	Telephone Number
45-3009109	SONIAP@TOPLINEREC.COM
Federal Identification No.	E-mail Address

STATE OF: FL COUNTY OF: Volusia

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of Oct, 2024, by Sonia Perkins and who:

☒ Is personally known to me; or ☐ has produced _____ as identification.
Jennifer Janelle 3/27/27 Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

This document must be completed and returned with your submittal

FORM 9.3 - ADDENDUM AND CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposal (RFP), Instructions to Respondents, General and/or Special Conditions, Specifications and any other documents accompanying or made a part of this RFP.

I acknowledge receipt and incorporation of the following addenda and the cost, if any, of such revisions has been included in the price of the proposal.

Addendum# <u>1</u>	Date: <u>09-25-24</u>	Addendum# <u>3</u>	Date: <u>10-16-24</u>
Addendum# <u>2</u>	Date: <u>10-09-24</u>	Addendum# _____	Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the above statement regarding Addendum Acknowledgement and Change Orders Procedures:

TOP LINE RECREATION INC
Name of Business

Authorized Signature *Sonia Perkins*

SONIA M PERKINS - PRESIDENT
Printed Name and Title

STATE OF: FL COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this

22 day of Oct, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27 Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

This document must be completed and returned with your Submittal



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #1 **September 25, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

A. REVISIONS:

Due to the potential impacts from Tropical Storm Helene, the following change is hereby made to RFP #24-16 City Center Playground Replacement:

The mandatory Pre-Proposal Conference and site visit has been changed to a NON-MANDATORY Pre-Proposal Conference and site visit. Firms interested in submitting a proposal need not attend in order to be eligible.

B. CLARIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

None

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #1

Chip Kent
Purchasing Agent
ckent@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #2 **October 9, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

A. REVISIONS:

None

B. CLARIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

Question #1

What is the budget for the project?

Answer #1

The budget is \$300,000.

Question #2

Is the City partial to swings in this new design?

Answer #2

The City is open to all options, but the overall design is up to the contractor.

Question #3

Does the City want free standing shade structures, modular shade i.e. attached to equipment, or is it designer's choice?

Answer #3

The City is open to all options, but the overall design is up to the contractor.

Question #4

ADA Compliant ground surface: Engineered wood fiber mulch is considered an ADA compliant surface. Is the city seeking poured in place rubber surfacing, Turf, or engineered wood fiber mulch as the pricing does vary greatly?

Answer #4

The city's preference would be turf, but the overall design is up to the contractor.

Question #5

Where do we find accurate site plans?

Answer #5

See attached file RFP 24-16 PRR Playground at City Ballfields. Additionally, Please review Exhibit B in RFP #24-16 City Center Playground Replacement.

Question #6

Are there more images of the equipment to be removed?

Answer #6

See attached file RFP 24-16 City Center Playground Equipment Images.

Question #7

Sports themed – is that generic or related to specific local teams?

Answer #7

The City is open to all options, but the overall design is up to the contractor.

Question #8

What sports are of Interest?

Answer #8

Our city offers Youth Baseball, Youth Basketball, Youth Soccer, Youth Flag Football, and Youth Volleyball. However, the overall design is up to the contractor and shouldn't be limited to just the sports we offer.

Question #9

We work primarily with Eastern European Hardwood – Robina. It is as hard and durable as concrete, with a lifespan of up to 40 years even in water. Is the City open to this kind of Material?

Answer #9

The overall design and material used is completely up to the contractor.

Question #10

Can a respondent provide two (2) design options?

Answer #10

The City requests that respondents provide only one (1) playground design for this RFP.

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #2

Chip Kent
Purchasing Agent
ckent@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
purchdiv@port-orange.org

ADDENDUM #3 **October 16, 2024**

RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT

To All Respondents:

The following changes, clarifications and additions are hereby made part of the solicitation and specifications for the above referenced project dated September 20, 2024 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of each respondent to confirm that all addenda have been received prior to submitting a proposal and acknowledge such in the RFP documents.

The due date for Bid Submittals is hereby changed to October 25, 2024, at 2:30 PM (EST).

A. REVISIONS:

None

B. CHANGES TO THE ITB:

None

C. CLARIFICATIONS:

None

D. QUESTIONS AND ANSWERS

None

In all other respects, except as specifically stated herein, the subject RFP #24-16 CITY CENTER PLAYGROUND REPLACEMENT remains the same.

END OF ADDENDUM #3

Chip Kent
Purchasing Agent
ckent@port-orange.org

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

IDENTICAL TIE PROPOSALS – Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements or replies are equal with respect to price, quality and service are received by the City for 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 proposals will be followed if none of the tied respondents 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 a proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under the proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance the 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 an 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.

TOP LINE RECREATION INC

Name of Business

Authorized Signature

SONIA M PERKINS - PRESIDENT

Printed Name and Title

STATE OF: FL COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Sanelle 3/27/27 Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



Commission # HH 379138

Expires March 27, 2027

This document must be completed and returned with your Submittal

FORM 9.5 - SWORN STATEMENT ON PUBLIC ENTITY CRIMES

UNDER SECTION 287.133(3)(A), FLORIDA STATUTES

(To be signed in the presence of a notary public or other authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant SONIA M PERKINS, who, being by me first duly sworn, made the following statement:

1. The business address of TOP LINE RECREATION INC (name of Offeror or business) is
2922 HOWLAND BLVD - ST 4 - DELTONA, FL 32725
2. My relationship to TOP LINE RECREATION INC (name of Offeror or business) is PRESIDENT
(relationship such as sole proprietor, partner, president, vice president.)
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such and agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted bidder list. The name of the convicted person or affiliate is:
_____. A copy of the order of the Division Administrative Hearing is attached. (Draw a line through paragraph 7 if paragraph 6 above applies)

STATE OF: FL

COUNTY OF: VOLUSIA

TOP LINE RECREATION INC

Name of Business

Sonia Perkins
Authorized Signature

SONIA M PERKINS - PRESIDENT

Printed Name and Title

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27 Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

By signing this form, the Respondent 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 RESPONDENT THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE RESPONDENT'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISION, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE RESPONDENTS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: TOP LINE RECREATION INC

SIGNED BY: 
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: SONIA M PERKINS

TITLE: PRESIDENT

ADDRESS: 2922 HOWLAND BLVD -ST 4

CITY, STATE AND ZIP CODE: DELTONA, FL 32725

TELEPHONE: 386-575-8359

F.E.I.N.: 45-3009109

This document must be completed and returned with your Submittal

FORM 9.7 STATEMENT OF RESPONDENT'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true and correct to the best of his or her knowledge and belief. If necessary, questions may be answered on separate paper and attached with any additional information that may be pertinent.

- A. Name of Respondent: TOP LINE RECREATION INC
- B. Permanent main office address: 2922 HOWLAND BLVD - ST 4 DELTONA, FL 32725
- C. Date organized: 08-16-2011
- D. If a corporation, where incorporated: FLORIDA
- E. How many years have you been engaged in the business under your present firm or trade name? 13
- F. Contracts on hand: (List these, showing amount of each contract and the approximate anticipated dates of completion.) **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- G. Have you ever failed to complete any work awarded to you? If so, where and why? NO
- H. Have you ever defaulted on a contract? If so, where and why? NO
- I. List your major equipment currently owned or leased: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL.**
- K. Background and experience of the principal members of your organization, including the officers: **USE SEPARATE SHEET & ATTACH TO SUBMITTAL**
- L. Credit currently available: \$ 800,000
- M. Give bank name, contact name and phone number: SEACOAST BANK - ASHLEY UNNERSTALL - 407-280-8368

Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? ☒ Yes ☐ No

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recitals comprising the Statement of Respondent's Qualifications.

TOP LINE RECREATION INC

Name of Business

Sonia Perkins
Authorized Signature

SO

Printed Name and Title

STATE OF: FL

COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27 Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE

Commission # HH 379138

Expires March 27, 2027

This document must be completed and returned with your Submittal

F. CONTRACTS on hand

Top Line Recreation
2922 Howland Blvd. #4
Deltona, FL 32725
www.toplinerec.com



PROJECTS IN PROCESS

NAME OF PROJECT	OWNER	TOTAL CONTRACT VALUE	CONTRACTED DATE OF COMPLETION	% OF COMPLETION TO DATE
Pioneer Park	Hernando County Park & Rec	124,897.98	Nov-24	80%
FL College Amphitheater	Florida College	149,906.63	Nov-24	60%
Henderson park	City of Miami Parks & Rec	435,781.04	Nov-24	50%
Seabrook Village	Seabrook Village HOA	157,488.80	Nov-24	90%
Horizon West	Orange Co. Parks & Rec	255,080.00	Nov-24	80%
OCPS	Orange Co. Public Schools	681,396.90	Nov-24	75%
W. Melbourne Sci-School	Brevard County Schools	135,077.51	Nov-24	70%
Crest Hammock	Crest Hammock HOA	91,821.63	Dec-24	80%
Orange County Public Schools	School Board of Orange Co.	701,445.00	Dec-24	60%
Mary Avenue	City of New Smyrna Bch	140,163.10	Dec-24	50%
Jacksonville Parks	City of Jacksonville	568,519.26	Dec-24	55%
Zinkil Park	City of Hollywood	113,717.15	Nov-24	60%
Tom Hoffman Park	City of Deltona	204,878.41	Sep-24	80%



FORM 9.7 - STATEMENT OF RESPONDENT'S QUALIFICATIONS

I. List your major equipment currently owned or leased:

Sonia M Perkins President of
Top Line Recreation INC states that the company
do not lease or own any equipment.

We are a resale certificate business

Sonia M Perkins

President

J. List of more important projects recently completed

Top Line Recreation
2922 Howland Blvd. #4
Deltona, FL 32725
www.toplinerec.com



NAME OF PROJECT	OWNER	TOTAL CONTRACT VALUE	CONTRACTED DATE OF COMPLETION	% OF COMPLETION TO DATE
Henry Reeves Park	City of Miami	468,814.00	Dec-23	100%
Stan Goldman Park	City of Hollywood	235,093.46	Apr-24	100%
Henderson park	City of Miami Parks & Rec	435,781.04	Oct-24	100%
Belefonte Park	City of Miami Parks & Rec	453,717.76	Aug-24	100%
Kirk Park	City of North Port	220,706.73	Mar-23	100%
Dallas White Park	City of North Port	259,998.04	May-24	100%
Veteran's Memorial Park	Pasco County Park & Rec	361,464.00	Aug-24	100%
Delta Woods Park	Hernando County Park & Rec	232,892.35	Dec-23	100%
Crossbridge Church	Crossbridge Church	480,343.09	Dec-23	100%
Tom Hoffman Park	City of Deltona	204,878.41	Sep-24	100%
Coral Ridge at Seabrook	Hoffman Commercial Construction, LLC	377,375.95	Dec-23	100%
SBAC Elementary School	School Board Alachua County	285,021.62	Sep-21	100%
Gonzales Park	Jacksonville Bch Park & Rec	499,923.85	Jul-24	100%

K. Background and Exp...



QUALIFICATION	_ 11 YEARS IN BUSINESS _ TOP QUALITY PRODUCTS _ QUALIFIED INSTALLERS _ EXCELLENT CUSTOMER SERVICE _ BEST WARRANTY IN MARKET
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EXPERIENCE SONIA M PERKINS PRESIDENT	_ 35 YEAR BUSINESS MANAGEMENT _ 11 YEARS PLAYGROUND BUSINESS ADMINISTRATION _ 11 YEARS FINANCIAL ADMINISTRATION
TERRY R PERKINS VICE-PRESIDENT	_ 30 YEARS ON PLAYGROUND BUSINESS _ CPSI – CERIFIED PLAYGROUND SAFETY INSPECTOR _ 11 YEARS PROJECT MANAGEMENT, SALES MANAGER _ 11 YEARS PLAYGROUND AND SHADES CONSULTANT
ROB WILSON GENERAL MANAGER	- 31 Years Business Management/Growth/Development - 15 Years Specifically in the Playground/Park Industry: Sales and business management, service, project management, installation coordination, site assessment, design.
DEBBIE LLOY PROJECT CONSULTANT	_ 20 YEARS EXPERIENCE ON DESIGN, CONSULTING AND SALES OF PLAYGROUND and SHADES PROJECTS _ 4 YEARS TOP PLAYGROUND DESIGNER FOR TOP LINE REC _ OVER 1K PLAYGROUNDS PROJECTS SOLD IN 2023

This is not a comprehensive list, but here are some of our valued customers:

- CHARLOTTE COUNTY PUBLIC SCHOOLS
- DUVAL COUNTY PUBLIC SCHOOLS
- ORANGE COUNTY PUBLIC SCHOOLS
- VOLUSIA COUNTY SCHOOLS
- CHARLOTTE COUNTY PARKS & REC
- BREVARD COUNTY PARKS & REC
- INDIAN RIVER PARKS & REC
- CITY OF POMPANO BEACH
- CITY OF NORTH PORT
- CITY OF JACKSONVILLE
- CITY OF MIAMI
- CITY OF FORT LAUDERDALE
- ... and many others

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Proposer submits that their firm is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein. Please provide three (3) current and correct references from clients for similar services. (DO NOT include the City of Port Orange)

1. Company Name: CITY OF MIAMI PARKS DEPARTMENT - BELAFONTE TACOLCY CENTER
Contact Person: TOM CALAUTTI
City, State: MIAMI, FL 33130
Telephone Number: 305-416-1912
Email Address: TCALAUTTI@MIAMIGOV.COM
Description of goods/services provided: PLAYGROUND / INSTALLATION / PIP
Contract Amount: 453,717.76
Start/End Date of Contract: 09/01/2023 - 08-01-2024
2. Company Name: WILLIE WEBB PARK
Contact Person: ROBIN SOODEEN - CONTRACT MANAGER
City, State: LAUDERDALE LAKES, FL 33319
Telephone Number: 954-535-2815
Email Address: ROBINS@LAUDERDALELAKES.ORG
Description of goods/services provided: PLAYGROUND / INSTALLATION / POURED-IN-PLACE
Contract Amount: 519,934.15
Start/End Date of Contract: 08/18/2023 - 12-10-2023
3. Company Name: DALLAS WHITE PARK
Contact Person: JEFF NELSON
City, State: CITY OF NORTH PORT
Telephone Number: 941-429-3590
Email Address: JNELSON@CITYOFNORTHPORT.COM
Description of goods/services provided: PLAYGROUND / INSTALLATION / SYNTHETIC TURF AND SHADE
Contract Amount: \$ 259,998.04
Start/End Date of Contract: 02-21-2024 - 05/30/2024

This document must be completed and returned with your Submittal.

**LISTING OF PREVIOUS EXPERIENCE
COMMERCIAL CLIENT LIST**

The Proposer submits that they are qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. A minimum of three (3) projects must be listed below. The Owner reserves the right to check references and confirm information provided herein.

List clients to whom you currently provide or have in the past provided equal or similar to those required under the City's contract as outlined in this proposal package. A minimum of three (3) project shall be listed below in order to submit a proposal on this contract. The Owner reserves the right to check references and confirm information provided herein.

1. Contact Name: ROD BARGAINEER - CITY OF KISSIMMEE
Phone: 407-518-2363
Current Client: ☒ Yes ☐ No
Number of years of service provided: 10
Description of service: PLAYGROUNDS, SHADES, PAVILIONS, SITE AMENITIES
AND SAFETY SURFACE.
2. Contact Name: LESLIE DONAR - MANATEE SCHOOL
Phone: 321-433-0050 EXT 46804
Current Client: ☒ Yes ☐ No
Number of years of service provided: 8
Description of service: PLAYGROUNDS, SHADES, PAVILIONS, SITE AMENITIES
AND SAFETY SURFACE.
3. Contact Name: JESSICA KEENAN - TOWN OF GRANT-VALKARIA
Phone: 321-951-1380
Current Client: ☒ Yes ☐ No
Number of years of service provided: 6
Description of service: PLAYGROUND EQUIPMENT, SHADES, PAVILIONS, SITE AMENITIES, SAFETY SURFACE

This document must be completed and returned with your Submittal

FORM 9.9 SCRUTINIZED COMPANIES CERTIFICATION

(To be signed in the presence of a notary public or other officer authorized to administer oaths.)

SCRUTINIZED COMPANIES CERTIFICATION PURSUANT TO SECTION 287.135, FLORIDA STATUTES

I, SONIA M PERKINS - PRESIDENT, on behalf
(Print Name and Title)

of TOP LINE RECREATION INC ("Company"), certify that TOP LINE RECREATION INC
(Company Name) (Company Name)

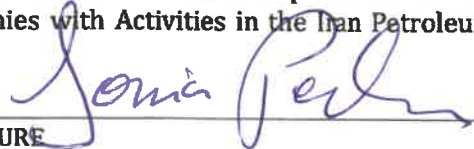
does not: 1. Participate in a boycott of Israel; and
2. Is not on the Scrutinized Companies with Boycott Israel List; and
3. Is not on the Scrutinized Companies with Activities in Sudan List; and
4. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
5. Has not engaged in business operations in Syria.

Submitting a false certification shall be deemed a material breach of contract. The City of Port Orange shall provide notice, in writing, to the Company of the City's determination concerning the false certification. The Company shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Company does not demonstrate that the City's determination of false certification was made in error, then the City shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute § 287.135.

Section 287.135, Florida Statutes prohibits the City from: 1) Contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and 2) Contracting with companies for goods or services over \$1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Syria.

As the person authorized to sign on behalf of the Company, I hereby certify that the company identified above in the section entitled "Company Name" does not participate in any boycott of Israel, is not listed on the Scrutinized Companies that Boycott Israel List, is not listed on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List and is not engaged in business operations in Syria. I understand that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs. I further understand that any contract with the City for goods or services may be terminated at the option of the City if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

TOP LINE RECREATION INC
COMPANY NAME
SONIA M PERKINS
PRINT NAME
STATE OF FLORIDA


SIGNATURE
PRESIDENT
TITLE
COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this
22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27 Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

This document to be completed and returned with your Submittal

FORM 9.10 - E-VERIFY AFFIDAVIT



**CITY OF PORT ORANGE
CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES**

Project Name: CITY CENTER PLAYGROUND REPLACEMENT

Solicitation Number: RFP#24-16

I, the undersigned hereby certify that TOP LINE RECREATION INC (insert contractor company name) does not employ, contract with or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

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

A true and correct copy of TOP LINE RECREATION INC (insert contractor company name) proof of registration in the E-Verify system is attached to this Affidavit.

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

SONIA M PERKINS - PRESIDENT
Print or Type Name, Title

Sonia Perkins
Signature of Affiant

45-3009109
Federal Employer ID Number (FEIN)

1601726
E-Verify Number

STATE OF FLORIDA

COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27 Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

This document to be completed and returned with your Submittal

**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR EMPLOYERS USING AN E-VERIFY EMPLOYER AGENT**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS), the Topline Recreation Inc. (Employer), and the E-Verify Employer Agent. The purpose of this agreement is to set forth terms and conditions which the Employer and the E-Verify Employer Agent will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the E-Verify Employer Agent, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. Section 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II
RESPONSIBILITIES**

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - A. Notice of E-Verify Participation
 - B. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer shall become familiar with and comply with the most recent version of the E-Verify User Manual. The Employer will obtain the E-Verify User Manual from the E-Verify Employer Agent.
4. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
 - A. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 1-888-464-4218.
 - B. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete I-Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

5. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

FORM 9.11 - CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY

Matter Primary Covered Transactions
(To be completed by Prime Contractor)

1. The prospective participant certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by and Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted for had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement or receiving stolen property.
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1. (b) of this certification;
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

TOP LINE RECREATION INC
Organization Name

SONIA M PERKINS - PRESIDENT
Name and Title of Authorized Representative

RFP#24-16
Proposal Number


Signature

10-22-2024
Date

This document must be completed and returned with your Submittal

FORM 9.12 – AFFIDAVIT OF COMPLIANCE WITH SECTION 287.138, FLORIDA STATUTES

AFFIDAVIT OF COMPLIANCE WITH SECTION 287.138, FLORIDA STATUTES CONTRACTING WITH FOREIGN ENTITIES OF CONCERN

The undersigned ("Affiant"), on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury as follows:

1. Affiant is the PRESIDENT of TOP LINE RECREATION INC
(Title) (Business Name)
which does business in the State of Florida, hereinafter called the "Entity".
2. Entity is not owned by the government of a foreign country of concern, as defined in Section 287.138 (1) (c), Florida Statutes.
3. The government of a foreign country of concern does not have a controlling interest in Entity, as defined in Section 287.138 (1)(a), Florida Statutes.
4. Entity is not organized under the laws of, and does not have a principal place of business in, a foreign country of concern.
5. Entity is not owned or controlled by the government of a foreign country of concern.
6. For purposes of this affidavit, a foreign country of concern means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes.

The undersigned is authorized to execute this affidavit on behalf of the Entity.

Date: OCTOBER 22, 2024

Signed: 

Entity: TOP LINE RECREATION INC

Name: SONIA M PERKINS

Title: PRESIDENT

STATE OF: FL

COUNTY OF: VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 22 day of October, 2024, by Sonia Perkins and who:

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

Jennifer Janelle 3/27/27

Notary Public, State of Florida at Large:

Printed Name/Seal of Notary, Commission and Expiration Date:



JENNIFER JANELLE (seal)
Commission # HH 379138
Expires March 27, 2027

My commission expires: 3/27/27

This document must be completed and returned with your Submittal

FROM 9.13 - NON-DISCLOSURE AGREEMENT

FOR

CONFIDENTIAL MATERIALS

REFERENCE# RFP#24-16

RETURN THIS FORM ONLY IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED WITH THE SUBMITTAL. PLEASE READ THE SECTION IN THE REQUEST FOR PROPOSAL TO DETERMINE IF THIS APPLIES.

Respondent: TOP LINE RECREATION INC

Address: 2922 HOWLAND BLVD ST 4 - DELTONA, FL 32725

This Agreement is entered into as of the date of the last signature set forth below between the City of Port Orange, a political subdivision of the State of Florida (hereinafter the "City"), and the above-named Respondent (hereinafter the ("Respondent"). The City and the Respondent are collectively referred to as the "Parties" and may be referred to individually as a Party.

RECITALS

WHEREAS, the Respondent asserts that it possesses certain confidential trade secret materials that it wishes to disclose to the City for the purpose of responding to a solicitation or otherwise conducting business with the City; and WHEREAS, the City desires to review such materials in order to evaluate the City's interest in negotiating and concluding an agreement for the purchase of certain products and services, or otherwise conducting business with the Respondent.

NOW THEREFORE, in consideration of the mutual promises and premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the City and the Respondent agree as follows:

1. Confidential Materials. The Respondent warrants and represents to the City that the materials described in the attached Exhibit A (Description of "Confidential Material") constitute trade secrets as defined by Section 812.081(1)(c), Florida Statutes, or financial statements required by the City for projects as defined in 119.071(1)(c), Florida Statutes. Subject to the terms and conditions of this Agreement, the City agrees not to disclose such Confidential Materials to third parties.
2. Additional Materials. During the course of the review or the business relationship with the City, the Respondent may disclose additional confidential or trade secret information to the City in which case the restrictions and obligations on the use and disclosure of the Confidential Materials imposed by this Agreement shall also apply to such additional information to the extent permitted by Florida law. Any such additional confidential or trade secret information shall be duly marked and stamped "confidential" or "trade secret" prior to delivery to the City, and shall be subject to this Agreement and Section 812.081(2), Florida Statutes, only if written receipt is provided by the City acknowledging receipt of such materials.
3. Exclusions. For purposes of this Agreement, the term "Confidential Materials" does not include the following:
 - a. Information already known or independently developed by the City;
 - b. Information in the public domain through no wrongful act of the City;
 - c. Information received by the City from a third party who was legally free to disclose it;
 - d. Information disclosed by the Respondent to a third party without restriction on disclosure;
 - e. Information disclosed by requirement of law or judicial order, including without limitation Chapter 119 Florida Statutes; or
 - f. Information that is disclosed with the prior written consent of the Respondent, but only to the extent permitted by such consent.

4. **Non-Disclosure by Respondent.** In the event that the City discloses confidential or trade secret information to Respondent, the Respondent agrees to not disclose such information to any third party or copy such information or use it for any purpose not explicitly set forth herein without the City's prior written consent. Further, upon conclusion of discussions or business transactions between the City and the Respondent, or at any time upon request of the City, Respondent agrees to return such information (including any copies) to the City.
5. **Duty of Care.** Each Party agrees to treat the other Party's confidential or trade secret information with the same degree of care, but not less than reasonable care, as the receiving Party normally takes to preserve and protect its own similar confidential information and to inform its employees of the confidential nature of the disclosing Party's information and of the requirement of nondisclosure. In the event either Party has actual knowledge of a breach of the nondisclosure requirements set forth in this Agreement, the Party acquiring such knowledge shall promptly inform the other Party and assist that Party in curing the disclosure, where possible, and preventing future disclosures.
6. **Limitations of Florida Law.** Respondent understands and agrees that its assertion that any item is confidential or a trade secret does not, in and of itself, render such material exempt from the Florida Public Records Law, Chapter 119 of the Florida Statutes, and that the City's ability to prevent disclosure of confidential and trade secret information may be subject to determination by a Florida court that such materials qualify for trade secret protection under Florida law. In the event a third party makes a public records request for the Confidential Materials or other materials deemed by Respondent to be confidential or a trade secret, the City may submit the materials to the court for inspection in camera as set forth in Section 119.07(1)(g) Florida Statutes. Respondent further understands that the City may be required to disclose such information if directed by a court of competent jurisdiction.
7. **Indemnification by Respondent.** In the event of any litigation instituted by a third party to compel the City to disclose such materials, Respondent shall, at its sole cost and expense, provide assistance to the City in defending the denial of the records request, and shall hold the City harmless from any claim for statutory costs and attorney's fees arising from the City's refusal to disclose such materials.
8. **No Additional Obligations.** This Agreement shall not be construed in any manner to be an obligation for either Party to enter into any subsequent contract or agreement.
9. **Sovereign Immunity.** Nothing in this Agreement 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 has been or which may be adopted by the Florida Legislature, regardless of the nature of any claim which may arise, including but not limited to a claim sounding in tort, equity or contract. In no event shall the City be liable for any claim or claims for breach of contract, including without limitation the wrongful disclosure of confidential or trade secret information for an amount which exceeds, individually and collectively, the then current statutory limits of liability for tort claims. Nothing in this Agreement 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 by operation of law.
10. **Notice.** Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Respondent designates the address set forth above as its place for receiving notice, and the City designates the following address for such notice:

The City of Port Orange, Florida
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129

11. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida, and venue for any action arising out of or relating to the subject matter of this Agreement shall be exclusively in Volusia County, Florida, or the Federal City Court for the Middle City of Florida, Jacksonville Division.
12. Respondent and the City hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation related to or arising from this solicitation and resulting agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year as set forth below.

The City of Port Orange, FL

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Respondent

BY:  _____

NAME: **SONIA M PERKINS**

TITLE: **PRESIDENT**

DATE: **10-22-24**

ATTEST:

BY:  _____

NAME: **TERRY R PERKINS**

TITLE: **VICE PRESIDENT**

DATE: **10-22-14**

EXHIBIT A - DESCRIPTION OF CONFIDENTIAL MATERIAL

THERE IS NO CONFIDENTIAL MATERIALS ON OUR PROPOSAL

A handwritten signature in blue ink, appearing to be 'JS', is located to the right of the text 'THERE IS NO CONFIDENTIAL MATERIALS ON OUR PROPOSAL'.

N/A

FORM 9.14 – NO SUBMITTAL RESPONSE FORM

If your company **will not** be submitting a proposal in response to this solicitation, please complete this form and return via e-mail prior to the solicitation due date established within to:

City of Port Orange
Purchasing Division
1000 City Center Circle
Port Orange, FL 32129
purchdiv@port-orange.org

This information will assist the Purchasing Division in the preparation of future solicitations.

Solicitation: RFP #24-16 City Center Playground Replacement

Company Name: _____

Contact Person Name & Title: _____

Address: _____

Telephone: _____ Email Address: _____

Please check a reason for a "no response".

- ☐ Specifications "too tight" or geared toward on brand or manufacturer (please explain below)
- ☐ Insufficient time to respond
- ☐ Specifications unclear (please explain below)
- ☐ We do not offer this product/service or an equivalent
- ☐ Our product schedule does not permit us to perform within stated timeline for the project
- ☐ Unable to meet specifications
- ☐ Unable to meet bond requirements
- ☐ Unable to hold prices firm throughout the term of the contract period
- ☐ Unable to meet insurance requirements
- ☐ Other: _____

Print Name: _____

Signature: _____ Date: _____

Additional Information:

If submitting this form, only this form needs to be returned. It is not necessary to return the entire solicitation package.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements

(Required for each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, TOP LINE RECREATION INC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.


Signature of Contractor's Authorized Official

SONIA M PERKINS - PRESIDENT
Name & Title of Contractor's Authorized Official

Date: 10-22-24

State of Florida

Department of State

I certify from the records of this office that TOPLINE RECREATION INC. is a corporation organized under the laws of the State of Florida, filed on August 17, 2011, effective August 16, 2011.

The document number of this corporation is P11000073376.

I further certify that said corporation has paid all fees due this office through December 31, 2024, that its most recent annual report/uniform business report was filed on January 3, 2024, and that its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Third day of January, 2024*




Secretary of State

Tracking Number: 6575965205CC

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>



2024 Florida Annual Resale Certificate for Sales Tax

DR-13
R. 10/23

This Certificate Expires on December 31, 2024

Business Name and Location Address

Certificate Number

TOP LINE RECREATION INC
2922 HOWLAND BLVD STE 4
DELTONA, FL 32725-2900

74-8017064943-7

By extending this certificate or the certificate number to a selling dealer to make eligible purchases of taxable property or services exempt from sales tax and discretionary sales surtax, the person or business named above certifies that the taxable property or services purchased or rented will be resold or re-rented for one or more of the following purposes:

- Resale as tangible personal property
- Re-rental as tangible personal property
- Resale of services
- Re-rental as commercial real property
- Incorporation into tangible personal property being repaired
- Re-rental as transient rental property
- Incorporation as a material, ingredient, or component part of tangible personal property that is being produced for sale by manufacturing, compounding, or processing

Your *Florida Annual Resale Certificate for Sales Tax* (Annual Resale Certificate) allows you or your representatives to buy or rent property or services tax exempt when the property or service is resold or re-rented. You **may not** use your Annual Resale Certificate to make tax-exempt purchases or rentals of property or services that will be used by your business or for personal purposes. Florida law provides for criminal and civil penalties for fraudulent use of an Annual Resale Certificate.

As a seller, you must document each tax-exempt sale for resale using one of three methods. You can use a different method each time you make a tax-exempt sale for resale.

1. Obtain a copy (paper or electronic) of your customer's current Annual Resale Certificate.
2. For each sale, obtain a transaction authorization number using your customer's Annual Resale Certificate number.
3. Each calendar year, obtain annual vendor authorization numbers for your regular customers using their Annual Resale Certificate numbers.

Online: Visit floridarevenue.com/taxes/certificates

Phone: 877-357-3725 and enter your customer's Annual Resale Certificate number

Mobile App: Available for iPhone, iPad, and Android devices



Excise

The Online Business Tax Receipt System



[Home](#) | [Contact Us](#) | [Login](#) | [Toggle Themes](#)

Welcome to Volusia County Business Tax Receipt Online Payment And Account Management Site

Effective January 1, 2024, the ordinance requiring a Volusia County business tax receipt is repealed and a Volusia County business tax receipt is no longer required for any business located within Volusia County. For questions regarding whether a city business tax receipt is required for your business, please contact the city in which the business is physically located. For assistance with County business tax receipt records, please contact our office at 386-943-7085 or treasury@volusia.org.

For a list of frequently asked questions, along with forms and other information, please visit our website at volusia.org/btr
You may also reach us at 386-943-7085 or via email at treasury@volusia.org

ADA Notice

Best viewed in: 1024x768 Or higher resolution With FireFox 32, Google Chrome 37 Or Internet Explorer 11.
Copyright ©2006-2021
3/13/2024 3:14 PM EST - v4000.2023.3.7

THIS CERTIFIES THAT

Top Line Recreation, Inc.



* Nationally certified by the: **FLORIDA STATE MINORITY SUPPLIER DEVELOPMENT COUNCIL**

*NAICS Code(s): 238990: 339920: 423910: 423390

* Description of their product/services as defined by the North American Industry Classification System (NAICS)

07/26/2024

Issued Date

FL04221

Certificate Number

10/01/2025

Expiration Date

A handwritten signature in black ink, appearing to read "Ying", is positioned above the printed name of the NMSDC CEO.

Ying McGuire
NMSDC CEO and President

A handwritten signature in black ink, appearing to read "Beatrice", is positioned above the printed name of the President & CEO.

Beatrice Louissaint, President & CEO

By using your password (NMSDC issued only), authorized users may log into NMSDC Central to view the entire profile: <http://nmsdc.org>

Certify, Develop, Connect, Advocate.

* MBEs certified by an Affiliate of the National Minority Supplier Development Council, Inc.®

National Recreation and Park Association

Let it be known that

JOHNNIE CROW

has met the requirements of the standards set forth by the
National Certification Board
and is hereby granted certification as a

Certified Playground Safety Inspector



CHAIRPERSON



Certified
Playground
Safety Inspector

September 08, 2021

DATE CERTIFIED

52024-1024

CERTIFICATION NUMBER

October 01, 2024

EXPIRATION DATE



NRPA PRESIDENT AND CEO

CPA



Ron DeSantis, Governor

Melanie S. Griffin, Secretary



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

NATALE, JARED

BUILDWORX LLC
685 SALTS DALE ROAD
UMATILLA FL 32784

LICENSE NUMBER: CGC1530248

EXPIRATION DATE: AUGUST 31, 2024

Always verify licenses online at MyFloridaLicense.com



Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

BID BOND**BID BOND**

Bond No.: NA/Bid Bond

** 2922 Howland Blvd., Suite 4, Deltona, FL 32725

KNOW ALL MEN BY THESE PRESENTS that TopLine Recreation, Inc. as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at , Tel.: 800-921-4509 (hereinafter called "PRINCIPAL"), and Lexington National Insurance Company, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at P.O. BOX 6098, LUTHERVILLE, MD 21094, Tel: (410) 625-0800 (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel: (386) 506-5501, (hereinafter called "OBLIGEE" or "CITY", in the penal sum of Five Percent of Amount Bid dollars and (ns)/100 (\$5% of Amt Bid), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated August 30th, 20 24, for:

Project Name/Bid No.: 24-14**Project Address:** 1999 City Circle
Port Orange, FL 32129**Legal Description:** City Center Playground Replacement**Description of Work:** Playground

NOW, THEREFORE,

A. If the Principal shall not withdraw said bid within one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds within the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies. If the latter amount be in excess of the former, then the above obligations then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this 30th day of August, 2024, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to the original bid bond and financial statement of Surety Company).

PRINCIPAL: TopLine Recreation, Inc.

Sonia Perkins
Signature
SONIA PERKINS - PRESIDENT
Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSESS:

SURETY: Lexington National Insurance Company

Attorney-in-Fact (signature)

Kevin R. Wojtowicz

Name & Title

Kevin R. Wojtowicz

Name of Local Resident Agent

St. Petersburg, FL 33705

City, State, Zip

727-209-1803

Telephone:

A.M. Best No.: 011519 NAIC No.: 37940

STATE OF Florida

COUNTY OF Pinellas

~~XXXXXX~~ Witness:

Signature

Tracey Brown

Witness

Corporate Secretary (Affix Corporate Seal)

Before me this day personally appeared Kevin R. Wojtowicz (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the Lexington National Insurance Company (corporate surety) and that this person has been authorized by Lexington National Insurance Company (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

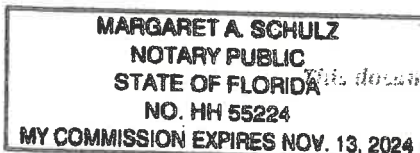
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this

30th day of August, 2024, by Kevin R. Wojtowicz and who:

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

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



END OF BID BOND

This document must be completed and retained with your Submitted

POWER OF ATTORNEY

Lexington National Insurance Corporation

Lexington National Insurance Corporation, a corporation duly organized under the laws of the State of Florida and having its principal administrative office in Baltimore County, Maryland, does hereby make, constitute and appoint:

**Charles Nielson, Edward Ward, Kevin R. Wojtowicz, Shawn Burton, Jarrett Merlucci,
David Hoover, Michael Megahan, Christian Collins, Taylor Rosenhaus**

as its true and lawful attorney-in-fact, each in their separate capacity, with full power and authority to execute, acknowledge, seal and deliver on its behalf as surety any bond or undertaking of \$6,000,000 or less. This Power of Attorney is void if used for any bond over that amount.

This Power of Attorney is granted under and by authority of the following resolutions adopted by the Board of Directors of the Company on February 15, 2018:

Be it Resolved, that the President or any Vice-President shall be and is hereby vested with full power and authority to appoint suitable persons as Attorney-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on the behalf of the Company, to execute, acknowledge and deliver any and all bonds, contracts, or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any all notices and documents cancelling or terminating the Company's liability thereunder and any such instruments so executed by any Attorney-in Fact shall be binding upon the Company as if signed by the President and sealed by the Corporate Secretary.

RESOLVED further, that the signature of the President or any Vice-President of LEXINGTON NATIONAL INSURANCE CORPORATION may be affixed by facsimile to any power of attorney, and the signature of the Secretary or any Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of such power, or any such power or certificate bearing such facsimile signature or seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed with respect to any bond to which it is attached continue to be valid and binding upon the Company.

IN WITNESS WHEREOF, the Company have caused this instrument to be signed and their corporate seal to be hereto affixed.



Ronald A. Frank, President



State of Maryland
County of Harford County, SS:

Before me, a notary public, personally appeared, Ronald A. Frank, President of Lexington National Insurance Corporation, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under the PENALTY of PERJURY under the laws of the State of Maryland that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

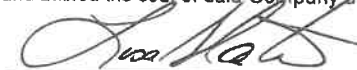
Commission Expires: 01/08/28


Notary

I, Lisa R. Slater, Secretary of Lexington National Insurance Corporation, do hereby certify that the above and foregoing is true and correct copy of a Power of Attorney, executed by said company, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Company at Baltimore, Maryland this 6th day of May, 2024.

Corporate Seal:



Lisa R. Slater, Secretary

Attached to bond signed this 30th day of August, 2024

BID BOND**BID BOND**

Bond No.: NA/Bid Bond

** 2922 Howland Blvd., Suite 4, Deltona, FL 32725

KNOW ALL MEN BY THESE PRESENTS that TopLine Recreation, Inc. as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at Tel.: 800-921-4509 (hereinafter called "PRINCIPAL"), and Lexington National Insurance Company, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at P.O. BOX 6098, LUTHERVILLE, MD 21094 Tel: (410) 625-0800 (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel: (386) 506-5501, (hereinafter called "OBLIGEE" or CITY", in the penal sum of Five Percent of Amount Bid dollars and (ns)/100 (\$5% of Amt Bid), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. **

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated August 30th, 2024, for:

Project Name/Bid No.: 24-14

Project Address: 1999 City Circle
Port Orange, FL 32129

Legal Description: City Center Playground Replacement

Description of Work: Playground

NOW, THEREFORE,

A. If the Principal shall not withdraw said bid withing one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds withing the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies. If the latter amount be in excess of the former, then the above obligations then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this 30th day of August, 2024, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to the original bid bond and financial statement of Surety Company).

PRINCIPAL: TopLine Recreation, Inc.

ATTEST:

Signature

Signature

SONIA PERKINS-PRESIDENT
Corporate Officer & Title

Corporate Secretary (Affix Corporate Seal)

WITNESSESS:

SURETY: Lexington National Insurance Company

~~XXXXXX~~ Witness:

Attorney-in-Fact (signature)
Kevin R. Wojtowicz

Signature

Tracey Brown

Name & Title
Kevin R. Wojtowicz

Witness

Corporate Secretary (Affix Corporate Seal)

Name of Local Resident Agent
St. Petersburg, FL 33705
City, State, Zip
727-209-1803

Telephone: 011519 NAIC No.: 37940

STATE OF Florida

COUNTY OF Pinellas

Before me this day personally appeared Kevin R. Wojtowicz (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the Lexington National Insurance Company (corporate surety) and that this person has been authorized by Lexington National Insurance Company (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this

30th day of August, 2024, by Kevin R. Wojtowicz and who:

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

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

MARGARET A. SCHULZ
NOTARY PUBLIC
STATE OF FLORIDA
NO. HH 55224

END OF BID BOND

MY COMMISSION EXPIRES NOV. 13, 2024

This document must be completed and returned with your Submittal

POWER OF ATTORNEY

Lexington National Insurance Corporation

Lexington National Insurance Corporation, a corporation duly organized under the laws of the State of Florida and having its principal administrative office in Baltimore County, Maryland, does hereby make, constitute and appoint:

**Charles Nielson, Edward Ward, Kevin R. Wojtowicz, Shawn Burton, Jarrett Merlucci,
David Hoover, Michael Megahan, Christian Collins, Taylor Rosenhaus**

as its true and lawful attorney-in-fact, each in their separate capacity, with full power and authority to execute, acknowledge, seal and deliver on its behalf as surety any bond or undertaking of \$6,000,000 or less. This Power of Attorney is void if used for any bond over that amount.

This Power of Attorney is granted under and by authority of the following resolutions adopted by the Board of Directors of the Company on February 15, 2018:

Be it Resolved, that the President or any Vice-President shall be and is hereby vested with full power and authority to appoint suitable persons as Attorney-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on the behalf of the Company, to execute, acknowledge and deliver any and all bonds, contracts, or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any all notices and documents cancelling or terminating the Company's liability thereunder and any such instruments so executed by any Attorney-in Fact shall be binding upon the Company as if signed by the President and sealed by the Corporate Secretary.

RESOLVED further, that the signature of the President or any Vice-President of LEXINGTON NATIONAL INSURANCE CORPORATION may be affixed by facsimile to any power of attorney, and the signature of the Secretary or any Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of such power, or any such power or certificate bearing such facsimile signature or seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed with respect to any bond to which it is attached continue to be valid and binding upon the Company.

IN WITNESS WHEREOF, the Company have caused this instrument to be signed and their corporate seal to be hereto affixed.



Ronald A. Frank, President



State of Maryland
County of Harford County, SS:

Before me, a notary public, personally appeared, Ronald A. Frank, President of Lexington National Insurance Corporation, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under the PENALTY of PERJURY under the laws of the State of Maryland that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

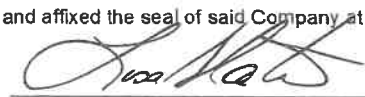
Commission Expires: 01/08/28


Notary

I, Lisa R. Slater, Secretary of Lexington National Insurance Corporation, do hereby certify that the above and foregoing is true and correct copy of a Power of Attorney, executed by said company, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Company at Baltimore, Maryland this 6th day of May, 2024.

Corporate Seal:


Lisa R. Slater, Secretary

Attached to bond signed this 30th day of August, 2024



August 28th, 2024

Owner: City of Port Orange
Re: TopLine Recreation, Inc.
Bond Qualification Department

To Whom it May Concern:

Please be advised that we are the surety bond agents for the above referenced company for over many years. As such we have enjoyed an excellent relationship with this firm as they have completed all contractual obligations in an acceptable fashion and have taken care of all pay obligations in a timely manner.

We have established a line of credit for TopLine Recreation, Inc. in the amount of \$750,000.00 per single project with a \$1,500,000.00 aggregate program. This program is in place through Lexington National Insurance Company who is rated "A- V" by A.M. Best and appears on the U.S. Treasury Circular 570 of approved sureties at \$1,588,000.

Please be advised that this letter is not pre-qualifying the client for Subcontractor Default Insurance. We accept no responsibility whatsoever as to the qualifying requirements of this client for the underwriting of Subcontractor Default Insurance.

We obviously reserve the right to review final contractual documents, bond forms and obtain satisfactory evidence of funding prior to final commitment to issue bonds, and we cannot assume liability to any third party, including you, if we do not execute said bonds.

We don't hesitate to recommend this fine company to you. If you should have any further questions, please feel free to contact me.

Sincerely,
Nielson, Wojtowicz, Neu & Associates

A handwritten signature in blue ink, appearing to read "K a", written over a horizontal line.

Kevin Wojtowicz
Surety Bond Specialist
Attorney-in-Fact for Surety



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/28/2024

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

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

PRODUCER Cooper Risk Advisors, LLC PO Box 638 904 N Main Street Lapel IN 46051	CONTACT NAME: Bill Hodgkins PHONE (A/C, No, Ext): 321-214-1990 E-MAIL ADDRESS: billh@cooperindiana.com FAX (A/C, No): 765-534-2067
INSURED Top Line Recreation, Inc. 2922 Howland Blvd., Suite 3 Deltona FL 32725	INSURER(S) AFFORDING COVERAGE INSURER A: Cincinnati Specialty Un Ins Co INSURER B: Evanston Insurance Company INSURER C: Old Dominion Insurance Company INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER: 80309419****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 ☒ XCU GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	Y		CSU0142752	11/21/2023	11/21/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			CA00021590	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0.00			EZXS3137652	11/21/2023	11/21/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability/E&O			CSU0142752	11/21/2023	11/21/2024	Occurrence Aggregate 1,000,000 3,000,000

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

Project : City Center Playground Replacement

City of Port Orange, Florida is named as Additional Insured with respect to General Liability when required by written contract/agreement.

CERTIFICATE HOLDER**CANCELLATION**

City of Port Orange, Florida
1000 City Center Circle
Port Orange FL 32129
USA

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

© 1988-2015 ACORD CORPORATION. All rights reserved.



3 -TAB B – QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM



Phone 800-921-4509 | Fax 888-909-0549

2922 Howland Blvd. Suite 4 Deltona, FL. 32725

info@toplinerec.com

To whom it may concern:

Top Line Recreation Inc, is centrally located in Deltona, Florida, a certified minority business enterprise (MBE) and a full-service provider of high quality outdoor recreational products throughout the state of Florida. We are the sole provider for BCI Burke playground equipment for the state, also specializing in shades structures (Shade Systems) Pavilions (Americana Building products) site amenities (Patterson Williams, Frog Furnishings and MyTcoat) and safety surfacing (playground grass, poured-in-place and engineered wood fiber. You can see all these products on our web site www.toplinerec.com,

We are constantly striving to provide the best possible service and professionalism to our customers with continual education and have made it a point to only represent high quality manufactures with user friendly warranties. Our services include but not limited to consulting, designing and a full installation for all the equipment we represent, our goal is to design play spaces that provide a fun and safe place for the children of all types of abilities to play and have fun. We are caring professionals with the incite and know how to provide a place that not only beautiful but functional, in other words we are here to help more than just sale you as product.

Thank you for the opportunity to serve,

Sonia M. Perkins – President

Terry R. Perkins- Vice President



**4 - TAB C — QUALIFICATIONS AND RELATED EXPERIENCE OF RESPONDENT'S KEY
STAFF**

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM



QUALIFICATION	_ 11 YEARS IN BUSINESS _ TOP QUALITY PRODUCTS _ QUALIFIED INSTALLERS _ EXCELLENT CUSTOMER SERVICE _ BEST WARRANTY IN MARKET
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EXPERIENCE SONIA M PERKINS PRESIDENT	_ 35 YEAR BUSINESS MANAGEMENT _ 11 YEARS PLAYGROUND BUSINESS ADMINISTRATION _ 11 YEARS FINANCIAL ADMINISTRATION
TERRY R PERKINS VICE-PRESIDENT	_ 30 YEARS ON PLAYGROUND BUSINESS _ CPSI – CERIFIED PLAYGROUND SAFETY INSPECTOR _ 11 YEARS PROJECT MANAGEMENT, SALES MANAGER _ 11 YEARS PLAYGROUND AND SHADES CONSULTANT
ROB WILSON GENERAL MANAGER	- 31 Years Business Management/Growth/Development - 15 Years Specifically in the Playground/Park Industry: Sales and business management, service, project management, installation coordination, site assessment, design.
DEBBIE LLOY PROJECT CONSULTANT	_ 20 YEARS EXPERIENCE ON DESIGN, CONSULTING AND SALES OF PLAYGROUND and SHADES PROJECTS _ 4 YEARS TOP PLAYGROUND DESIGNER FOR TOP LINE REC _ OVER 1K PLAYGROUNDS PROJECTS SOLD IN 2023

This is not a comprehensive list, but here are some of our valued customers:

- CHARLOTTE COUNTY PUBLIC SCHOOLS
- DUVAL COUNTY PUBLIC SCHOOLS
- ORANGE COUNTY PUBLIC SCHOOLS
- VOLUSIA COUNTY SCHOOLS
- CHARLOTTE COUNTY PARKS & REC
- BREVARD COUNTY PARKS & REC
- INDIAN RIVER PARKS & REC
- CITY OF POMPANO BEACH
- CITY OF NORTH PORT
- CITY OF JACKSONVILLE
- CITY OF MIAMI
- CITY OF FORT LAUDERDALE
- ... and many others



ORGANIZATION CHART

TOP LINE RECREATION INC - Contractor

SONIA M PERKINS – PRESIDENT – soniap@toplinerec.com

TERRY R PERKINS – VICE- PRESIDENT – terryp@toplinerec.com

ROB WILSON _ GENERAL MANAGER – rob@toplinerec.com

JENNIFER JENELLE – PROJECT MANAGER & ORDER ENTRY – orders@toplinerec.com

TERRI ANN GRINER – ESTIMATER – terriann@toplinerec.com

DEBBIE LLOYD – PROJECT CONSULTANT – debbie@toplinerec.com

BUILDWORX LLC – Installer

JONNIE CROW – PRESIDENT – jcrow@buildworkx.llc

CAREY CROW – ACCOUNTS – ccrow@buildworkx.llc

JOSTON WOOD – Project Manager – joston@buildworkx.llc

401 E. Smith Street | Winter Garden, FL 34787

O: 407-877-2427 | C: 314-280-5385 www.buildworkx.llc

BCI BURKE – Playground Manufacture

PO Box 549 – Found du Lac, WI 54936 – 920-204-0906

www.bciburke.com



5-TAB D – DESIGN CONCEPT AND VALUE-ADDED SERVICES

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM



Top Line Recreation, Inc.

2922 Howland Blvd | Deltona, FL 32725 | 800-921-4509

Proposal 134-190096-3 | 10/15/2024

October 15, 2024

Chip Kent
City of Port Orange
1000 City Center Cir
Port Orange, FL 32129-4144

Dear Chip Kent:

Top Line Recreation, Inc. is delighted to provide City of Port Orange with this playground equipment proposal.

This design was developed with your specific needs in mind, and we look forward to discussing this project further with you to ensure your complete satisfaction. Top Line Recreation, Inc. is confident that this proposal will satisfy City of Port Orange's functional, environmental, and safety requirements -- and most importantly -- bring joy and excitement to the children and families directly benefiting from your new playground.

You have our personal commitment to support this project and your organization in every manner possible, and we look forward to developing a long-standing relationship with City of Port Orange. We appreciate your consideration and value this opportunity to earn your business.

Sincerely,

Debbie Lloyd
Sales Representative

Top Line Recreation, Inc.
2922 Howland Blvd,
Suite 4

Deltona, FL 32725
www.toplinerec.com
www.bciburke.com

Phone: 800-921-4509
Fax: -
debbie@toplinerec.com

COOPERATIVE PURCHASING OPTIONS

PLAYGROUNDS WITHOUT ALL THE PAPERWORK

Purchasing with contracts may sound intimidating, but getting your community playspace doesn't need to be a painful process of writing specifications, issuing RFP's and jumping through hoops – it can be simplified – we promise! As you continue planning for your new playground, review the Purchasing Contracts offered through our partners.

EQUALIS GROUP

Equalis is an innovative cooperative purchasing organization that believes in the power of partnership and that when you work together you achieve more. The basic premise of the Equalis cooperative purchasing organization is to leverage the combined buying power of all members for better pricing and favorable contract terms. Equalis Group uses the lead agency model for competitively bid contracts, provides our participants the savings they expect and offers efficiencies and peace of mind within the procurement process. It is our mission to continuously improve the measurable and meaningful impact of cooperative services for everyone throughout the supply chain.

GOVMVMT

GOVMVMT is a non-profit group purchasing organization that meets the highest industry standards while putting the public's interest at the forefront of everything they do. Each one of GOVMVMT's first-class suppliers has consciously joined their mission to create the most credible, ethical, and public agency-focused non-profit cooperative purchasing program in the country.

GSA

Federal parks, child development programs, military bases and other agencies are a major priority for BCI Burke, and agencies can purchase Burke playgrounds through Burke's GSA contract for installation virtually anywhere in the world.

OMNIA PARTNERS

OMNIA Partners, Public Sector (Subsidiary National IPA) is the largest and most experienced organization in purchasing and supply chain management. Comprised of participants and suppliers in the public sector, we bring together industry-leading buying power and world-class suppliers to offer an extensive portfolio of competitively solicited and publicly awarded contracts and partnerships. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education and non-profits.

SOURCEWELL

As a leader in cooperative purchasing, Sourcewell is passionate about helping members fulfill their public service missions. Sourcewell builds strong relationships with members and vendors to develop practical solutions together.

The easiest way to Join Our Movement is to call your local Representative at 800.266.1250 or visit bciburke.com/rep. Our passion is bringing play to communities like yours and we can't wait to help you get started!



BCIBURKE.COM

Burke

800.266.1250

DESIGN SUMMARY

Top Line Recreation, Inc. is very pleased to present this Proposal for consideration for the City Center Playground Port Orange located in Port Orange. BCI Burke Company, LLC has been providing recreational playground equipment for over 100 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of Port Orange. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

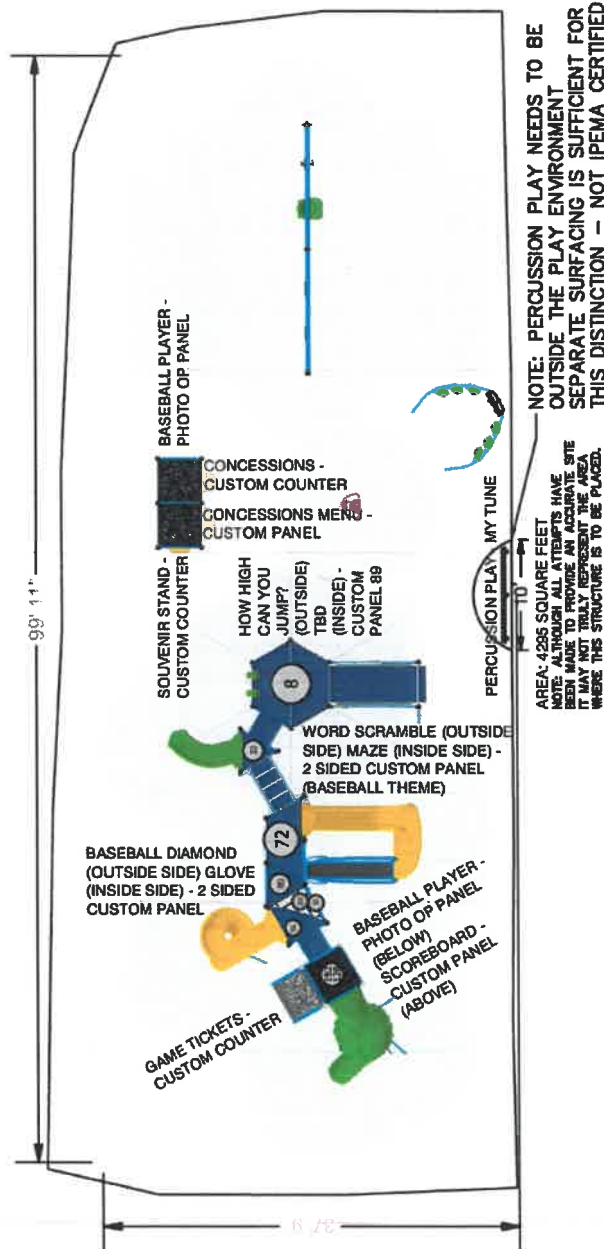
The following is a summary of some of the key elements of our Proposal:

- Project Name: City Center Playground Port Orange
- Project Number: 134-190096-3
- User Capacity: 118
- Age Groups: 5 to 12, 2 to 12
- Dimensions: 99' 10"x34' 11"
- Designer Name: Brandy Janke

Top Line Recreation, Inc. has developed a custom playground configuration based on the requirements as they have been presented for the City Center Playground Port Orange playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 134-190096-3 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the City Center Playground Port Orange playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.



The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.
STRUCTURE SIZE: 9"x99' 11"
POST SIZE: 6"x6"

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus | Burke Basics

SITE PLAN VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange

10/15/2024

Port Orange, FL 32129

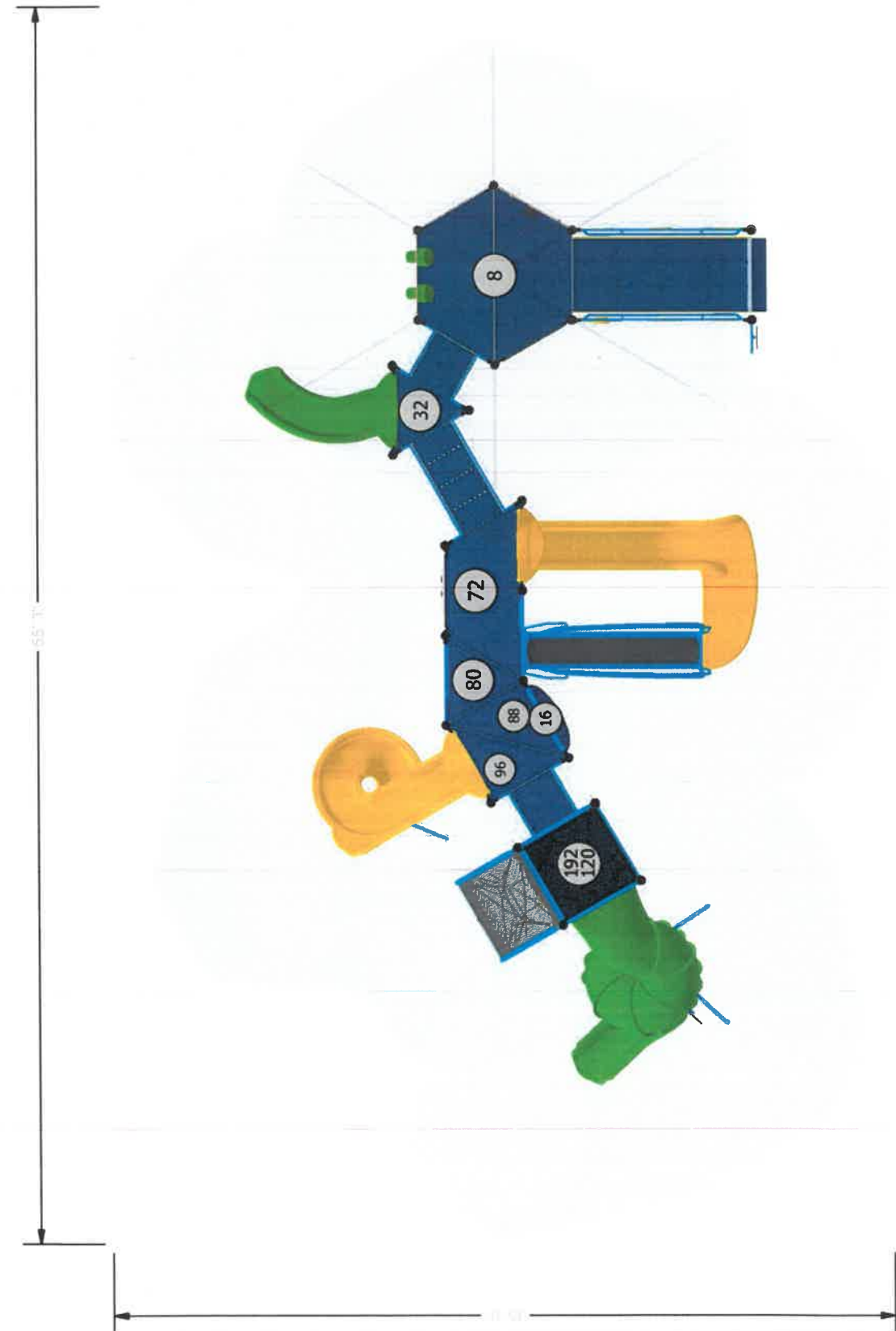
Top Line Recreation, Inc.

DESIGNED FOR AGES:
5 to 12, 2 to 12

Burke
PLAY THAT MOVES YOU

134-190096-3

Designer: Brandy Janke



The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

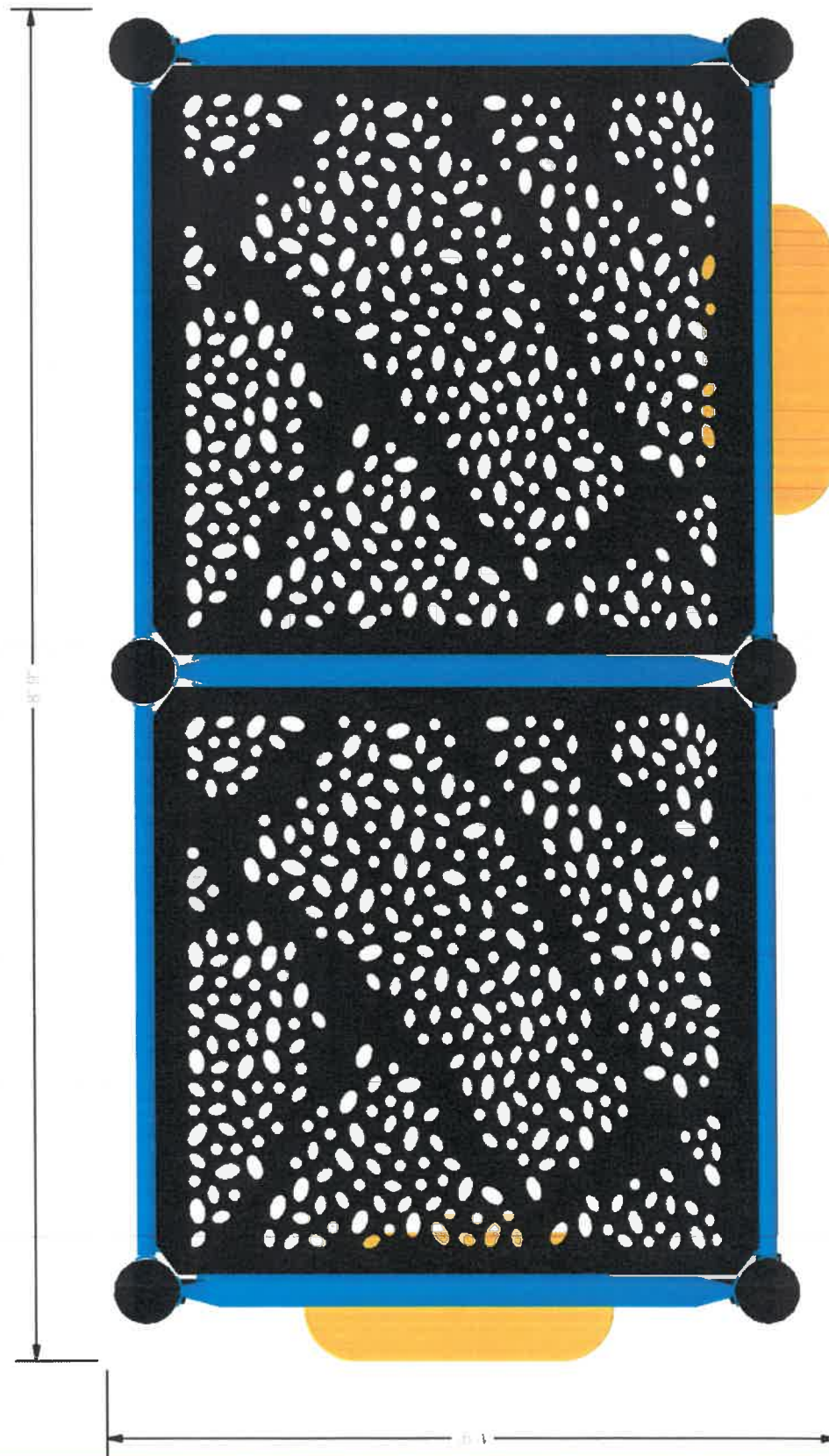
Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.

STRUCTURE SIZE: 9'x99' 4 11"

POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus		SITE PLAN VIEW	
GROUP: Structure	City Center Playground Port Orange Port Orange, FL 32129		10/15/2024
DESIGNED FOR AGES: 5 to 12			Top Line Recreation, Inc. 134-190096-3 Designer: Brandy Janke
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM			



OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
Perimeter: 275.1 ft.
STRUCTURE SIZE: 9'x99' 11"
POST SIZE(8):

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus

SITE PLAN VIEW

GROUP:
Concession Stand

DESIGNED FOR AGES:
2 to 12

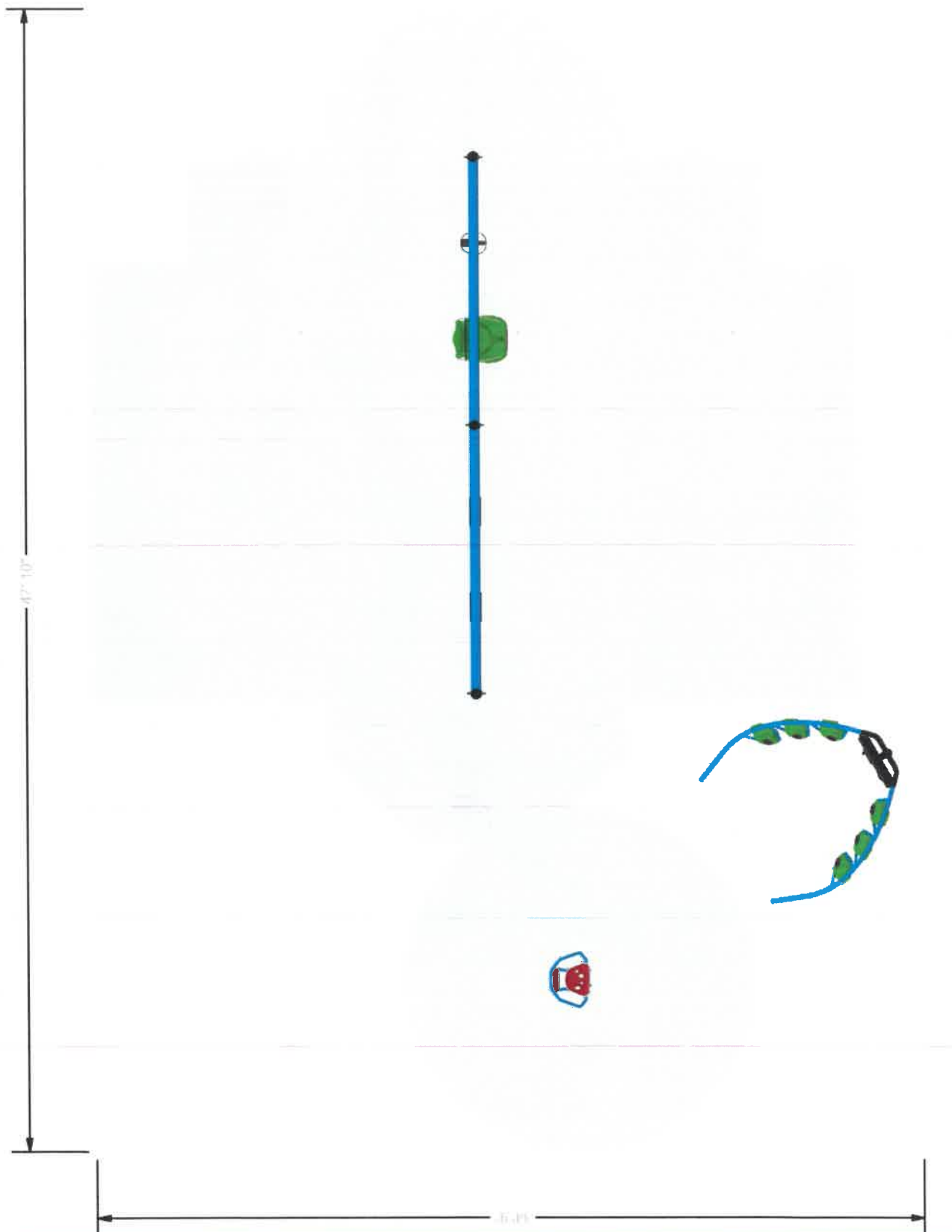
City Center Playground Port Orange
Port Orange, FL 32129

Burke
PLAY THAT MOVES YOU

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke



PLAYGROUND ACCESSIBILITY (Provided/Required)				
TOTAL ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
35	15 / 8	10 / 0	4 / 0	15 / 5
				7 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3764.4 sq. ft.
 Perimeter: 275.1 ft.
 STRUCTURE SIZE: 9'x99' 11"
 POST SIZE(S):

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Burke Basics

GROUP: Freestanding

DESIGNED FOR AGES: 2 to 12

City Center Playground Port Orange
 Port Orange, FL 32129

Burke
 PLAY THAT MOVES YOU.

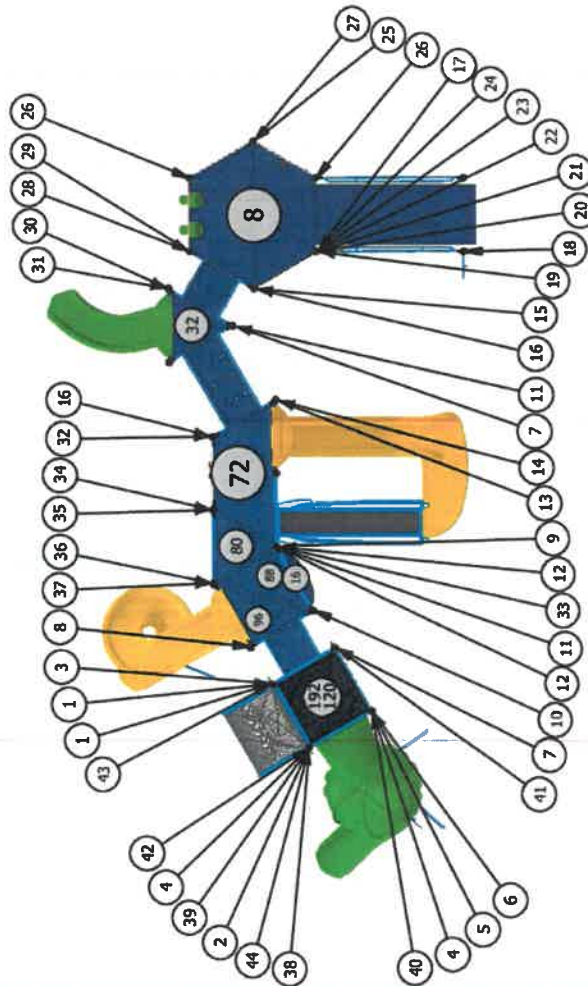
SITE PLAN VIEW

10/15/2024

Top Line Recreation, Inc.
 134-190096-3

Designer: Brandy Janke

ITEM	COMP.	DESCRIPTION
1	270-0130	SQUARE PLATFORM
2	570-0701	CUSTOM PANEL 56 WITH COUNTER
3	370-1649	EVOLUTION, DECK TO ROOF CLIMBER
4	570-1545	EVOLUTION 6' OPENING BARRIER
5	570-0849	CUSTOM PHOTO PANEL 57
6	570-0692	CUSTOM PANEL 25 BELOW PLATFORM
7	370-0099	EVOLUTION 24" TRANSITION STAIR W/ BARRIERS
8	270-0301	SPLIT SQUARE PLATFORM/CLOSURE PLATE
9	470-0128	FLYLOW POO
10	570-0130	EVOLUTION BARRIER W/ KALEIDOSCOPE
11	270-0129	TRIANGLE PLATFORM
12	270-0009	8" CLOSURE PLATE, ELLIPSE
13	270-0132	HALF HEXAGON PLATFORM
14	370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS
15	270-0131	HEXAGONAL PLATFORM SSP
16	570-2634	CUSTOM CURVED 41 2 SIDED
17	270-0125	SENSORY RAIL 8" RISE ENTRANCE RAMP
18	570-2705	SPINNER CRESCENT PANEL
19	570-0117	MELODY SENSORY EVENT, TOP
20	570-0105	SENSORY RAIL MIDDLE PANEL
21	570-0109	CHROMA SENSORY EVENT, LOWER
22	570-0104	SENSORY RAIL TOP PANEL
23	570-0127	GRASS SENSORY EVENT, MIDDLE
24	570-0106	SENSORY RAIL LOWER PANEL
25	570-2668	CAR ACCESSIBLE REACH PANEL
26	570-0622	PLATFORM ROLL GUARD
27	570-1700	CUSTOM PANEL 89
28	570-2670	DRUM ACCESSIBLE REACH PANEL
29	470-0775	EZ TENSION HEX SHADEPLAY CANOPY
30	470-0802	MONACO SLIDE, 32"-40"
31	470-0967	SLIDE HOOD, LOW SIDE WALL
32	570-2734	CLASSIC GAME PANEL, BELOW
33	470-0966	360 LOOP
34	370-1666	SHASTA CLIMBER, 80"-96"
35	270-0122	EVOLUTION OFFSET ENCLOSURE
36	470-0831	VIPER SPIRAL 96 W/O HOOD
37	470-0805	SLIDE HOOD, HIGH SIDE WALL
38	470-0124	CORBRA SLIDE CORNSCREW RIGHT 192"
39	570-1544	EVOLUTION SHORT CURVED TOP BARRIER
40	570-1546	EVOLUTION TALL BARRIER
41	570-1557	EVOLUTION TALL CURVED TOP BARRIER, LEFT
42	470-0015	EVOLUTION SQUARE ROOF
43	470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT
44	470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT



SERIES Nucleus

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

City Center Playground Port Orange
Port Orange, FL 32129

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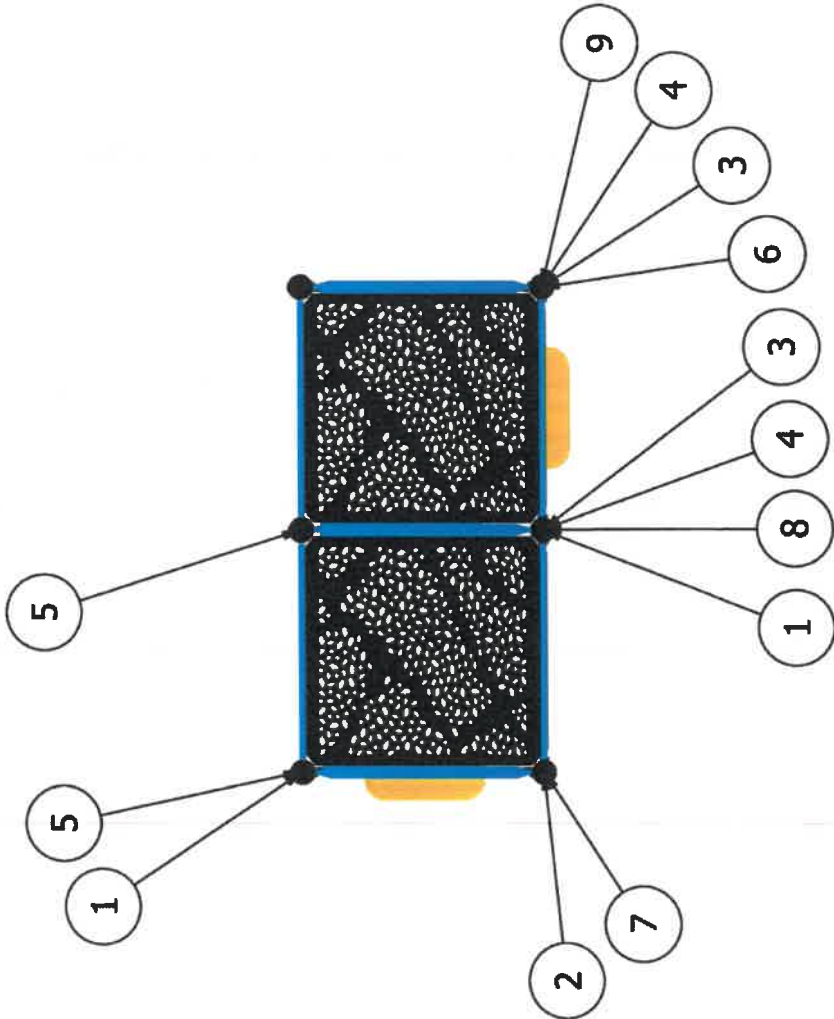
COMPONENT VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

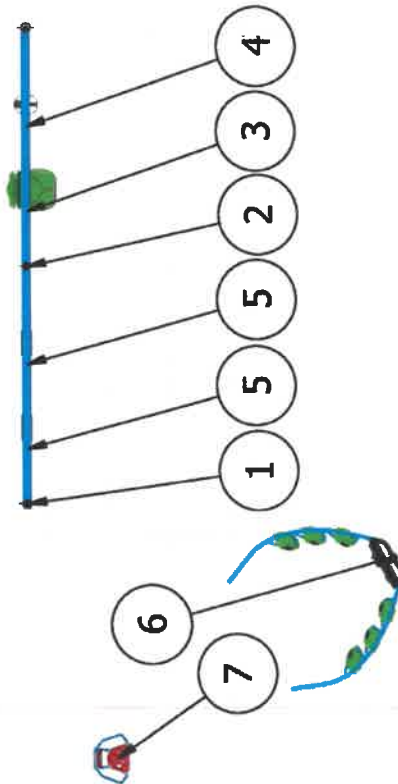
Designer: Brandy Janke

ITEM	COMP.	DESCRIPTION
1	570-0701	CUSTOM PANEL 56 WITH COUNTER
2	570-0696	CUSTOM PANEL 57 BELOW PLATFORM
3	470-0015	EVOLUTION SQUARE ROOF
4	470-0006	EVOLUTION BOTTOM ROOF SUPPORT, SINGLE
5	470-0003	EVOLUTION TOP ROOF SUPPORT, SINGLE
6	470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT
7	470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT
8	470-0010	EVOLUTION MIDDLE ROOF SUPPORT
9	570-0849	CUSTOM PHOTO PANEL 57



SERIES Nucleus		COMPONENT VIEW	
GROUP: Concession Stand		10/15/2024	
DESIGNED FOR AGES: 2 to 12		Top Line Recreation, Inc. 134-190096-3	
City Center Playground Port Orange Port Orange, FL 32129		Designer: Brandy Janke	
			
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM			

ITEM	COMP.	DESCRIPTION
1	550-0201	SINGLE POST SWING ASSEMBLY 5" OD
2	550-0202	SINGLE POST SWING ADD-ON 5" OD
3	550-0171	FREEDOM SWING SEAT, 8' BEAM, STD CHAIN
4	550-0099	TOT SEAT, 7' & 8' SINGLE, STD CHAIN
5	550-0111	BELT SEAT, 8' SINGLE, STD CHAIN
6	560-2625	MOVWMT INCLUSIVE, PRESTANDING
7	560-2735	ARD SPINNING CHAIR



SERIES Burke Basics

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

City Center Playground Port Orange
Port Orange, FL 32129

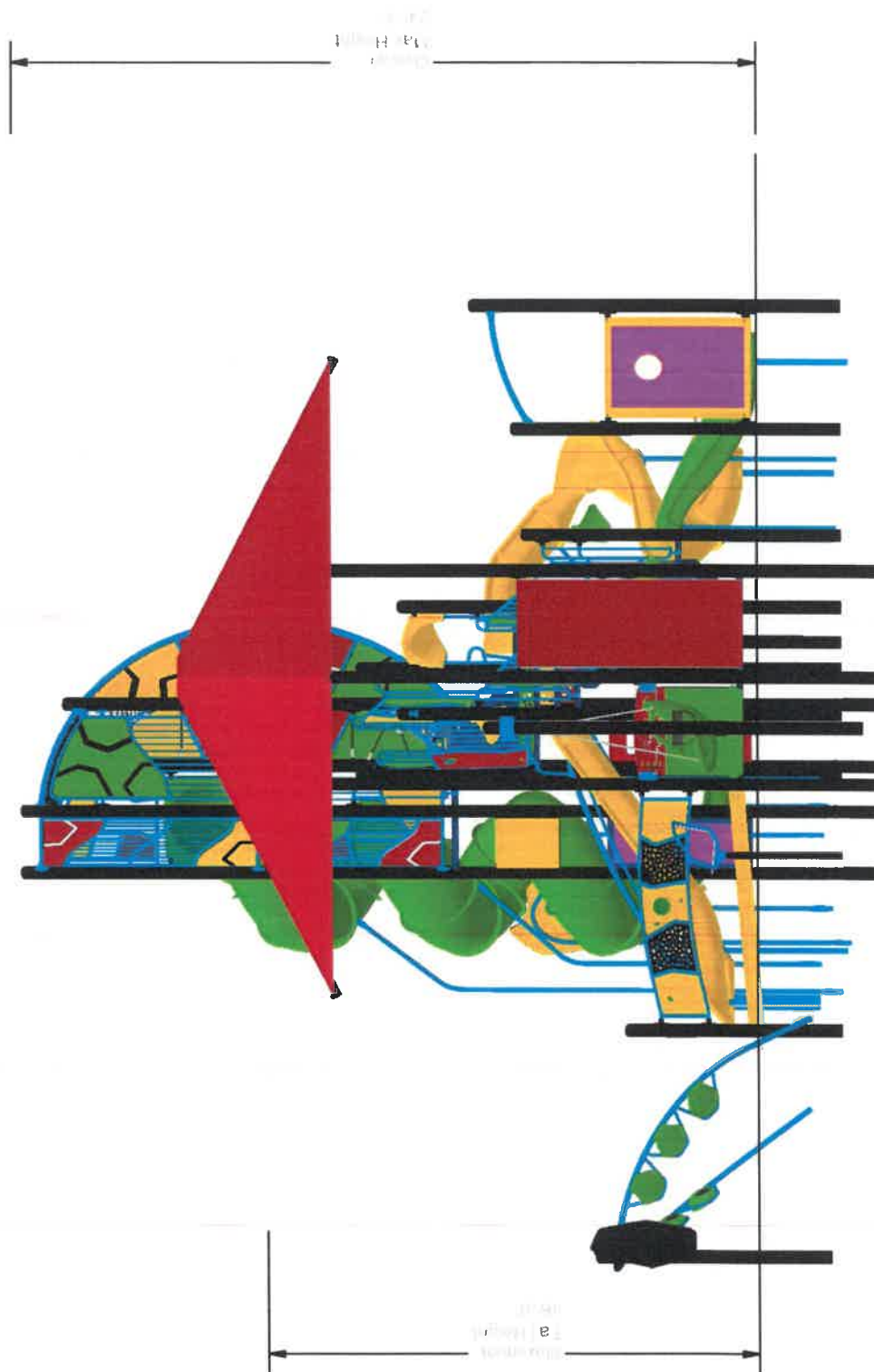
Burke
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COMPONENT VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke



SERIES Nucleus | Burke Basics

ELEVATION VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

DESIGNED FOR AGES:
5 to 12, 2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus

ELEVATION VIEW

GROUP:
Structure

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

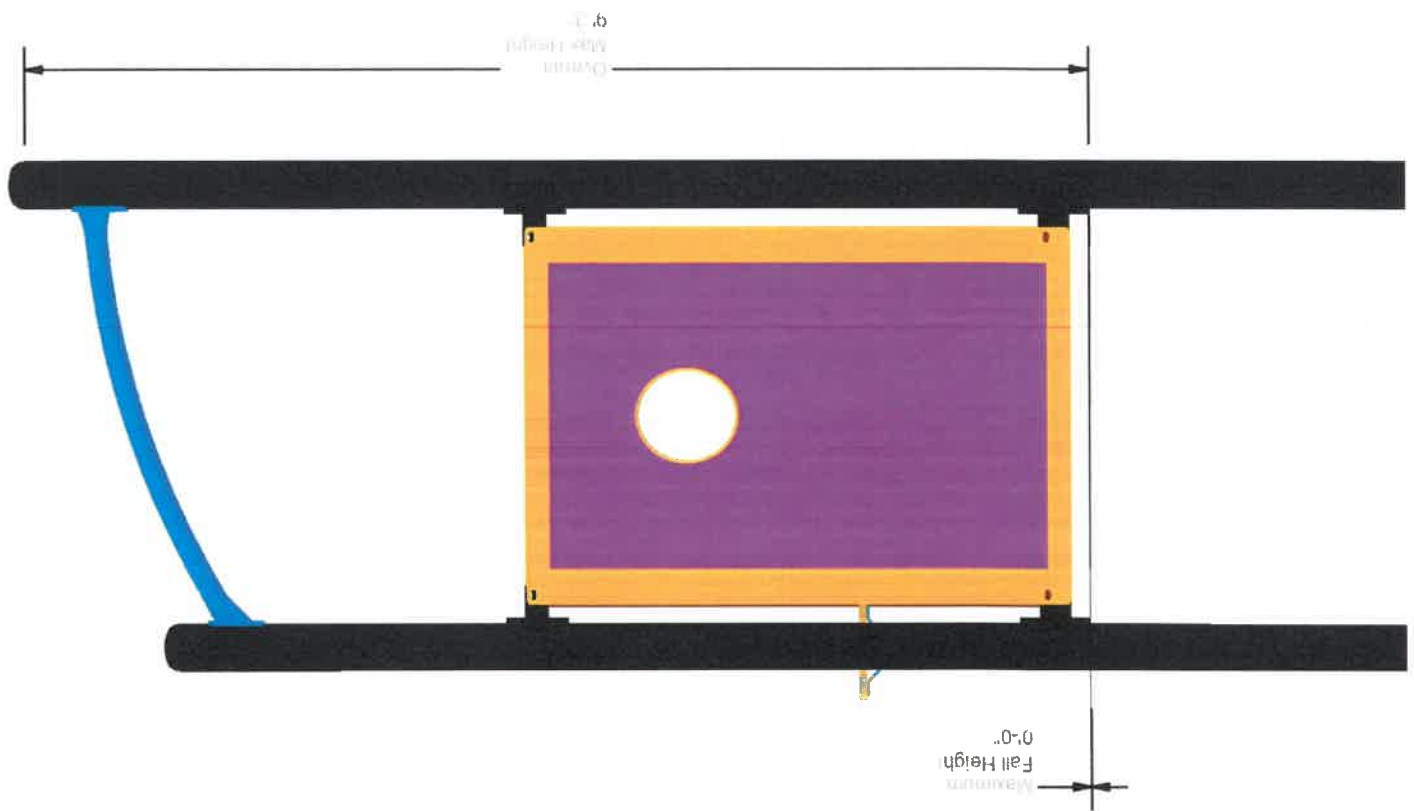
DESIGNED FOR AGES:
5 to 12

Top Line Recreation, Inc.
134-190096-3

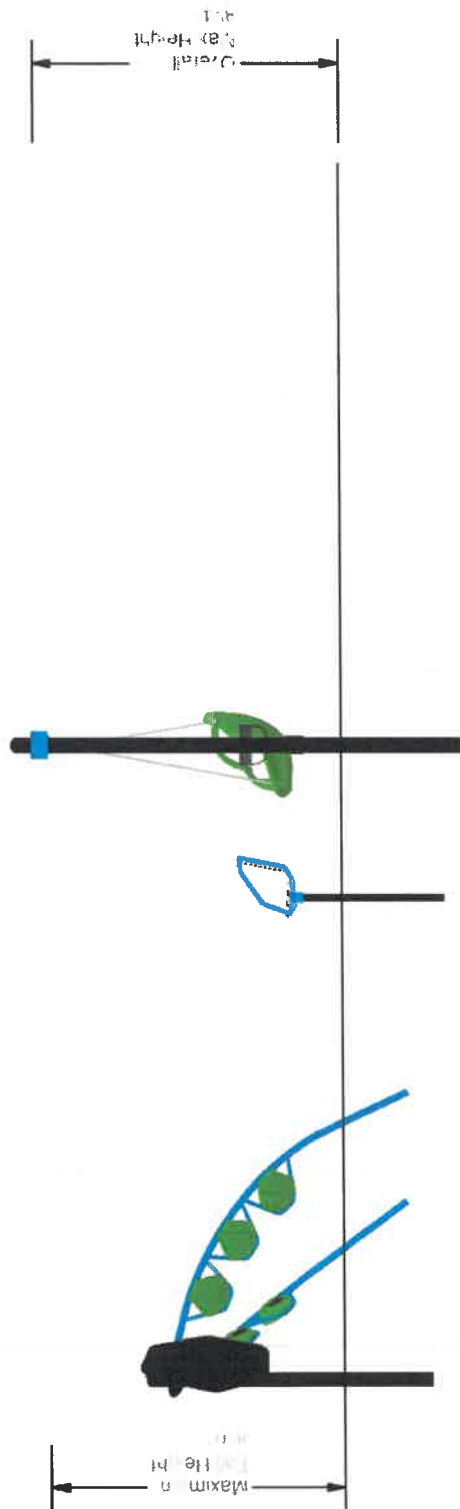
Designer: Brandy Janke

Burke.
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SERIES Nucleus		ELEVATION VIEW	
GROUP: Concession Stand	City Center Playground Port Orange Port Orange, FL 32129 	10/15/2024	Top Line Recreation, Inc. 134-190096-3 Designer: Brandy Janke
DESIGNED FOR AGES: 2 to 12			
BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 920.921.9220 BCIBURKE.COM			



SERIES Burke Basics

ELEVATION VIEW

GROUP:
Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

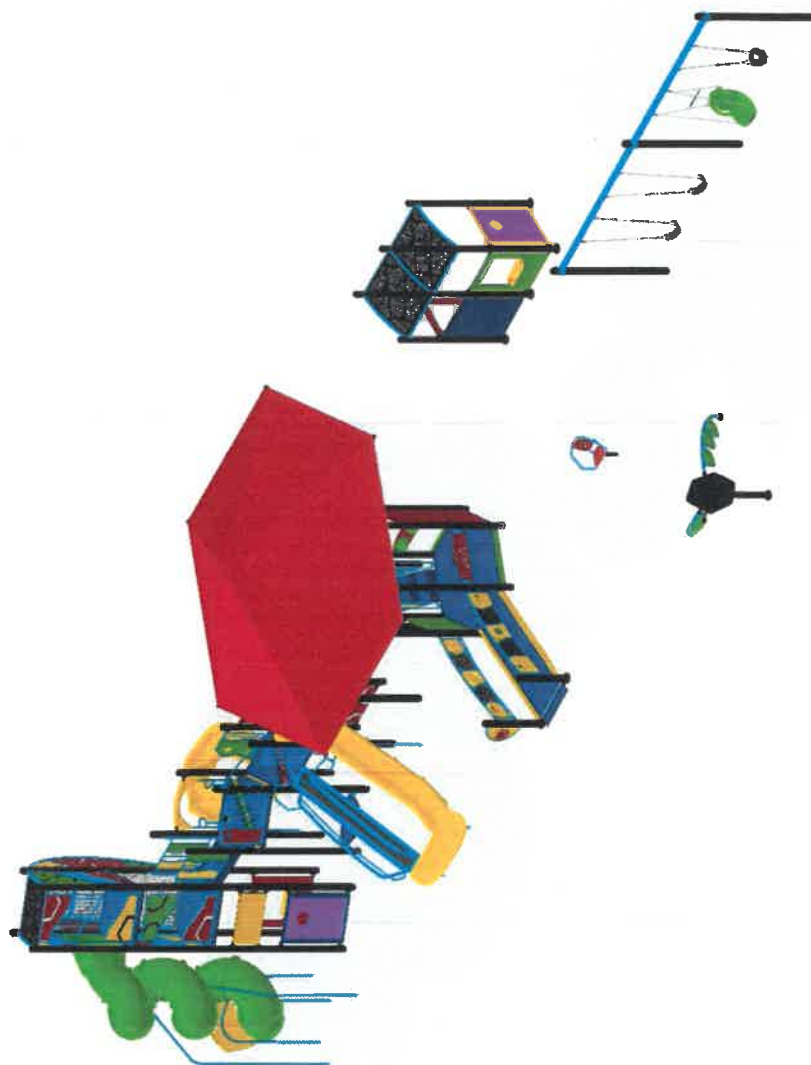
DESIGNED FOR AGES:
2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus | Burke Basics

ISOMETRIC VIEW

GROUP:
Structure|Concession Stand|Freestanding

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

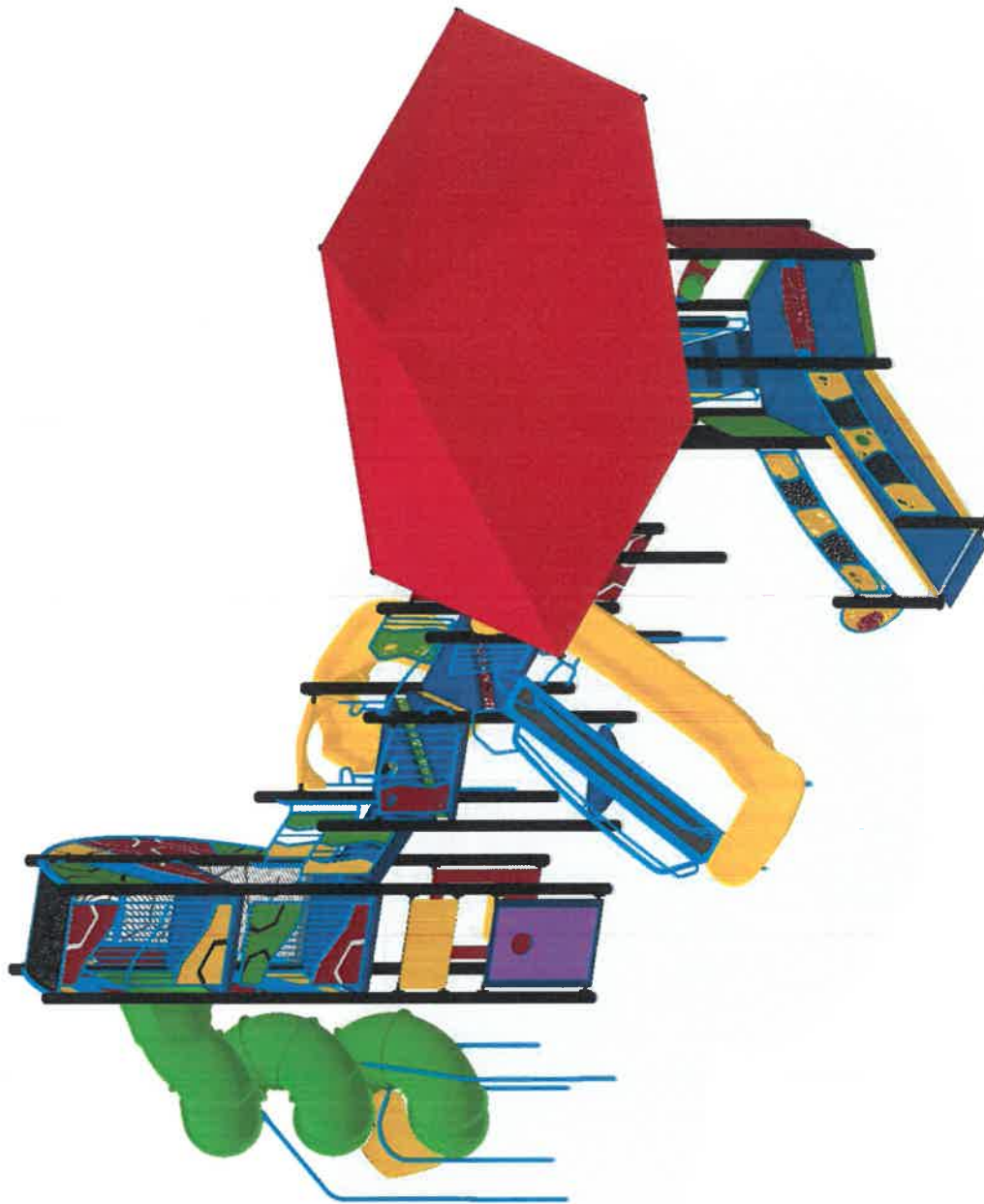
DESIGNED FOR AGES:
5 to 12, 2 to 12

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

City Center Playground Port Orange
Port Orange, FL 32129

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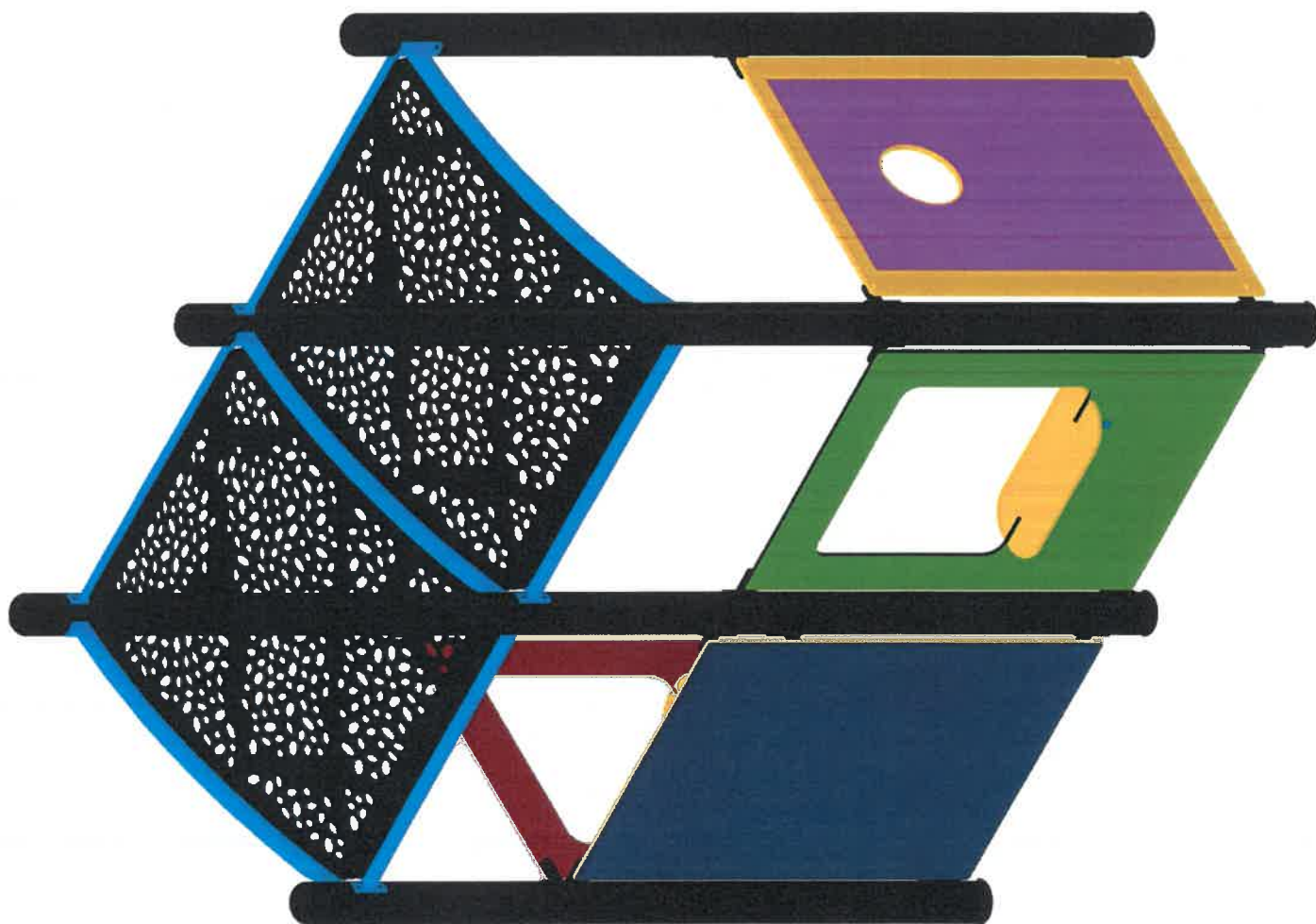
ISOMETRIC VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Nucleus

ISOMETRIC VIEW

GROUP:
Concession Stand

City Center Playground Port Orange
Port Orange, FL 32129

10/15/2024

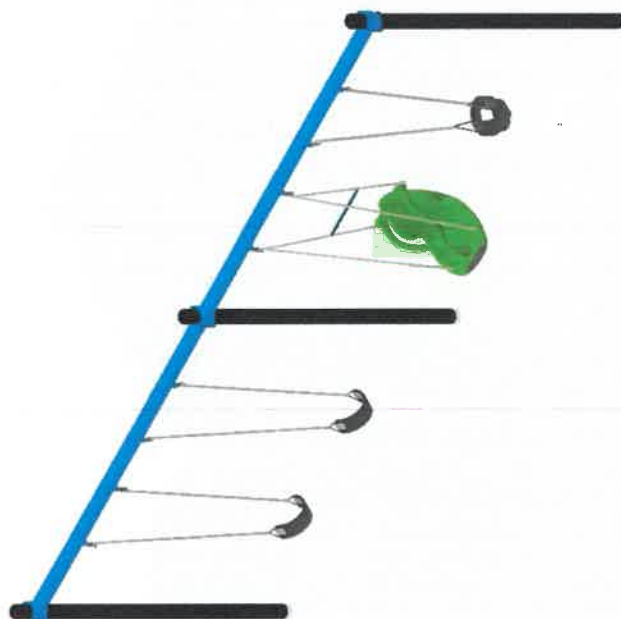
DESIGNED FOR AGES:
2 to 12

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Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

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SERIES Burke Basics

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

City Center Playground Port Orange
Port Orange, FL 32129

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PLAY THAT MOVES YOU

ISOMETRIC VIEW

10/15/2024

Top Line Recreation, Inc.
134-190096-3

Designer: Brandy Janke

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

The play components identified in this proposal are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1487. To verify product certification, visit www.ipema.org.



The space requirements shown in this proposal are to ASTM standards. Requirements for other standards may be different.

Component No.	Description	Qty	User Cap	Ext. User Cap	Weight	Ext. Weight
Structure						
Nucleus						
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-124C	5" OD X 124" CAPPED POST	2	0	0	65	130
072-0500-148C	5" OD X 148" CAPPED POST	2	0	0	78	156
072-0500-156C	5" OD X 156" CAPPED POST	1	0	0	82	82
072-0500-164C	5" OD X 164" CAPPED POST	1	0	0	86	86
072-0500-172C	5" OD X 172" CAPPED POST	2	0	0	90	180
072-0500-188C	5" OD X 188" CAPPED POST	2	0	0	99	198
072-0500-76C	5" OD X 76" CAPPED POST	1	0	0	40	40
072-0500-84C	5" OD X 84" CAPPED POST	1	0	0	44	44
072-0502-204S	5" OD X 204" SWAGED POST	6	0	0	107	642
072-0502-220S	5" OD X 220" SWAGED POST	4	0	0	115	460
072-5503-104T	5" OD X 104" TOP ALUMINUM CAP...	2	0	0	20	40
072-5503-88T	5" OD X 88" TOP ALUMINUM CAPP...	2	0	0	18	36
270-0009	8" CLOSURE PLATE, ELLIPSE	2	0	0	8	16
270-0122	EVOLUTION OFFSET ENCLOSURE	1	0	0	34	34
270-0125	SENSORY RAIL 8" RISE ENTRANCE...	1	0	0	440	440
270-0129	TRIANGLE PLATFORM	2	2	4	48	96
270-0130	SQUARE PLATFORM	2	6	12	106	212
270-0131	HEXAGONAL PLATFORM S5P	1	12	12	287	287
270-0132	HALF HEXAGON PLATFORM	1	6	6	144	144
270-0301	SPLIT SQUARE PLATFORMCLOSURE ...	1	4	4	108	108
370-0039	EVOLUTION 24" TRANSITION STAI...	2	4	8	181	362
370-0041	EVOLUTION 40" TRANSITION STAI...	1	8	8	301	301
370-1649	EVOLUTION, DECK TO ROOF CLIMBER	1	7	7	472	472
370-1666	SHASTA CLIMBER, 80"-96"	1	4	4	32	32
470-0008	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0009	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0015	EVOLUTION SQUARE ROOF	1	0	0	42	42
470-0124	COBRA SLIDE CORKSCREW RIGHT 192"	1	3	3	597	597
470-0128	FLYLOW POD	1	2	2	27	27
470-0775	EZ TENSION HEX SHADEPLAY CANOPY	1	0	0	531	531
470-0802	MONACO SLIDE, 32"-40"	1	2	2	70.6	70.6
470-0805	SLIDE HOOD, HIGH SIDE WALL	1	0	0	32	32
470-0831	VIPER SPIRAL 96 W/O HOOD	1	4	4	270	270
470-0966	360 LOOP	1	6	6	557	557
470-0967	SLIDE HOOD, LOW SIDE WALL	1	0	0	37	37
570-0104	SENSORY RAIL TOP PANEL	1	0	0	7	7
570-0105	SENSORY RAIL MIDDLE PANEL	1	0	0	7	7
570-0106	SENSORY RAIL LOWER PANEL	1	0	0	8	8
570-0109	CHROMA SENSORY EVENT, LOWER	1	0	0	13	13
570-0117	MELODY SENSORY EVENT, TOP	1	0	0	20	20
570-0127	GRASS SENSORY EVENT, MIDDLE	1	0	0	16	16

570-0130	EVOLUTION BARRIER W/ KALEIDOS...	1	1	1	64	64
570-0622	PLATFORM ROLL GUARD	2	0	0	8	16
570-0692	CUSTOM PANEL 25 BELOW PLATFORM	1	1	1	41	41
570-0701	CUSTOM PANEL 56 WITH COUNTER	1	4	4	76	76
570-0849	CUSTOM PHOTO PANEL 57	1	2	2	73	73
570-1544	EVOLUTION SHORT CURVED TOP BA...	1	0	0	50	50
570-1545	EVOLUTION 6' OPENING BARRIER	2	0	0	78	156
570-1546	EVOLUTION TALL BARRIER	1	0	0	78	78
570-1557	EVOLUTION TALL CURVED TOP BAR...	1	0	0	114	114
570-1700	CUSTOM PANEL 89	1	1	1	111	111
570-2634	CUSTOM CURVED 41 2 SIDED	2	1	2	48	96
570-2668	CAR ACCESSIBLE REACH PANEL	1	2	2	23	23
570-2670	DRUM ACCESSIBLE REACH PANEL	1	2	2	23	23
570-2705	SPINNER CRESCENT PANEL	1	1	1	17	17
570-2734	CLASSIC GAME PANEL, BELOW	1	2	2	65	65
660-0103	MAINTENANCE KIT, STRUCTURE	1	0	0	7	7
660-0104	INSTALLATION KIT, STRUCTURE	1	0	0	5	5
670-0427	5" OD X 11 GA POST EXTENSION	4	0	0	10	40

Total User Capacity: 100
Total Weight: 7977 lbs.
Total Price: \$131,020

Freestanding

Burke Basics

550-0099	TOT SEAT, 7' & 8' SINGLE, STD...	1	1	1	12	12
550-0111	BELT SEAT, 8' SINGLE, STD CHAIN	2	1	2	10	20
550-0171	FREEDOM SWING SEAT, 8' BEAM, ...	1	1	1	38	38
550-0201	SINGLE POST SWING ASSEMBLY 5" OD	1	0	0	220	220
550-0202	SINGLE POST SWING ADD-ON 5" OD	1	0	0	145	145
560-2625	MOVMT INCLUSIVE, FREESTANDING	1	2	2	328	328
560-2735	ARO SPINNING CHAIR	1	1	1	42	42
660-0101	INSTALL KIT, BURKE BASICS - P...	1	0	0	2	2

Total User Capacity: 7
Total Weight: 807 lbs.
Total Price: \$23,812

Concession Stand

Nucleus

072-0500-128C	5" OD X 128" CAPPED POST	3	0	0	67	201
072-0500-144C	5" OD X 144" CAPPED POST	3	0	0	76	228
470-0003	EVOLUTION TOP ROOF SUPPORT, S...	2	0	0	13	26
470-0006	EVOLUTION BOTTOM ROOF SUPPORT...	2	0	0	13	26
470-0008	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0009	EVOLUTION SIDE ROOF SUPPORT, ...	1	0	0	16	16
470-0010	EVOLUTION MIDDLE ROOF SUPPORT	1	0	0	18	18
470-0015	EVOLUTION SQUARE ROOF	2	0	0	42	84
570-0696	CUSTOM PANEL 57 BELOW PLATFORM	1	1	1	73	73
570-0701	CUSTOM PANEL 56 WITH COUNTER	2	4	8	76	152
570-0849	CUSTOM PHOTO PANEL 57	1	2	2	73	73

Total User Capacity: 11
Total Weight: 913 lbs.
Total Price: \$13,303

Special Notes:

Prices do not include freight, unloading, material storage, site excavation/preparation, removal of existing equipment, removal of excess soil from footing holes, site security, safety surfacing, installation, or sales tax (if applicable). Prices are based on standard colors per CURRENT YEAR BCI Burke Catalog. Custom colors, where available, would be an extra charge. **Pricing is valid for 30 days from the date of this proposal.**

COLOR SELECTION LIST | PlaygroundColorOption:1

GROUP 1 (Concession Stand)

Post: Black
Acc: Sky
Flat: Yellow
Panel: Lime-Black-Lime | Blue-Yellow-Blue | Red-White-Red

GROUP 2 (Freestanding)

Post: Sky | Black
Deck: Blue
Plastic: Lime
Panel: Yellow-Black-Yellow | Red-White-Red
Acc: Sky

GROUP 3 (Structure)

Deck: Blue
Post: Black
Acc: Sky | Lime | Yellow | Red
Flat: Yellow | Blue | Lime | Red
Panel: Red-White-Red | Lime-Black-Lime | Yellow-Black-Yellow
Plastic: Blue | Lime | Yellow
Canopy: Red

COLORS THAT MOVE YOU

POWDER COAT PAINT



PLATFORMS



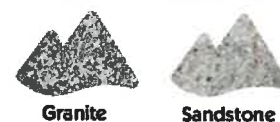
SOLIS HUE TOPPERS



TRADITIONAL SERIES SITE AMENITIES



ROCKIT CLIMBERS



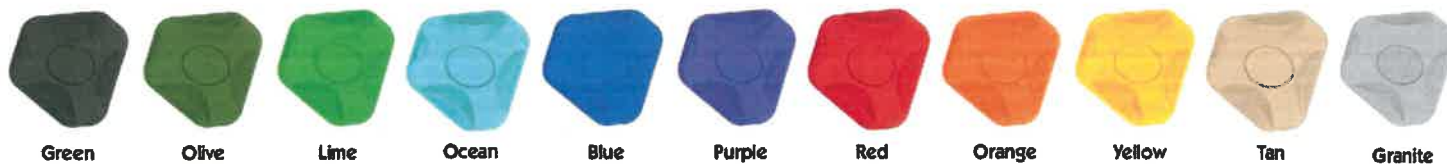
HDPE PLASTIC PANELS



SHADE CANOPIES



ROTOMOLD PLASTIC



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BCIBURKE.COM

Burke

800.266.1250

BURKE GENERATIONS WARRANTY®

BCI Burke Company, LLC ("Burke") warrants that all standard products are warranted to be free from defects in materials and workmanship, under normal use and service, for a period of one (1) year from the date of shipment.

We stand behind our products.

In addition, the following products are warranted, under normal use and service from the date of shipment as follows:

- One Hundred (100) Year Limited Warranty on aluminum and steel upright posts (including Nucleus®, Nucleus Evolution®, Nucleus Aspire™, Intensity®, Level X®, Synergy®, Synergy Imagination® & 4Me® against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on KoreConnect® clamps against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on Hardware (nuts, bolts, washers)
- One Hundred (100) Year Limited Warranty on bolt-through fastening and clamp systems (Synergy®, Intensity®, Nucleus®).
- Twenty-Five (25) Year Limited Warranty on spring assemblies and aluminum cast animals.
- Fifteen (15) Year Limited Warranty on structure platforms and decks, metal roofs, table tops, bench tops, railings and barriers against structural failure due to materials or workmanship.
- Fifteen (15) Year Limited Warranty on all plastic components including StoneBorders against structural failure due to materials or workmanship.
- Ten (10) Year Limited Warranty on ShadePlay® Canopies-fabric, threads, and cables against degradation, cracking or material breakdown resulting from ultra-violet exposure, natural deterioration or manufacturing defects. This warranty is limited to the design loads as stated in the specifications.natural deterioration or manufacturing defects. This warranty is limited to the design loads as stated in the specifications.
- Ten (10) Year Limited Warranty on NaturePlay® Boulders and GFRC products against structural failure due to natural deterioration or workmanship. Natural wear, which may occur with any concrete product with age, is excluded from this warranty.
- Ten (10) Year Limited Warranty on Full Color Custom Signage against manufacturing defects that cause delamination or degradation of the sign. Full Color Custom Signs also carry a two (2) year warranty against premature fading of the print and graphics on the signs.
- Five (5) Year Limited Warranty on Nucleus®, Intensity®, and RopeVenture® cables against premature wear due to natural deterioration or manufacturing defects. Determination of premature wear will be at the manufacturer's discretion.
- Five (5) Year Limited Warranty on rubber belt material against premature wear due to natural deterioration or manufacturing defects. Determination of premature wear will be at the manufacturer's discretion.
- Five (5) Year Limited Warranty on moving parts, including swing components, against structural failure due to materials or workmanship.
- Five (5) Year Limited Warranty on PlayEnsemble® cables and mallets against defects in materials and workmanship.
- Three (3) Year Limited Warranty on electronic panel speakers, sound chips and circuit boards against electronic failure caused by manufacturing defects.

The warranty stated above is valid only if the equipment is erected in conformity with the layout plan and/or installation instructions furnished by BCI Burke Company, LLC using approved parts; have been maintained and inspected in accordance with BCI Burke Company, LLC instructions. Burke's liability and your exclusive remedy hereunder will be limited to repair or replacement of those parts found in Burke's reasonable judgment to be defective. Any claim made within the above stated warranty periods must be made promptly after discovery of the defect. A part is covered only for the original warranty period of the applicable part. Replacement parts carry the applicable warranty from the date of shipment of the replacement from Burke. After the expiration of the warranty period, you must pay for all parts, transportation and service charges.

Burke reserves the right to accept or reject any claim in whole or in part. Burke will not accept the return of any product without its prior written approval. Burke will assume transportation charges for shipment of the returned product if it is returned in strict compliance with Burke's written instructions.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IF THE FOREGOING DISCLAIMER OF ADDITIONAL WARRANTIES IS NOT GIVEN FULL FORCE AND EFFECT, ANY RESULTING ADDITIONAL WARRANTY SHALL BE LIMITED IN DURATION TO THE EXPRESS WARRANTIES AND BE OTHERWISE SUBJECT TO AND LIMITED BY THE TERMS OF BURKE'S PRODUCT WARRANTY. SOME STATES DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

Warranty Exclusions: The above stated warranties do not cover: "cosmetic" defects, such as scratches, dents, marring, or fading; damage due to incorrect installation, vandalism, misuse, accident, wear and tear from normal use, exposure to extreme weather; immersion in salt or chlorine water, unauthorized repair or modification, abnormal use, lack of maintenance, or other cause not within Burke's control; and

Limitation of Remedies: Burke is not liable for consequential or incidental damages, including but not limited to labor costs or lost profits resulting from the use of or inability to use the products or from the products being incorporated in or becoming a component of any other product. If, after a reasonable number of repeated efforts, Burke is unable to repair or replace a defective or nonconforming product, Burke shall have the option to accept return of the product, or part thereof, if such does not substantially impair its value, and return the purchase price as the buyer's entire and exclusive remedy. Without limiting the generality of the foregoing, Burke will not be responsible for labor costs involved in the removal of products or the installation of replacement products. Some states do not allow the exclusion of incidental damages, so the above exclusion may not apply to you.

The environment near a saltwater coast can be extremely corrosive. Some corrosion and/or deterioration is considered "normal wear" in this environment. Product installed within 500 yards of a saltwater shoreline will only be covered for half the period of the standard product warranty, up to a maximum of five years, for defects caused by corrosion. Products installed in direct contact with saltwater or that are subjected to salt spray are not covered by the standard warranty for any defects caused by corrosion.

Contact your local Burke Representative for warranty information regarding Burke Turf® and Burke Tile products.

Terms of Sale

Pricing: Prices published in this catalog are in USD, are approximate and do not include shipping & handling, surfacing, installation nor applicable taxes. All prices are subject to change without notice. Contact your Burke representative for current pricing. Payments are to be made in USD.

Weights: Weights are approximate and may vary with actual orders.

Installation: All equipment is shipped unassembled. For a list of factory-certified installers in your area, please contact your Burke representative.

Specifications: Product specifications in this catalog were correct at the time of publication. However, product improvements are ongoing at Burke, and we reserve the right to change or discontinue specifications without notice.

Loss or Damage in Transit: A signed bill of lading is our receipt from a carrier that our shipment to you was complete and in good condition upon arrival. Before you sign, please check the Bill of Lading carefully when the shipment arrives to make sure nothing is missing and there are no damages. Once the shipment leaves our plant, we are no longer responsible for any damage, loss or shortage.

For more information regarding the warranty, call Customer Service at 920-921-9220 or 1-800-356-2070.

01/2024



6-TAB E – FINANCIAL HISTORY

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM



FINANCIAL STABILITY STATEMENT

To whom it may concern:

SONIA M PERKINS – PRESIDENT OF TOP LINE RECREATION, INC on Aug 28, 2024, declare that Top Line Recreation, INC a S Corporation with FEIN number 45-3009109 located at 2922 Howland Blvd suite 4 city of Deltona, FL 32725 and all its sub-contractors are financially stable and have the necessary resources, human and financial, to provide the level required , upon Request a third party financial verification will be provided.

SONIA M PERKINS

Date

Business Information Report Snapshot

TOPLINE RECREATION INC.

D-U-N-S: 06-196-6478
ADDRESS: 2922 Howland Blvd Ste 3, Deltona, FL, 32725, United States
Date: 08/29/2024

RISK ASSESSMENT

SCORES AND RATINGS

Max. Credit Recommendation	PAYDEX® SCORE	Delinquency Predictor Percentile	Financial Stress Percentile	Supplier Evaluation Risk Rating
US\$ 30,000	80 LOW RISK	96 LOW RISK	82 LOW-MODERATE RISK	2 LOW RISK

MAXIMUM CREDIT RECOMMENDATION

Overall Business Risk



LOW
MODERATE

MODERATE

MODERATE
HIGH

HIGH

Maximum Credit Recommendation



The recommended limit is based on a low probability of severe delinquency.

Dun & Bradstreet Thinks...

- Overall assessment of this organization over the next 12 months: VERY STABLE CONDITION
- Based on the predicted risk of business discontinuation: HIGH LIKELIHOOD OF CONTINUED OPERATIONS
- Based on the predicted risk of severely delinquent payments: VERY LOW POTENTIAL FOR SEVERELY DELINQUENT PAYMENTS

PAYDEX® SUMMARY

3 Months



Low Risk (100)

High Risk (1)

24 Months



Low Risk (100)

High Risk (1)

When weighted by dollar amount, payments to suppliers on average, are on time. Value is based on payments collected over the last 3 months.

80

Low Risk (100)

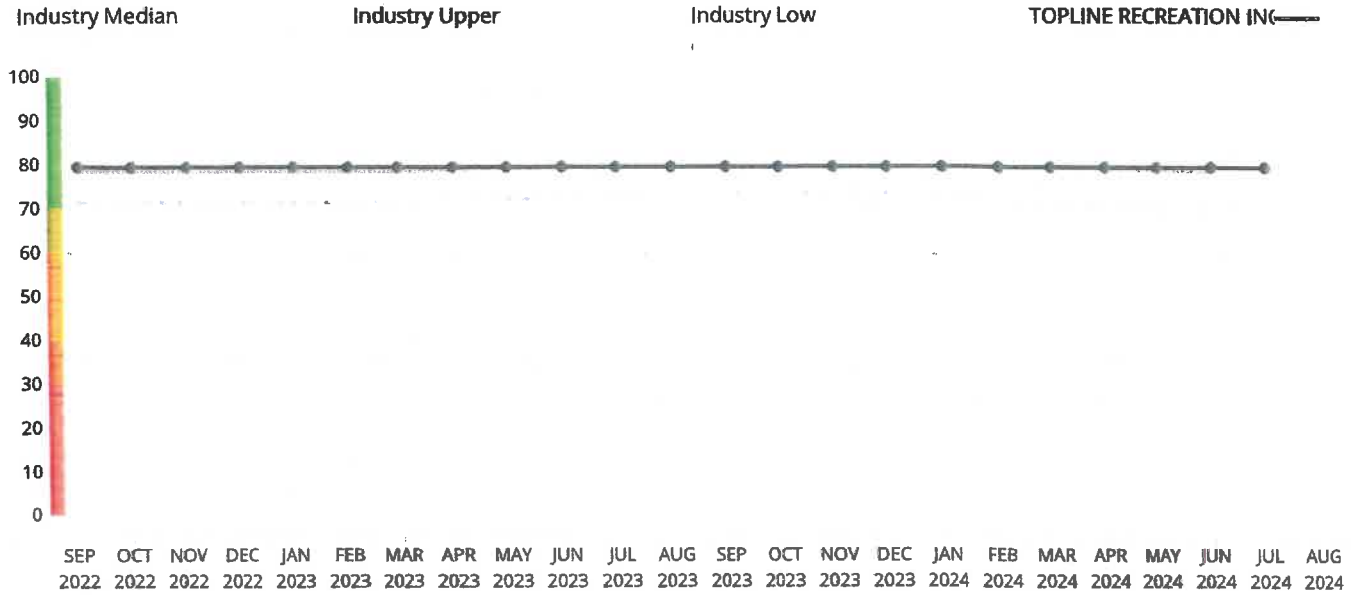
Risk of Slow Pay
LOW
High Risk (1)

Payment Behavior
Pays On Time

Based on a D&B PAYDEX® of <

Business and Industry Trends

5091 - Whol sporting/recreational goods



DELINQUENCY PREDICTOR SCORE

96

Low Risk (100)

High Risk (1)

Higher risk industry based on delinquency rates for this industry

Based on a D&B Delinquency Predictor Percentile of

Level of Risk
LOW

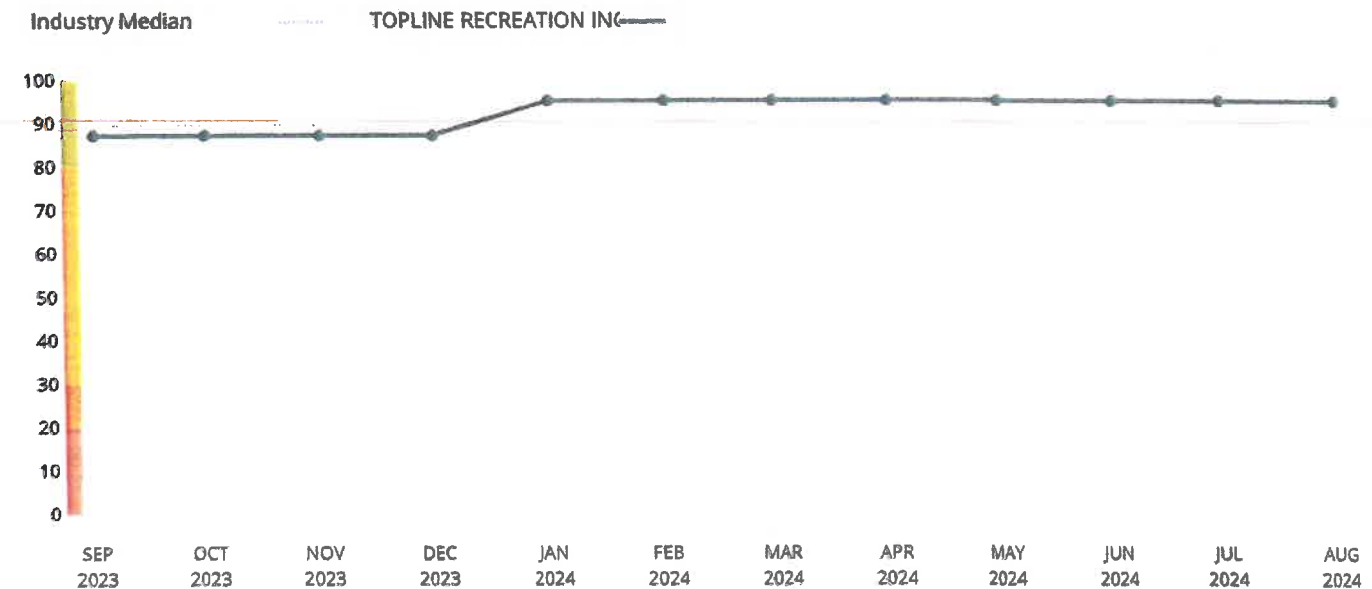
Raw Score
600

Probability of Delinquency
1.07%

Compared to Businesses in
D&B
10.2%

Business and Industry Trends

5091 - Whol sporting/recreational goods



FINANCIAL STRESS SCORE

12

UCC Filings reported

Low Risk (100)

High Risk (1)

Based on a D&B Financial Stress Percentile of 1

Level of Risk

LOW MODERATE

Raw Score

1538

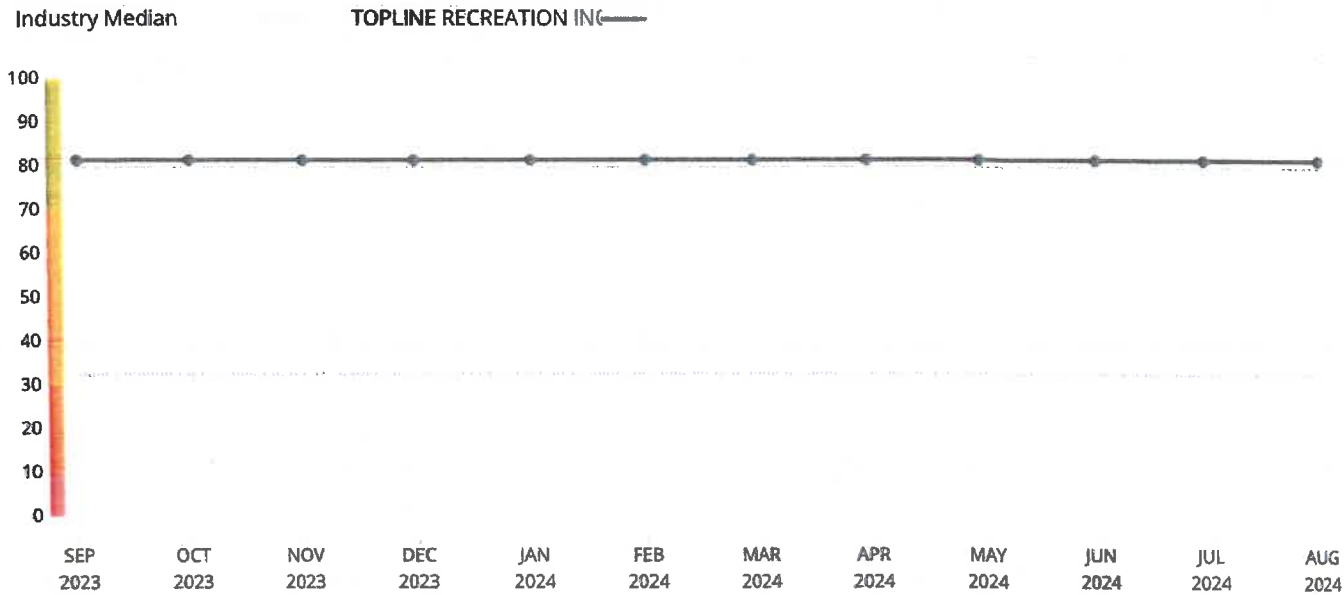
Probability of Failure

0.09%

Compared to Businesses in D&B

0.48%

Business and Industry Trends5091 - Whol sporting/recreational goods



SUPPLIER EVALUATION RISK RATING

2

High Risk (9)

Low Risk (1)

Based on a Supplier Evaluation Risk Rating of -

Factors Affecting Your Score

Limited business activity signals reported in the past 12 months

Business belongs to an industry with above average risk of ceasing operations or becoming inactive

Business and Industry Trends5091 - Whol sporting/recreational goods



2

1

0



SEP 2023	OCT 2023	NOV 2023	DEC 2023	JAN 2024	FEB 2024	MAR 2024	APR 2024	MAY 2024	JUN 2024	JUL 2024	AUG 2024
-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------

D&B RATING

Current Rating as of 04-19-2013

Previous Rating

Employee Size

Risk Indicator

Employee Size

2R: 1 to 9 employees

3: Moderate Risk

2R: 1 to 9 employees

TRADE PAYMENTS

TRADE PAYMENTS SUMMARY			Based on 24 months of data
Overall Payment Behavior	% of Trade Within Terms	Highest Past Due	
0	100%	US\$ 0	
Days Beyond Terms			
Highest Now Owing: US\$ 500	Total Trade Experiences: 11	Total Unfavorable Comments : 0	
	Largest High Credit: US\$ 25,000	Largest High Credit: US\$ 0	
	Average High Credit: US\$ 5,166	Total Placed in Collections: 0	
		Largest High Credit: US\$ 0	

TRADE PAYMENTS BY CREDIT EXTENDED			
\$ CREDIT EXTENDED	% OF PAYMENTS WITHIN TERMS	# PAYMENT EXPERIENCES	TOTAL & DOLLAR AMOUNT
OVER 100,000	0%	0	\$0
50,000 - 100,000	0%	0	\$0
15,000 - 49,999	100%	1	\$25,000
5,000 - 14,999	100%	1	\$5,000
1,000 - 4,999	0%	0	\$0
UNDER 1,000	100%	4	\$1,000

TRADE PAYMENTS BY INDUSTRY			
Collapse All Expand All			
Industry Category	Number of Payment Experiences	Largest High Credit (US\$)	% Within Terms (Expand to View)
61 - Nondepository Credit Institutions	1	25,000	
6153 - Short-trm Busn Credit	1	25,000	100
93 - Public Finance Taxation And Monetary Policy	1	5,000	
9311 - Public Finance	1	5,000	100
48 - Communications	1	750	
4812 - Radiotelephone Commun	1	750	100

▼73 - Business Services	1	100	
7359 - Misc Equipment Rental	1	100	100
▼60 - Depository Institutions	1	50	
6021 - Natnl Commercial Bank	1	50	100
87 - Engineering Accounting Research Management And Related Services	1	0	
8741 - Management Services	1	0	100

TRADE LINES

Date of Experience ▼	Payment Status	Selling Terms	High Credit (US\$)	Now Owes (US\$)	Past Due (US\$)	Months Since Last Sale
07/2024	Prompt	-	-	100	0	1 Month
07/2024	Prompt	-	25,000	50	0	1 Month
07/2024	Prompt	-	750	500	0	1 Month
07/2024	Prompt	-	50	0	0	Between 6 and 12 Months
05/2024	-	Cash Account	100	-	-	1 Month
04/2024	-	Cash Account	50	-	-	1 Month
03/2024	-	Cash Account	50	-	-	1 Month
02/2024	Prompt	-	5,000	-	-	1 Month
01/2024	-	Cash Account	50	-	-	1 Month
09/2023	-	Cash Account	100	-	-	1 Month
01/2023	Prompt	-	100	0	0	Between 6 and 12 Months

EVENTS

LEGAL EVENTS

The following Public Filing data is for information purposes only and is not the official record. Certified copies can only be obtained from the official source.

SUITS		JUDGEMENTS		LIENS		UCC FILINGS	
TOTAL	0	TOTAL	0	TOTAL	0	TOTAL	7
LAST FILING DATE	-	LAST FILING DATE	-	LAST FILING DATE	-	LAST FILING DATE	12/26/2023

General: The public record items contained in this report may have been paid, terminated, vacated or released prior to the date this was reported. This information may not be reproduced in whole or in part by any means of reproduction.

UCC Filings: There may be additional UCC Filings in the D&B file on this company which are available by contacting 1-800-234-3867.

Suits, Liens, Judgements: There may be additional suits, liens, or judgements in D&B's file on this company available in the U.S. Public Records Database that are also covered under your contract. If you would like more information on this database, please contact the Customer Resource Center at 1-800-234-3867.

Lien: A lien holder can file the same lien in more than one filing location. The appearance of multiple liens filed by the same lien holder against a debtor may be indicative of such an occurrence.

EVENTS

UCC Filing - Termination

Filing Date	2023-12-26
Filing Number	202303482435
Received Date	2023-12-27
Original Filing Date	2014-01-16
Original Filing Number	201400575875
Secured Party	SEACOAST NATIONAL BANK, STUART, FL
Debtors	TOPLINE RECREATION INC.
Filing Office	SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

UCC Filing - Continuation

Filing Date	2023-08-15
Filing Number	202302236512
Received Date	2023-08-16
Original Filing Date	2014-01-16
Original Filing Number	201400575875
Secured Party	SEACOAST NATIONAL BANK, STUART, FL

Debtors

TOPLINE RECREATION INC.

Filing Office

SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

UCC Filing - Continuation

Filing Date

2023-06-15

Filing Number

202301650972

Received Date

2023-06-19

Original Filing Date

2018-12-10

Original Filing Number

201807207771

Secured Party

SEACOAST NATIONAL BANK, STUART, FL

Debtors

TOPLINE RECREATION INC.

Filing Office

SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

UCC Filing - Original

Filing Date

2018-12-10

Filing Number

201807207771

Received Date

2018-12-21

Collateral

All Inventory and proceeds - All Account(s) and proceeds - All
General intangibles(s) and proceeds - All Equipment and proceeds
- All Chattel paper and proceeds

Secured Party

SEACOAST NATIONAL BANK, STUART, FL

Debtors

TOPLINE RECREATION INC.

Filing Office

SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

UCC Filing - Continuation

Filing Date

2018-11-19

Filing Number

201807058563

Received Date

2018-11-26

Original Filing Date

2014-01-16

Original Filing Number

201400575875

Secured Party

SEACOAST NATIONAL BANK, STUART, FL

Debtors

TOPLINE RECREATION INC.

Filing Office

SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

UCC Filing - Original

Filing Date

2016-01-29

Filing Number

201606373356

Received Date	2016-02-12
Collateral	Inventory including proceeds and products - Account(s) including proceeds and products - Assets including proceeds and products - Equipment including proceeds and products - and OTHERS
Secured Party	GIBRALTAR CAPITAL ADVANCE, LLC, NORTHBROOK, IL
Debtors	TOPLINE RECREATION INC.
Filing Office	SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL
UCC Filing - Original	
Filing Date	2014-01-16
Filing Number	201400575875
Received Date	2014-01-31
Collateral	All Inventory and proceeds - All Account(s) and proceeds - All Equipment and proceeds - All General intangibles(s) and proceeds - All Chattel paper and proceeds
Secured Party	SEACOAST NATIONAL BANK, STUART, FL
Debtors	TOPLINE RECREATION INC.
Filing Office	SECRETARY OF STATE/UCC DIVISION, TALLAHASSEE, FL

COMPANY EVENTS

The following information was reported on: 12-18-2020

The Florida Secretary of State's business registration file showed that Topline Recreation Inc. registered as a Corporation on August 16, 2011.

Business started 2011. 100% of capital stock is owned by officers.

SONIA PERKINS. Antecedents are undetermined.

TERRY PERKINS. Antecedents are undetermined.

LAURA PORRETTA. Antecedents are undetermined.

Business address has changed from 3221 Dudley Dr, Deltona, FL, 32738 to 2922 Howland Blvd Ste 3, Deltona, FL, 32725.

SPECIAL EVENTS

12-18-2020

TOPLINE RECREATION INC was reported by the SBA as a recipient of a loan for \$71,365 from Seacoast National Bank on 04/30/2020 under the Paycheck Protection Program as authorized under the CARES Act of 2020.

09-19-2017 HURRICANE IRMA 2017:

This business is located in a FEMA designated disaster zone impacted by the effects of Hurricane Irma. It is reported that thousands of

COMPANY PROFILE

COMPANY OVERVIEW

D-U-N-S

06-196-6478

Mailing Address

PO Box 391138, Deltona
FL 32739, US

Annual Sales

US\$ 1,200,000

Business Form

Unknown

Telephone

(386) 789-4508

Employees

4

Date Incorporated

08/17/2011

Fax

-

Age (Year Started)

13 years (2011)

State of Incorporation

Florida

Website

-

Named Principal

SONIA PERKINS, PRES

Ownership

-

Line of Business

Whol sporting/recreational goods

SIC

5091



7- TAB F – PROPOSED FEES

2922 HOWLAND BLVD – ST 4 - DELTONA, FL 32725

386-575-8359 – 800-921-4509

WWW.TOPLINEREC.COM

(ATTACHMENT 1) – SERVICES COSTS/FEES PROPOSAL



(ATTACHMENT 1) SERVICES COSTS/FEES PROPOSAL

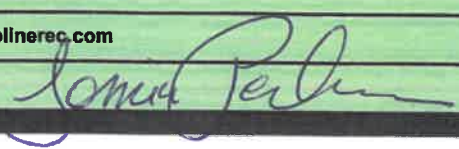
CITY OF PORT ORANGE

RFP #24-16

City Center Playground Replacement

Completed (Attachment 1) Services Costs/Fees Proposal form MUST be included with Submittal.

Proposers are required to complete all fields shaded in green.

NAME OF BUSINESS:		TOP LINE RECREATION INC
CONTACT PERSON:		SONIA M PERKINS
EMAIL ADDRESS:		soniap@toplinerec.com
AUTHORIZED SIGNATURE:		
ITEM #	DESCRIPTION	PRICE
1	Demolition and Removal	\$ 6,957.32
2	Clearing, Grubbing and Site Prep	\$ 14,479.27
3	Survey, Design and Permitting	\$ 17,486.42
4	Products and Equipment	\$ 198,910.67
5	Installation and Construction Labor	\$ 59,861.95
TOTAL PRICE:		\$ 297,695.63

Complete, sign and date and include this document under Tab F in proposal



QUOTE #	TLRQ5741-02
PROJECT:	Rfp #24-16

Bill to: Chip Kent, Purchasing Agent
 City of Port Orange
 Purchasing Division
 1000 City Center Circle
 Port Orange, FL 32129
 386-506-5718
ckent@port-orange.org, purchdiv@port-orange.org

Top Line Recreation Inc.
 2922 Howland Blvd, Suite 3, Deltona, FL 32725
 386-575-8359

Ship to: Chip Kent
 City of Port Orange
 Port Orange City Center Sports Complex
 4625 City Center Drive
 Port Orange, FL 32129

SALESPERSON	PAYMENT TERMS	QUOTE CREATED	QUOTE EXPIRES
Debbie Lloyd	Net 30	Oct 23, 2024	Dec 18, 2024

#	PART #	DESCRIPTION	UNIT PRICE	TOTAL PRICE
City Center Sports Complex Playground				
1	134-190096-3	Burke City Center Playground Port Orange • Project Number: 134-190096-3 • User Capacity: 118 • Age Groups: 5 to 12, 2 to 12 • Dimensions: 99' 10" x 34' 11" Inclusive including chimes song "Take Me Out to the Ball Game"	\$168,135.00	\$168,135.00
1	SPECPRICE	Burke Special Price	-\$42,431.00	-\$42,431.00
1	CUSTOM	Burke Custom Panel "How High Can You Jump"	\$266.67	\$266.67
1	MyTunes	Percussion Play My Tunes to Play the tune of "Take Me Out to the Ball Game" *Includes freight	\$7,175.00	\$7,175.00
1	ENG2R	FL Engineer Sealed Drawings & Calculations	\$2,378.05	\$2,378.05
1	FREIGHT	Burke truckload charges to Port Orange 32129	\$6,554.88	\$6,554.88
1	INSTALL	Buildworx Installation Burke #134-190096-3 & Percussion MyTunes	\$59,861.95	\$59,861.95
1	DEMO	Demo, Removal and dispose of existing playground structure.	\$6,957.32	\$6,957.32
1	SITE	Site Prep includes excavate & haul away 4,295 SF at 6" depth of mulch.	\$14,479.27	\$14,479.27
1	LOCATE	Ground Penetrating Radar (GPR) Locate and Mapping)	\$1,219.51	\$1,219.51
1	TURF	4,452 SF Total PlayHard Turf with rollover edge to fence perimeter. 2" Pad 1,554 SF Playground, 2" Pad 1,344 SF Swing, 1" Pad 1,554 SF Center.	\$59,210.12	\$59,210.12
1	PERMIT	Volusia County *Includes Permit Submittal, County Permit Fees, Inspection, Final COC	\$2,439.02	\$2,439.02
1	BOND	Bid Bond cost premium for project City Center Port Orange	\$11,449.84	\$11,449.84
			SUBTOTAL	\$297,695.63
			TAX RATE	
			SALES TAX	\$0.00
			TOTAL	\$297,695.63

Top Line RECREATION

REFERENCE

PROJECT NAME: LITTLE FRIENDS PRESCHOOL

DATE OF COMPLETION:

LOCATION: 651 BARNES BLVD – 2180 SE MORNINGSID BLVD – PORT ST LUCIE, FL 34952

SCOPE OF WORK: BURKE PLAYGROUND, INSTALLATION, SYNTHETIC TURF

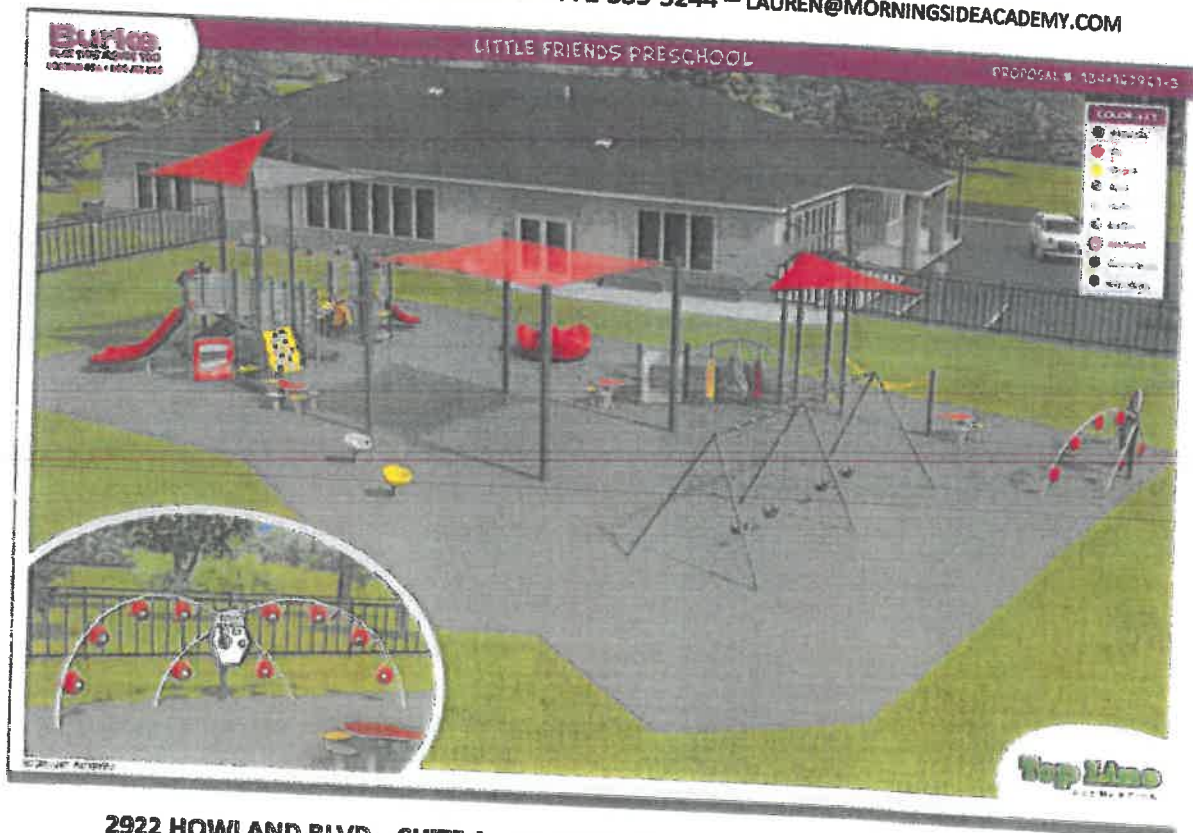
VALUE: \$ 247,934.44

SALES REP: DEBBIE LLOYD

INSTALLATION: BUILDWORX CONSTRUCTION LLC

CUSTOMER: MORNING SIDE ACADEMY

CUSTOMER CONTACT: LAUREN MONTERO – 772-335-5244 – LAUREN@MORNINGSIDEACADEMY.COM



2922 HOWLAND BLVD – SUITE 4 DELTONA, FL 32725 - PHONE 386-575-8359

WWW.TOPLINEREC.COM



JOB COMPLETE

DATE of COMPLETION: 08/18/2023

Name: WILLIE WEBB PARK

Location: 3521 NW 43rd Ave. Lauderdale Lakes, FL 33319

Scope of Work: BURKE PLAYGROUND (BASICS-INTENSITY-NUCLEUS-SYNERGY); PIP

Amount: \$519,934.15

Sales Rep: Vivian Figueroa

INSTALL: SAFETY 1st Playgrounds

Contact: Robin Soodeen

954-535-2815 | robins@lauderdalelakes.org





JOB COMPLETE

DATE of COMPLETION: 05/30/2024

Name: DALLAS WHITE PARK

Location: 5900 Greenwood Ave., North Port, FL 34287

Scope of Work: BURKE PLAYGROUND (BASICS-NUCLEUS-INTENSITY); BORDERS; TURF; MULCH

Amount: \$259,998.04

Sales Rep: KELLY WOODS

INSTALL: TOTAL MAINTENANCE

Contact: JEFF NELSON

941-429-3590 | jnelson@cityofnorthport.com





REFERENCE

PROJECT NAME: LIBERTY MAGNET SCHOOL

DATE OF COMPLETION: 02-14-2024

LOCATION: 6850 81ST STREET – VERO BEACH, FL 32967

SCOPE OF WORK: BURKE PLAYGROUND, INSTALLATION, MULCH

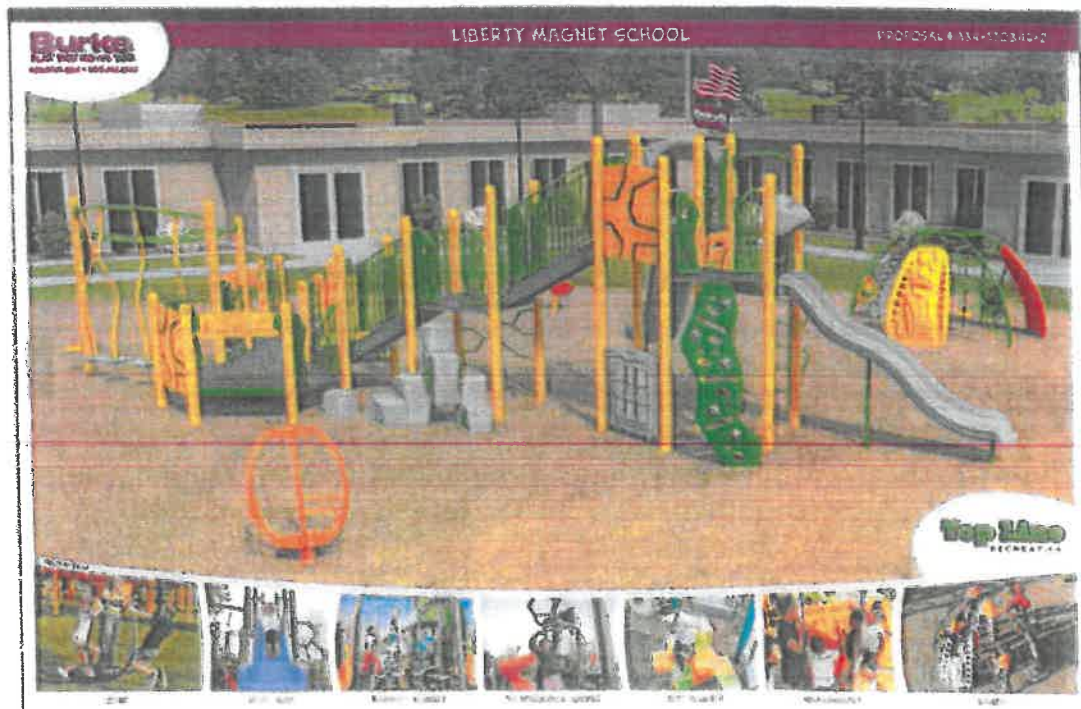
VALUE: \$ 116,523.21

SALES REP: DEBBIE LLOYD

INSTALLATION: BUILDWORX CONSTRUCTION LLC

CUSTOMER: INDIAN RIVER SCHOOLS

CUSTOMER CONTACT: ROBERT MICHEL – 772-925-9120 – ROBERT.MICHAEL@INDIANRIVERSCHOOLS.ORG



2922 HOWLAND BLVD – SUITE 3 DELTONA, FL 32725 - PHONE 386-575-8359

WWW.TOPLINEREC.COM



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B6b) Approval of Task Authorization No. 2 to DJ Design, Inc. for design of the All Children's Park Restroom Replacement

DEPARTMENT: Parks & Recreation

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve Task Authorization No. 2 to DJ Design, Inc. in an amount not to exceed \$30,285.00, and authorize Mayor and City Clerk to execute all necessary documents.

SUMMARY: The Parks and Recreation Department is seeking approval of Task Authorization No. 2 to DJ Design, Inc. for design services for the replacement of the All Children's Park Restroom. The fee includes architectural, mechanical (HVAC/Plumbing), electrical design, and contract documents ready for permitting and construction.

The project consists of tearing down the current bathroom and replacing it with four (4) ADA standard family bathrooms and limited storage. The fee is not to exceed \$30,285.00. The budget was approved as part of FY2024 - 2025 CIP.

PRESENTER: Susan Lovallo

ATTACHMENTS:

1.	DJ Design Services Inc. Task Authorization No. 2 All Children's Park Restroom Design Final	DJ Design Services Inc. Task Authorization No. 2 All Children's Park Restroom Design Final.pdf
2.	DJ Design Contract	DJ Design Contract.pdf
3.	DJ Sunbiz	DJ Sunbiz.pdf

Jennifer Cox
Susan Lovallo
John McKinney
Matthew Jones
Wayne Clark

Created/Initiated - 12/6/2024
Approved - 12/6/2024
Approved - 12/9/2024
Approved - 1/29/2025
Final Approval - 1/29/2025

TASK AUTHORIZATION NO. 2
Master Contract for Architectural Services dated May 17, 2022
Between the City of Port Orange, Florida and DJ Design Services, 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 **DJ DESIGN SERVICES, INC.**, a Florida corporation with its principal place of business at 913 North Nova Road, Holly Hill, Florida 32117 ("Architect"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract relating to Professional Architectural Services, as dated above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Architect shall provide services relating to All Children's Park Restroom Architectural / Engineering Design, and as more particularly described in Proposal, attached hereto and incorporated herein as **Task Authorization Exhibit "1."**
3. Architect shall complete the services to be provided herein within two (2) years of the date of written notice by the City to the Architect.
4. In return for the services identified above, the City agrees to compensate Architect at the prices set forth in Exhibit "1" attached hereto and made a part hereof, subject to a limit not to exceed **\$30,285.00**. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.
5. Truth-in-Negotiations
 - (a) For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over \$150,000.00, Architect 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 Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Architect and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Architect shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.
 - (b) Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has

disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization

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

DJ DESIGN SERVICES, INC.

Printed Name: _____ By: _____
James M. Wachtel, President

Printed Name: _____ Date: _____

Please note that at this time the City does not accept electronic/digital signatures. A wet signature is required for this document.

CITY OF PORT ORANGE

By: _____
Wayne Clark, City Manager

Date: _____

ATTEST:

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

Date: _____

DJ DESIGN, INC. TASK AUTHORIZATION NO. 2

EXHIBIT “1”

Consisting of 2 Pages



913 N. Nova Road
Holly Hill, Florida 32117
(386) 255-6987 (386) 255-6989 FAX
AA26000567

ARCHITECTS • PLANNERS

January 28, 2025

Susan Lovallo, Director
Parks and Recreation
City of Port Orange
1395 Dunlawton Ave.
Port Orange, Florida 32129

VIA E-mail

RE: All Children's Park Restroom, A/E Design Proposal – Port Orange, Project No. 02354.30 Revised

Susan,

Per our earlier discussions, I have visited the existing building, and I think I understand the site's constraints. As before on the Concession project, we will assume that there will be no SJRWMD issues. Again, I have a call in to Tim Burman for the City's position on Site Development review and permitting. Yesterday I spoke with Al Tischler, and he indicated that the Building Department would be the only permitting agency involved.

We did an Itemization of Service Hours (attached) and included an allowance for re-survey and MPE Engineering; educated guesses in each case. With the addition of \$500 for reimbursable expenses, the full-service A/E compensation for this scope of work would therefore be **\$30,285.00**

This fee includes architectural, mechanical (HVAC/Plumbing) and electrical design and contract documents ready for permitting and construction. The fee will be invoiced as follows:

- Schematic Design – \$9,085.50
- Construction Documents – \$12,114.00
- Bidding and permitting – \$6,057.00
- Construction Administration – \$3,028.50

Deliverables will include demolition plan, floor/roof/RCP plans, building elevations, building sections, details, and interior elevations.

Please review this to see if it agrees with *your* understanding of the work efforts needed. If these terms are acceptable, please issue a Task Assignment and Purchase Order in accordance with our Professional Architectural Services agreement (RFSQ #22-03) and we will begin the design work. Thanks, as always for considering **DJdesign, Architects and Planners**.

Yours truly,
DJdesign Services, Inc.

Dana M. Smith, Architect, Principal

Attachment

City of Port Orange
All Children's Park Restroom

Itemization of Service Hours

Permit Documents Tasks	Senior Project				Total Hours	Total Dollars
	Architect	Architect	Drafter	Admin		
Coordinate Civil/Site	6	0	6	1	13	\$ 1,125.00
Architectural Schematic Design	8	4	18	1	31	\$ 2,435.00
Survey (Allowance)						\$ 2,555.00
Life Safety/Code Review	2	0	2	0	4	\$ 360.00
City Staff Meeting	6	0	4	1	11	\$ 1,015.00
Architectural Plans/Elevations/Details	20	0	40	0	60	\$ 4,700.00
MPE Engineering (Allowance)						\$ 8,500.00
Coordinate MPE Engineering	8	5	20	2	35	\$ 2,690.00
Bidding and Permitting Coordination	18	0	20	1	39	\$ 3,395.00
Construction Phase Services	24	0	6	4	34	\$ 3,510.00
<i>Subtotal</i>	92	9	116	10	227	\$ 30,285.00

Total Hours of Service

hourly rate	\$ 125.00	\$ 100.00	\$ 55.00	\$ 45.00
subtotals	\$ 11,500.00	\$ 900.00	\$ 6,380.00	\$ 450.00

In an effort to save time and preserve our environment, all documents will be transmitted digitally via email. If hardcopies are required, Ddesign will include the cost of production on a subsequent invoice for reimbursement.

Total Architectural Design Fee \$ 30,285.00

1/28/2025



CITY OF PORT ORANGE MASTER CONTRACT FOR ARCHITECTURAL SERVICES

This Master Contract for Architectural Services ("Contract") is entered into this 17 day of May, 2022, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **DJ DESIGN SERVICES, INC.** ("Architect"), a Florida corporation whose principal address is 913 North Nova Road, Holly Hill, Florida 32117. The City and Architect are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Architect hereby agrees to provide the following services to the City of Port Orange:

(i) Professional continuous architectural design and consulting services to provide various renovation, restoration, construction and general consulting projects, and may include preparation of design and specifications, conducting and/or attending preconstruction meetings, review of shop drawings, record drawing review, cost estimating, and additional architectural services as required during the course of construction, in accordance with Consultants Competitive Negotiation Act, and as more specifically described in City of Port Orange Request for Statements of Qualifications No. 22-03 ("RFSQ 22-03") This Contract together with RFSQ 22-03, and Architect's Proposal, all of which may be referred to as the "Master Contract" and/or "Contract" and all of which are made a part hereof by reference shall constitute the formal written Contract between the City and Contractor. For convenience, Section 3 Scope of Services and Requirements, and the Architect's Hourly Rate Proposal as submitted by the Architect in Architect's Response; are attached hereto as Exhibit "1." A complete copy of RFSQ 22-03 is available in the Office of the City Clerk. Architect represents that they are familiar with the documents that make up the Contract, as referenced herein above.

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

Term: The 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 three (3) years (the "Initial Term").

Renewals: Upon written agreement of the Parties, this Contract may be renewed for two (2) additional one-year terms, upon review and approval of City Manager and budget appropriation.

Manner and Place: The Architect shall perform the services as outlined in each project assignment, in accordance with the Master Contract for Architectural Services 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. Architect shall not deliver goods or services without a fully executed task authorization and a written purchase order, signed by an authorized agent of the City of Port Orange.

Time and Essence: Architect acknowledges that time is of the essence in the completion of the services contemplated by this contract, and shall complete all services within the timeline specified by this contract, and shall complete all services within the timeline specified in the project, and as reflected on the Notice to Proceed.

2. Authorization for Services. This Contract standing alone does not authorize the performance of any work or services to be provided by the Architect or require the City to place any orders for work or service. Authorization for performance of services by the Architect under this Contract shall be in the form of written Task Authorization(s) issued and executed by the City and signed by the Architect. A sample Task Authorization is attached hereto as Exhibit "2." 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.

3. City Obligations. The City reserves the right to utilize lump sum or hourly rate compensation, at the hourly rate compensation as set forth in Exhibit "1." Rates may be adjusted on the anniversary of the effective date of this Contract, upon mutual written agreement of the Parties. The City's obligation to pay Architect under this Contract is limited to an amount not to exceed the appropriated budget per 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. The Architect shall be paid compensation for all services, labor and material required thereby, and for all expenditures as specified in each Task Authorization. The fee shall be negotiated for each Project Task Authorization to this Contract. The Architect shall submit a monthly statement for professional services rendered and expenses incurred to date of the statement. The statements for lump sum shall be based upon Architect's estimate of the proportion of the total services actually completed at the time of billing to the total services to be performed. Such estimates are to be prepared by the Architect and accompanied by such supporting data as may be required by the Contract Administrator. Compensation for any authorized cost which is not set forth in the Contract shall not exceed the actual, documented out-of-pocket cost to the Architect. The Contract and Task Authorization(s) do not include retainer fees, nor is there a minimum fee guaranteed during the Contract period.

4. Contract Administration. The Purchasing Manager, Jill Poolman ("Contract Administrator"), shall perform contract administration of this Master Contract. The Department Head requesting the Task Authorization under this Master Contract, shall perform the Contract Administration for their respective Task Authorization for services. For notice provisions, see the paragraph entitled "Notice." The work shall be under the direction of the authorized Contract Administrator who shall have final decision authority for all phases of the work, including general direction, review, and approval of the work. Neither the Contract Administrator'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 Architect shall be and remain liable to the City for all costs of any kind which were incurred by the City as a result of the Architect's negligent performance of the services furnished under this Contract.

5. Statement of Architectural Services. The Architect shall:

- (a) Provide all certifications ("Architect of Record" function) surveys, calculations, drawings, and any other documents required for special permits and authorizations from various government bodies or agencies having jurisdiction over the project;
- (b) Prepare a time scaled diagram showing the dates of completion of various design phases and scheduled completion of working drawings and specifications and submit for Contract Administrator's review and approval.

- (c) Verify and evaluate technical proposals furnished by the construction contractor if requested by the City and provide such amplifications and explanations that may be necessary to clarify the intent of the drawings and specifications.
- (d) Furnish consultation and advice as requested by the City during the construction of project, including Construction Administration Services (unless otherwise stipulated in a specific amendment attached hereto and made a part thereof);
- (e) Furnish all other Architectural services including without limitation those specified hereinafter and those required for the completion of specific projects as described in amendments to this Contract:
 - (i) Site Visits/Special Permits. The Architect shall visit the site and shall initiate and hold such conferences with representatives of the City and other agencies, boards or government bodies having jurisdiction over the area the project covers and take such other action as may be necessary to obtain permits and authorizations (except the construction permits) and other data upon which to develop the design and preliminary sketches showing the contemplated project.
 - (ii) Preliminary Sketches and Opinion of Probable Construction Costs. The preliminary sketches shall include plans, elevations and sections development in such detail and with such descriptive specifications as will clearly indicate the scope of work, and make possible a reasonable opinion of the construction cost and satisfy the requirements of permitting and regulatory agencies having jurisdiction. An opinion of probable construction costs shall be prepared.
 - (iii) Working Drawings and Specifications. After the preliminary sketches and opinion of probable construction costs have been approved, the Architect shall proceed with the preparation of working drawings and specifications as required by the Contract Administrator for the construction of said project. Working drawings, specifications and estimates shall be delivered to the Contract Administrator in such sequence and at such times as required by the City such that the construction work can be initiated promptly, procurement of materials made without delay and continuous prosecution of the work promoted, all in strict accordance with the approved design schedule as provided in Paragraph 5 (b) above. Working drawings and specifications shall be revised as necessary and as required by the Contract Administrator. After working drawings and specifications have been approved by the Contract Administrator, the Architect shall furnish such number of sets of prints of the approved working drawings and such number of sets of the approved specifications, as may be required by the Contract Administrator.
 - (iv) Original Drawings - Final Plans. Upon approval of final plans the Architect shall deliver to the City one set of original drawings in such medium and on such materials as may be required by the Contract Administrator, suitable for blueprinting, showing approved constructed requirements (not of "as-built" construction unless otherwise stipulated), provided, however, that should this Contract be terminated by the City the Architect shall deliver to the City one set of original drawings as they exist at the time of termination. Such plans as are delivered shall become and remain the property of the City.
 - (v) Revision of Final Drawings and Specifications. The Architect shall, without additional fee, correct and revise the drawings, specifications, or other materials

furnished under this Contract, if the Contract Administrator finds that such revision is necessary to correct errors or deficiencies for which the Architect is responsible.

- (vi) Bidding. The Architect shall perform all necessary Architectural services required in connection with the competitive bidding for construction of the project and the preparation of all documents required thereof, including preparation of documents for separate bid packages for multiple contractors if so required by Contract Administrator.

6. Responsibility of the Architect. The Architect shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, and specifications and other work or materials furnished by the Architect under this Contract. The Architect shall without additional cost or fee to the City, correct or revise any errors or deficiencies in his performance.

7. Reuse of Documents. The City shall have unlimited rights, for the benefit of the City in all drawings, designs, specifications, notes and other Architect's work produced in the performance of this Contract, or in contemplation thereof, and all as-built drawings produced after completion of the work, including the right to use same on any other City work without additional cost to the City. All documents including drawings and specifications prepared by the Architect pursuant to this Contract are instruments of service in respect of the project. They are not intended or represented to be suitable for reuse by the City or others for any other project. Reuse for another project without written verification or adaption by Architect for the specific purpose intended will be at the City's risk. Any such verification or adaption will entitle Architect to further compensation at rates to be agreed upon by the City and Architect. A reproducible set of plans and specifications shall be delivered to and become the property of the City upon completion of the Project by the Architect.

8. Expert Witness. The Architect shall serve as an expert witness for the City in any legal proceedings regarding this Project if the City so requests. The expert witness fee for Architect shall be negotiated at the time the Architect is called as an expert.

9. Modifications to Scope of Work/Change Orders.

- (a) Change Orders. The Contract Administrator, upon written approval 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 one or more of the following: the services to be performed, the contract price of 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 Architect's cost of, or time required for performance of the work hereunder, Architect shall receive an equitable adjustment and the Contract shall be modified in writing accordingly. Any change shall include all costs and damages related to or incidental to such change.
- (c) Any claim by the Architect for adjustment under this clause shall be asserted in writing within thirty (30) days from the date of receipt by the Architect of the notification of change unless the Contract Administrator grants a further period of time before the date of final payment under the Contract. The Architect shall proceed with the prosecution of the work as changed. Except as provided in this Contract, the Architect shall not be entitled to payment for a charge for any extra work or material.

10. Subcontractors and Outside Associates and Consultants. Any subcontractors and outside associates or consultants required by the Architect in connection with the services covered by the Contract will be limited to such individuals or firms as are specifically identified and approved in writing by the Contract Administrator. Any

substitution in such subcontractors, associates, or consultants shall be subject to the prior approval of the Contract Administrator.

11. Termination.

(a) The performance of work under this Contract may be terminated by the City in accordance with this clause in whole, or from time to time in part, whenever the Contract Administrator shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Architect of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contract Administrator, the Architect shall:

- (i) Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
- (ii) 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 as it is not terminated.
- (iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- (iv) Assign to the City in the manner, at the times and to the extent directed by the Contract Administrator, all of the right, title, and interest of the Architect under the orders and subcontracts so terminated, in which case the City 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.
- (v) Settle all outstanding liabilities and claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator, to the extent the City may require which approval or ratification shall be final for all the purposes of this clause.
- (vi) Transfer title and deliver to the City in the manner, at the times, and to the extent, if any, directed by the Contract Administrator.

a. The fabricated or un-fabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination; and

b. The completed or partially completed plans, drawings, information, and other property which, if the Contract has been completed, would have been required to be furnished by the City.

- (vii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

(c) After receipt of a Notice of Termination, the Architect shall submit to the City's Contract Administrator its termination claim, in the form and with certification prescribed by the Contract Administrator. Such claim shall be submitted promptly but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions in writing are granted by the Contract Administrator, upon request of the Architect made in writing such thirty (30) days period or authorized extension thereof. Upon failure of the Architect to submit his termination claim within the time allowed, the Contract Administrator may determine on the basis of information available to him,

the amount, if any, due to the Architect by reason of the termination and shall thereupon pay to the Architect the amount so determined.

(d) Subject to the provisions of Paragraph 11(c), the Architect and the Contract Administrator may agree upon the whole or any part of the amount or amounts to be paid the Architect by reason of the total or partial termination of work pursuant to this clause, the total or partial termination of work pursuant to this clause, 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 as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Architect shall be paid the agreed amount. Nothing in Paragraph 11 prescribing the amount to be paid to the Architect, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid.

(e) In the event of the failure of the Architect and the Contract Administrator to agree as provided in Paragraph 11(d), upon the whole amount to be paid to the Architect by reason of the termination of work pursuant to this subparagraph, the Contract Administrator shall pay to the Architect the amounts determined by the Contract Administrator, but without duplication of any amounts agreed upon as follows:

- (i) For completed work and services accepted by the City, the price or prices specified in the Contract for such work, less any payments previously made.:
- (ii) The total of:
 - a. The costs incurred in the performance of the work and service terminated, including initial costs and preparatory expenses allocable thereto, but exclusive of any costs attributed to the work and services paid or to be paid for under Paragraph 11(e)(i) hereof:
 - b. The cost of settling and paying claims arising out of the termination of work or services under subcontracts or orders as provided in Paragraph 11(b)(v) above, 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 subcontractors prior to the effective date of termination, which amounts shall be included in the costs payable under Paragraph 11(a) above; and
 - c. A sum, as profit on Paragraph 11(a) above, determined by the Contract Administrator to be fair and reasonable, not to exceed 5% of the Task Authorization.
- (iii) In the event the Contract is terminated because of Architect's default, the City may take over the work and services and complete the same by Contract or otherwise, and the Architect shall be liable to the City for any increased cost of the project.

12. Examination of Records

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

(b) The Architect 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 Architect 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.

13. Public Records Compliance. The Architect 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 Architect does not transfer the records to the City.

(d) Upon completion of the Contract, Architect shall transfer to the City, at no cost, all public records in possession of the Architect 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 Architect does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Architect may be subject to penalties under Section 119.10, Florida Statutes.

ARCHITECT QUESTIONS RELATING TO ARCHITECT'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.

14. 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 Architect. 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.

15. Insurance Architect shall maintain insurance, as required herein, during the life of this Contract. Architect shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Architect shall be primary and non-contributory. All insurance coverages of the Architect shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Architect's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Architect may use leased employees if the Architect ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access

the jobsite. Any Architect using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Architect shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Architect shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Architect is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Architect to ensure the subcontractors maintain the required coverage, shall not relieve the Architect of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Architect or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Architect for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements				
	Insurance	Standards		Additional Requirements
☒	<u>Workers' Compensation</u> The Architect shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any Architect using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).	<u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City.	<u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Architect shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☒	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ To be determined.	
☐	Architect Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☒	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage - \$ To be determined.	
☐	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

17. 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.

18. Liability for Loss or Damage. Architect shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Architect, 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, to the extent caused by negligent performance of the Contract by Architect, his/its agents, servants and employees. Architect 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, Architect agrees as follows:

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

(b) Architect shall state in all solicitations or advertisements for employees placed by or on behalf of Architect that Architect 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. Architect 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. E-Verify. Architect shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Architect during the term of this Contract and shall expressly require any subcontractors performing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract.

21. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Architect, shall decide disputes with respect to this Contract in the first instance. The decision 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 City Council, Architect 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 AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.**

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

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

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

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

Copy to: City of Port Orange
Attention: Jill Poolman, Purchasing Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5718

Contractor: DJ Design Services, Inc.
Attention: James M. Wachtel, President
913 North Nova Road
Holly Hill, Florida 32117
(386) 255-6987 – Telephone
(386) 255-6989 – Facsimile
jim@djdesigninc.com

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

27. Truth-in-Negotiations

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

(b) Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in

this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization.

28. Waiver of Breach and Materiality Failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed as a modification of the terms of this Contract.

29. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

[Signature]

Printed Name: DANA M. SMITH

[Signature]

Printed Name: DAVID J. SWARTZ

DJ DESIGN SERVICES, INC.

By: [Signature]

James M. Wachtel, President

If this Agreement 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 Agreements on behalf of the corporation.

Date: 5.2.2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2 day of MAY, 2022, by James M. Wachtel, as President of DJ Design Services, Inc., a Florida corporation. He is ☒ personally known or ☐ produced _____ as identification.

[Signature]

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



Witnesses:

CITY OF PORT ORANGE

Printed Name: Matt Jones

By: Donald O. Burnette

Donald O. Burnette, Mayor

Printed Name: Jamie Miller

Date: 5/17/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17th day of May, 2022, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ☒ personally known or ☐ produced as identification.



Matthew J. Jones
Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: Lorie Harris

By: Shelby Field for

Robin L. Fenwick, MMC, City Clerk

Printed Name: Tracee Cody

Date: 5/17/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 17 day of May, 2022, by Shelby Field as Asst. City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ☒ personally known or ☐ produced as identification.



TRACEE CODY
Commission # HH 263572
Expires May 11, 2026

Tracee Cody
Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

[CA 7788]

EXHIBIT “1”

RFSQ 22-03 Section 3 and Architect's Quote

Consisting of 4 Pages

HOURLY RATE SCHEDULE
CONTRACT FOR PROFESSIONAL ARCHITECTURAL SERVICES
CITY OF PORT ORANGE RFSQ 22-03

The following schedule provides a maximum direct salary hourly rate for the disciplines, which are likely to be engaged for projects associated with the contract referenced above for the City of Port Orange.

COMPANY NAME: DJdesign Services, Inc. Architects and Planners

(INSERT FIRM'S PERSONNEL CATEGORY/ TITLE & CORRESPONDING MAXIMUM HOURLY RATE BELOW- SAMPLES BELOW PROVIDED FOR ILLUSTRATION)

<u>Category of Employee</u>	<u>Hourly Rate</u>
Senior Project Architect/Principal	\$125.00
Project Manager/Architect	\$100.00
CAD Technician	\$55.00
Administrator/Clerical	\$45.00

SECTION 3 – SCOPE OF SERVICES AND REQUIREMENTS

PROJECT DESCRIPTION:

The purpose of this RFSQ is to establish a master agreement for Professional Architectural Services for various renovation, restoration, construction and general consulting projects in the City of Port Orange in accordance with Florida Statue 287.055, known as the "Consultants' Competitive Negotiation Act" (the "CCNA"). Services for projects may include conducting and/or attending preconstruction meetings, review of shop drawings, record drawing review, cost estimating, and additional architectural services as required during the course of construction.

Authorization for Services under the contract shall be in the form of written Task Authorization issued and executed by the City and signed by the Architect. Each Task Authorization shall describe the services required, state the date of the commencement and completion of work, and establish the amount and method of payment. The City makes no covenant or promise as to the number of available projects during the life of this Contract.

GENERAL INFORMATION:

Sub-consultants

The City of Port Orange reserves the right to approve all sub-consultants for this contract. If sub-consultants are to be utilized, their names and references must be included within this initial statement. Responsibility for the performance of the contract remains with the main Consultant exclusively. Sub-consultants may be added to this contract during the contract period only with PRIOR WRITTEN PERMISSION from the City of Port Orange.

Qualifications

The proposer must have architects or other professional personnel that are registered and licensed in the State of Florida, qualified inspectors, financial advisors or other personnel as required to perform the duties necessary to complete the various services for this project.

Anticipated Services Awarded

The firms will submit a detailed scope of services for consideration during negotiations for individual Task Authorizations under the continuing service contract. The negotiated scope of services for the specified project(s) may include, but may not be limited to, the scope of work discussed above.

Compensation

After a final ranking of all statements received has been decided, the City will begin negotiations with the top ranked firms for a master contract and pricing, per the Consultant's Competitive Negotiations Act requirements.

The City may elect to provide compensation in the Lump-Sum or Unit Cost with maximum format.

Progress payments may be requested monthly. All invoices shall include the Purchase Order Number, the City Contract Number, the name of the project, the authorized amount, the total of previous billings, the current billing amount, and the amount remaining unbilled. In addition, a narrative summary of services provided, explanation of expenses billed under the current billing amount and all back-up documentation needed to confirm the appropriateness of the Consultant's billing shall be provided.

The City's normal payment procedures in accordance with the Florida Prompt Payment Act will be observed. No early payments shall be approved.

No out of scope services shall be provided or compensated in the absence of prior, written authorization in the form of a supplemental Contract and issuance of an appropriate change order to the existing Purchase Order. The City will accept no obligation for any services provided which do not conform to this requirement.

ARCHITECTURAL SERVICES:

1. Provide all certifications ("Architect of Record" function) surveys, calculations, drawings, technical specifications and any other documents required for special permits and authorizations from various government bodies or agencies having jurisdiction over the project;
2. Prepare time scaled diagrams showing the dates of completion of various design phases and scheduled completion of working drawings and specifications and submit for Contract Administrator's review and approval;
3. During construction bidding, provide such amplifications and explanations that may be necessary to clarify the intent of the drawings and specifications.
4. Furnish consultation and advice as requested by the City during the construction of a project, including Construction Administration Services (unless otherwise stipulated in a specific amendment attached to the Task Authorization);
5. Furnish all other Architectural services included without limitation those specified hereinafter and those required for the completion of specific projects as described in amendments to the Master Agreement Contract:
 - (a) Site Visits/Special Permits: The Architect shall visit the site and shall initiate and hold such conferences with representatives of the City and other agencies, boards or government bodies having jurisdiction over the area the project covers and take such other action as may be necessary to obtain permits and authorizations (except the construction permits) and other data upon which to develop the design and preliminary sketches showing the contemplated project.
 - (b) Preliminary Sketches and Opinion of Probable Construction Costs: The preliminary sketches shall include plans, elevations and sections development in such detail and with such descriptive specifications as will clearly indicate the scope of work and make possible a reasonable opinion of the construction cost and satisfy the requirements of permitting and regulatory agencies having jurisdiction. A preliminary opinion of probable construction costs shall be prepared based on the preliminary sketch or plan.
 - (c) Working Drawings and Specifications: After the preliminary sketches and opinion of probable construction costs have been approved, the Architect shall proceed with the preparation of working drawings and specifications as required by the Contract Administrator for the construction of said project. Working drawings, specifications and estimates shall be delivered to the Contract Administrator in such sequence and at such times as required by the City such that the construction work can be initiated promptly, procurement of materials made without delay and continuous prosecution of the work promoted, all in strict accordance with the approved design schedule provided with a Task Authorization. A typical design schedule would include 30%, 60% and 90% drawings unless otherwise indicated on the Task Authorization. Working drawings and specification shall be revised as necessary to meet the requirements of permitting and regulatory agencies and as required by the Contract Administrator. After working drawings and specifications have been approved by the Contract Administrator, the Architect shall furnish such number of sets of prints of the approved working drawings and such number of sets of the approved specifications, as may be required by permitting and regulatory agencies and the Contract Administrator.
 - (d) Original Drawings – Final Plans: Upon approval of final plans the Architect shall deliver to the City one set of original drawings, in such medium and on such materials, as may be required by the Contract Administrator, suitable for blueprinting, showing approved constructed requirements (not of "as-built" construction unless otherwise stipulated), provided, however, that should this contract be terminated by the City the Architect shall deliver to the City one set of originals as they exist at the time of termination. Such plans as are delivered shall become and remain the property of the City.

- (e) Revision of Final Drawings and Specifications: The Architect shall without additional fee correct and revise the drawings, specifications, or other materials furnished under this contract, if the Contract Administrator finds that such revision is necessary to correct errors or deficiencies for which the Architect is responsible.
- (f) Bidding: The Architect shall perform all necessary Architectural services required in connection with the competitive bidding for construction of the project and the preparation of all documents required thereof, including preparation of documents for separate bid packages for multiple contractors if so required by the Contract Administrator.
- (g) Reuse of Documents: The City shall have unlimited rights, for the benefit of the City in all drawings, designs, specifications, notes and other Architect's work produced for a project in the performance of this contract, or in contemplation thereof, and all as-built drawings produced after completion of the work, including the right to use same on any other City work without additional cost to the City.
- (h) Expert Witness: The Architect shall serve as an expert witness for the City in any legal proceedings regarding a project under this Contract if the City so requests. The expert witness fee for the Architect shall be negotiated at the time the Architect is called as an expert.

[End of Scope of Services - Remainder of this page left intentionally blank]

EXHIBIT "2"

Example Task Authorization

Consisting of 4 Pages

TASK AUTHORIZATION NO. _____
Master Contract for Architectural Services dated _____
Between the City of Port Orange, Florida and DJ Design Services, 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 **DJ DESIGN SERVICES, INC.**, a Florida corporation with its principal place of business at 913 North Nova Road, Holly Hill, Florida 32117 ("Architect"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract relating to Professional Architectural Services, as dated above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Architect shall provide services relating to _____ as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "1."
3. Architect shall complete the services to be provided herein within ____ days of the date of written notice by the City to the Architect.
4. In return for the services identified above, the City agrees to compensate Architect at the prices set forth in Exhibit "1" attached hereto and made a part hereof, subject to a limit not to exceed \$ _____. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.
5. Truth-in-Negotiations
 - (a) For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over \$150,000.00, Architect 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 Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Architect and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Architect shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.
 - (b) Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has

disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization

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

DJ DESIGN SERVICES, INC.


Printed Name: DANA M. SMITH

By: 
James M. Wachtel, President


Printed Name: DAVID J. SWARTZ

Date: 5-1-2022

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Wayne Clark, City Manager **OR** Donald O. Burnette, Mayor

Printed Name: _____

Date: _____

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Profit Corporation
DJDESIGN SERVICES, INC.

Filing Information

Document Number P02000089023
FEI/EIN Number 11-3654812
Date Filed 08/16/2002
State FL
Status ACTIVE

Principal Address

913 NORTH NOVA RD
HOLLY HILL, FL 32117

Changed: 04/15/2005

Mailing Address

913 NORTH NOVA RD
HOLLY HILL, FL 32117

Changed: 04/15/2005

Registered Agent Name & Address

WACHTEL, JAMES M
913 NORTH NOVA ROAD
HOLLY HILL, FL 32117

Address Changed: 01/05/2006

Officer/Director Detail

Name & Address

Title P

WACHTEL, JAMES M
1880 MANOR WAY
DELAND, FL 32720

Title VP

SMITH, DANA M
3 ARCHANGEL CIRCLE
ORMOND BEACH, FL 32174

Annual Reports

Report Year	Filed Date
2022	01/27/2022
2023	01/24/2023
2024	01/22/2024

Document Images

01/22/2024 -- ANNUAL REPORT	View image in PDF format
01/24/2023 -- ANNUAL REPORT	View image in PDF format
01/27/2022 -- ANNUAL REPORT	View image in PDF format
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01/06/2009 -- ANNUAL REPORT	View image in PDF format
01/14/2008 -- ANNUAL REPORT	View image in PDF format
01/16/2007 -- ANNUAL REPORT	View image in PDF format
01/05/2006 -- ANNUAL REPORT	View image in PDF format
04/15/2005 -- ANNUAL REPORT	View image in PDF format
04/07/2004 -- ANNUAL REPORT	View image in PDF format
02/26/2003 -- ANNUAL REPORT	View image in PDF format
08/16/2002 -- Domestic Profit	View image in PDF format



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B7) Resolution No. 25-04 - Approval of Local Agency Program (LAP) Agreement 446285-2-58-01 for construction of the Willow Run Blvd Sidewalk Project from Harms Way to Clyde Morris Blvd

DEPARTMENT: Community Development

GOAL: 1 - Public Safety

2 - Infrastructure

3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 25-04, approving the Local Agency Program (LAP) Agreement for the construction of the Willow Run Boulevard Sidewalk Project from Harms Way to Clyde Morris Blvd, and authorizing the Mayor and City Clerk to execute the Agreement and Resolution.

SUMMARY: The project associated with this Florida Department of Transportation (FDOT) Local Agency Program (LAP) Agreement is the construction of a sidewalk on the south side of Willow Run Boulevard from Harms Way to Clyde Morris Boulevard (FDOT #446285).

On September 18, 2024, as part of the FY 25-29 Capital Improvements Program (CIP), the City approved the proposed budget to include funds for the construction of this sidewalk identified in Port Orange Project #CD184. The project consists of installing an eight-foot-wide concrete sidewalk along the south side of Willow Run Boulevard from the intersection of Harms Way to Clyde Morris Boulevard, a distance of 1,298 feet (0.24 miles). The project also includes milling and resurfacing of affected crosswalks for ADA compliance. Construction is anticipated to begin in the summer of 2025 and be completed within 90 days after the Notice to Proceed is issued. Completing this project will improve the safety of pedestrians accessing the City Center area, schools, and the existing sidewalk network and eliminate the need to use the Willow Run Boulevard shoulder.



Funding in the Agreement has been adjusted based on the estimate of construction costs and the negotiated Construction Engineering and Inspection (CEI) contract fee. CEI services will be performed under a continuing services contract (CSC) procured by FDOT District 5. Initially, the City was responsible for funding the CEI but now it will be funded with federal funds. The city is responsible for a 15% CEI Contingency amount of \$18,035. The local funds initially allocated toward CEI cost have been allocated to the construction cost for the project. Resolution No. 25-07 on this agenda establishes the City's contribution and procedure to fund the CEI phase.

The Volusia-Flagler TPO and FDOT have agreed to fund 87.3% of the cost for construction in an amount not to exceed \$267,777. The City's contribution toward construction is \$38,800, or 12.7% of the \$306,577 estimated construction cost. Funds are budgeted and available in Project #CD184 for this purpose. Approval of this Resolution and LAP Agreement will allow the project to go out to bid and start construction in the Summer of 2025.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Resolution. No. 25-04	Resolution. No. 25-04 .pdf
2.	446285-2-58-01 (FY25) LAP - Port Orange Agreement w COPO signature pg	446285-2-58-01 (FY25) LAP - Port Orange Agreement NO Attest.pdf

Lisa Epstein	Created/Initiated - 1/17/2025
Tim Burman	Approved - 1/19/2025
Linda Truitt	Approved - 1/22/2025
Shannon Balmer	Approved - 1/29/2025
Wayne Clark	Final Approval - 1/29/2025

RESOLUTION NO. 25-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A LOCAL AGENCY PROGRAM AGREEMENT FOR FPN 446285-2-58-01, FOR CONSTRUCTION OF WILLOW RUN BOULEVARD SIDEWALK PROJECT (FROM HARMS WAY TO CLYDE MORRIS BOULEVARD); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to facilitate the Local Agency Program (LAP) Agreement for construction of Willow Run Boulevard Sidewalk Project (from Harms Way to Clyde Morris Boulevard); and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 446285-2-58-01.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement, and any Supplemental Agreements to the Local Agency Program Agreement for the aforementioned project, Financial Project Number (FPN) 446285-2-58-01.

Section 2. This resolution shall become effective immediately upon adoption.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROGRAM MANAGEMENT
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FPN: <u>446285-2-58-01</u>	FPN: _____	FPN: _____
Federal No (FAIN): <u>D524 063 B</u>	Federal No (FAIN): _____	Federal No (FAIN): _____
Federal Award Date: _____	Federal Award Date: _____	Federal Award Date: _____
Fund: <u>LF, SU</u>	Fund: _____	Fund: _____
Org Code: <u>55054010508</u>	Org Code: _____	Org Code: _____
FLAIR Approp: <u>088717</u>	FLAIR Approp: _____	FLAIR Approp: _____
FLAIR Obj: <u>780000</u>	FLAIR Obj: _____	FLAIR Obj: _____
County No: <u>79</u>	Contract No: _____	
Recipient Vendor No: <u>F596000412003</u>	Recipient Unique Entity ID (UEI) No: <u>LV8ZD1LYF3H4</u>	

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on _____, by and between the State of Florida Department of Transportation, an agency
(This date to be entered by DOT only)
of the State of Florida ("Department"), and the City of Port Orange ("Recipient").

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard) project, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before January 31, 2026. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
 - a. The estimated cost of the Project is \$ 306,577.00 (Three Hundred Six Thousand Five Hundred Seventy-Seven Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$267,777.00 (Two Hundred Sixty-Seven Thousand Seven Hundred Seventy-Seven Dollars and No/100) and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROGRAM MANAGEMENT
OGC/OOC- 07/24
Page 2 of 15

- c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:
- i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;
 - ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
 - iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
 - iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

5. Requisitions and Payments

- a. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
 - b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
 - c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
 - d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, Contract Payment Requirements.
 - e. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
 - f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.
- ☐ If this box is selected, advance payment is authorized for this Agreement and **Exhibit "H"**, Alternative Advance Payment Financial Provisions is attached and incorporated into this Agreement.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department,

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provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g.** Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to an Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h.** The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i.** Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- j.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k.** The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.

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- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

6. Department Payment Obligations:

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's **Local Agency Program Manual** (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

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- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
 - i. Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
 - ii. Maintains familiarity of day to day Project operations, including Project safety issues;
 - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
 - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
 - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
 - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.
- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.

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- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.
- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (“CFO”), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
 - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “E”** to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

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- iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient's resources obtained from other than federal entities).
- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse (“FAC”) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
 - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 - 3. Wholly or partly suspend or terminate the federal award;
 - 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
 - 5. Withhold further federal awards for the Project or program;
 - 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

9. Termination or Suspension of Project:

The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

10. Contracts of the Recipient:

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally

delivered projects. Defect management and supervision of LAP project structures components must be proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

12. Compliance with Conditions and Laws:

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

13. Performance Evaluations:

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

14. Restrictions, Prohibitions, Controls, and Labor Provisions:

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts

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with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public 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.
- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

15. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

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- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

16. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

- ☒ shall
☐ shall not
☐ N/A

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maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

17. Miscellaneous Provisions:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.

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- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.
- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
 - ii. expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

18. Exhibits:

- a. Exhibits "A", "B", "C", "D", "E" and "F" are attached to and incorporated into this Agreement.
- b. ☒ If this Project includes Phase 58 (construction) activities, then **Exhibit "G"**, FHWA FORM 1273, is attached and incorporated into this Agreement.
- c. ☐ Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. ☐ State funds are used on this Project. If state funds are used on this Project, then **Exhibit "I"**, State Funds Addendum, is attached and incorporated into this Agreement. **Exhibit "J"**, State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.

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- e. ☐ This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- f. ☐ This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit "L"**, Landscape Maintenance, is attached and incorporated into this Agreement.
- g. ☐ This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit "M"**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- h. ☐ This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit "N"**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- i. ☒ A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit "O"**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- j. ☐ The following Exhibit(s) are attached and incorporated into this Agreement: N/A.

k. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities

Exhibit B: Schedule of Financial Assistance

Exhibit C: Title VI Assurances

Exhibit D: Recipient Resolution

Exhibit E: Federal Financial Assistance (Single Audit Act)

Exhibit F: Contract Payment Requirements

* Exhibit G: FHWA Form 1273

* Exhibit H: Alternative Advance Payment Financial Provisions

* Exhibit I: State Funds Addendum

* Exhibit J: State Financial Assistance (Florida Single Audit Act)

* Exhibit K: Advance Project Reimbursement

* Exhibit L: Landscape Maintenance

* Exhibit M: Roadway Lighting Maintenance

* Exhibit N: Traffic Signal Maintenance

* Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

* Additional Exhibit(s): N/A.

*** Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT CITY OF PORT ORANGE

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: See Attached Signature Page
Name:
Title:

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

Legal Review:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT:

City of Port Orange, Florida municipal
Corporation

BY: _____
Scott Stiltner, Mayor

Attest: _____
Robin L. Fenwick, City Clerk

EXHIBIT A**PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 446285-2-58-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and the City of Port Orange (the Recipient)

PROJECT LOCATION:

- ☐ The project is on the National Highway System.
- ☐ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: See Project Description Below

PROJECT DESCRIPTION:

The Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard) project is with the City of Port Orange (Recipient). This is a sidewalk project to enhance pedestrian connectivity. The project limits on Willow Run Boulevard are from just west of Harms Way to Clyde Morris Boulevard for a total length of 1,298 feet. Total project length is 1,298 feet (0.24 miles).

The proposed improvements along Willow Run Boulevard include the construction of a five to eight-foot-wide concrete sidewalk along the south side of Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard), Type F curb and gutter, detectable warnings, crosswalks, milling and resurfacing of affected crosswalks, a service driveway, and drainage. Drainage improvements include an inlet and a pipe culvert.

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, excavation, embankment, removal of existing concrete, pavement markings, signing, and sod.

The proposed sidewalk on the south side of Willow Run Boulevard will be tied into the existing sidewalk at the southwest corner of the intersection of Clyde Morris Boulevard which is on the National Highway System.

The following items are not eligible for reimbursement and will be locally funded:

- Item 0107-1 Litter Removal
- Item 0107-2 Mowing
- Thicker sidewalk depth on either side of the proposed driveway at approximate station 63+90
 - o Item 0522-2 Sidewalk Concrete and Driveways, 6-inch thick (27 Square Yards)

All pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required and has been coordinated. Utility coordination will be required during construction and utility work schedules have been developed. The City of Port Orange (Recipient) is coordinating permitting requirements with the St Johns Water Management District. The City of Port Orange (Recipient) shall construct the project within the limits of the existing right-of-way or easements of the City of Port Orange (Recipient) and Volusia County.

SPECIAL CONSIDERATIONS BY RECIPIENT:

Exhibit O – Terms and Conditions of Construction in Department Right-of-Way is included in all agreements. This exhibit

is only applicable if the Project involves construction on, under, or over the Department's right-of-way.

Based on the Recipient's Moderate financial risk level, this project requires submission and review of the "Project Monitoring Status Report," invoices and supporting documentation no more often than monthly and no less than quarterly. The initial invoice and progress report will be submitted within 180 days of the Department's Notice to Proceed and no more often than monthly and no less than quarterly thereafter. Required documents should be submitted via email to D5-ConstructionSpecialProjects@dot.state.fl.us.

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

- a) Construction contract to be let (Bid Opening) by May 07, 2025.
- b) Construction Duration of 90 days.
- c) Construction to be completed (Final Acceptance) by September 15, 2025.

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

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Invoice payments will be made on a pro-rata basis as a percentage of the federal funding amount compared to the actual award amount. Any contract changes/claims which result in federal aid ineligible cost and/or time will be the sole responsibility of the Recipient. Such changes may include, but are not limited to, premium costs due to Design or CEI errors or omissions, repairing items that had not been properly maintained, additional contract time and/or costs occurring from utility delays, differing site conditions or other unforeseen conditions.

In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible for providing the additional funds that are necessary to complete the Project.

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

CEI services for this project are being provided through the District's Continuing Services CEI contract (CSC). Federal funds in the amount of \$120,227.00, representing the negotiated CEI contract amount, have been programmed on the project (446285-1-62-01). Should costs for federally eligible items exceed the programmed amount and additional federal funding is not available, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project. Federal funds utilized on the District CSC are not subject to Exhibit "E" - Federal Financial Assistance (Single Audit Act). The Recipient will be solely responsible for CEI costs for federally ineligible items that require CEI services.

The River to Sea TPO has established a 10% local match for this project. Invoice payments will be pro-rated to account for this match requirement.

The remainder of this page intentionally left blank.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS: City of Port Orange 1000 City Center Circle Port Orange, Florida 32129	FINANCIAL PROJECT NUMBER: 446285-2-58-01
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PHASE OF WORK By Fiscal Year	MAXIMUM PARTICIPATION			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
Design- Phase 38				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Design Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Right-of-Way- Phase 48				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Right-of-Way Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Construction- Phase 58				
FY: 2024-2025 (LAP)	\$ <u>306,577.00</u>	\$ <u>38,800.00</u>	\$ <u>0.00</u>	\$ <u>267,777.00</u>
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Construction Cost	\$ 306,577.00	\$ 38,800.00	\$ 0.00	\$ 267,777.00
Construction Engineering and Inspection (CEI)- Phase 68				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total CEI Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
(Insert Phase)				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Phase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL COST OF THE PROJECT	\$ 306,577.00	\$ 38,800.00	\$ 0.00	\$ 267,777.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Precious L. Lewis
 District Grant Manager Name

 Signature Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT C****TITLE VI ASSURANCES**

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") **Title 49, Code of Federal Regulations, Part 21**, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation*, or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, or *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(7.) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT E****FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)****FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Site: https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Award Amount: \$267,777.00
Awarding Agency: Florida Department of Transportation
Award is for: No
R&D:
Indirect Cost: N/A
Rate:

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code

<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code

<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”)

<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.pdf>

Federal Highway Administration – Florida Division

<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)

<https://www.fsrs.gov/>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT F****CONTRACT PAYMENT REQUIREMENTS**
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address

<https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT G

**FHWA FORM 1273
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – COMPLIANCE
WITH FHWA 1273.**

The FHWA-1273 version dated October 23, 2023 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:

<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT H****ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS**

If payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes:

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Recipient's contractor(s) or consultant(s).
2. All of the Recipient's costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Recipient shall clearly separate the cost of the contractor(s) or consultant(s) from the Recipient's costs billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor's or consultant's invoice(s), to substantiate the cost on the invoice.
5. The Recipient must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Recipient must contain a statement from the Recipient that the previous month's cost incurred by the contractor(s) or consultant(s) has been paid by the Recipient to the contractor(s) or consultant(s).

EXHIBIT O**TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY****Section 17.g. of the Agreement is amended as follows for Construction on the Department's Right of Way.**

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

- a.** The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

- b.** The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is D5-ConstructionSpecialProjects@dot.state.fl.us.
- c.** The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- d.** The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- e.** The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- f.** It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

- g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.
- i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
- k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.
- o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

- p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- r. Restricted hours of operation will be from TO BE DETERMINED PRIOR TO CONSTRUCTION, (DAYS OF THE WEEK FOR RESTRICTED OPERATION TO BE DETERMINED), unless otherwise approved by the Operations Engineer, or designee.
- s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

D5-PIO@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B8) Resolution No. 25-05 - Approval of Local Agency Program (LAP) Agreement 448772 for the Williamson Blvd./Willow Run Blvd. Sidewalk from south of Town Park Dr. to Chardonay Dr.

DEPARTMENT: Community Development

GOAL: 1 - Public Safety

2 - Infrastructure

3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 25-05, approving the Local Agency Program (LAP) Agreement for the construction of the Williamson Blvd./Willow Run Blvd. Sidewalk Project and authorizing the Mayor and City Clerk to execute the Agreement and Resolution.

SUMMARY: The project associated with this Florida Department of Transportation (FDOT) Local Agency Program (LAP) Agreement is for the Williamson Blvd./Willow Run Blvd. sidewalk project (FDOT #448772).

On September 18, 2024, as part of the FY 25-29 Capital Improvements Program (CIP), the City approved the proposed budget to include funds for the construction of this sidewalk identified in Port Orange Project #CD244. The project consists of the installation of a 12-foot wide shared-use asphalt path along the north side of Willow Run Boulevard, starting at the west end of the existing Willow Run Trail at Chardonay Drive and continuing along the east side of Williamson Boulevard, connecting with the existing sidewalk at the south end of Town Park subdivision for a total length of 2,806 feet (0.53 miles). The project also includes pedestrian improvements across Willow Run Boulevard at Chardonay Drive and Hidden Lake Drive. Construction is anticipated to begin in the summer of 2025 and be complete within 120 days after the Notice to Proceed is issued.



Completing this project will provide a safe route for residents living on the north side of Willow Run Boulevard to access City parks, schools, and the existing sidewalk network. This project also fills a gap in the existing sidewalk network, which includes the 8-foot-wide sidewalk on Williamson Boulevard at the south end of the Town Park Subdivision and an existing 12-foot trail on the north side of Willow Run Boulevard east of Chardonnay Drive.

Funding in the Agreement has been adjusted based on the estimate of construction costs and the negotiated Construction Engineering and Inspection (CEI) contract fee. CEI services will be performed under a continuing services contract (CSC) procured by FDOT District 5. Initially, the City was responsible for funding the CEI, but now it will be funded with federal funds. The city is responsible for a 15% CEI Contingency amount of \$22,906. The local funds initially allocated toward CEI cost will be allocated to the construction cost for the project. Resolution No. 25-08 on this agenda establishes the City's contribution and procedure to fund the CEI phase.

The Volusia-Flagler TPO and FDOT have agreed to fund 86.9% of the cost for Construction in an amount not to exceed \$428,322. The City's contribution toward construction costs is \$64,559, or 13.1% of the \$492,881 estimated construction cost. Funds are budgeted and available in Project #CD244 for this purpose. Approval of this Resolution and LAP Agreement will allow the project to go out to bid and start construction in the Summer of 2025.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Resolution No. 25-05 LAP Agreement Williamson Willow Run	Resolution No. 25-05 LAP Agreement Williamson Willow Run.pdf
2.	448772-2-58-01 (FY25) - LAP - Williamson Blvd Agreement w COPO signature pg	448772-2-58-01 (FY25) - LAP - Williamson Blvd Agreement w COPO signature pg.pdf

Lisa Epstein
 Tim Burman
 Linda Truitt
 Shannon Balmer
 Wayne Clark

Created/Initiated - 1/17/2025
 Approved - 1/19/2025
 Approved - 1/22/2025
 Approved - 1/29/2025
 Final Approval - 1/29/2025

RESOLUTION NO. 25-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A LOCAL AGENCY PROGRAM AGREEMENT FOR FPN 448772-2-58-01, FOR CONSTRUCTION OF WILLIAMSON BOULEVARD/WILLOW RUN BOULEVARD SIDEWALK PROJECT (FROM SOUTH OF TOWN PARK DRIVE TO CHARDONNAY); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to facilitate the Local Agency Program (LAP) Agreement for construction of Williamson Boulevard/Willow Run Boulevard Project (from south of Town Park Drive to Chardonney); and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 448772-2-58-01.

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

Section 1. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement, and any Supplemental Agreements to the Local Agency Program Agreement for the aforementioned project, Financial Project Number (FPN) 448772-2-58-01.

Section 2. This resolution shall become effective immediately upon adoption.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

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FPN: <u>448772-2-58-01</u>	FPN: _____	FPN: _____
Federal No (FAIN): <u>D524 078 B</u>	Federal No (FAIN): _____	Federal No (FAIN): _____
Federal Award Date: _____	Federal Award Date: _____	Federal Award Date: _____
Fund: <u>LF, SU</u>	Fund: _____	Fund: _____
Org Code: <u>55054010508</u>	Org Code: _____	Org Code: _____
FLAIR Approp: <u>088717</u>	FLAIR Approp: _____	FLAIR Approp: _____
FLAIR Obj: <u>780000</u>	FLAIR Obj: _____	FLAIR Obj: _____
County No: <u>79</u>	Contract No: _____	
Recipient Vendor No: <u>F596000412018</u>	Recipient Unique Entity ID (UEI) No: <u>LV8ZD1LYF3H4</u>	

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on _____, by and between the State of Florida Department of Transportation, an agency
(This date to be entered by DOT only)
of the State of Florida ("Department"), and the City of Port Orange ("Recipient").

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the Williamson Boulevard / Willow Run Boulevard (from south of Town Park Drive to Chardonay) project, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before February 28, 2026. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
 - a. The estimated cost of the Project is \$ 492,881.00 (Four Hundred Ninety-Two Thousand Eight Hundred Eighty-One Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$428,322.00 (Four Hundred Twenty-Eight Thousand Three Hundred Twenty-Two Dollars and No/100) and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.

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- c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:
- i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;
 - ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
 - iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
 - iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

5. Requisitions and Payments

- a. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
 - b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
 - c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
 - d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, Contract Payment Requirements.
 - e. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
 - f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.
- ☐ If this box is selected, advance payment is authorized for this Agreement and **Exhibit "H"**, Alternative Advance Payment Financial Provisions is attached and incorporated into this Agreement.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department,

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provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g.** Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to an Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h.** The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i.** Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- j.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k.** The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.

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- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

6. Department Payment Obligations:

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's **Local Agency Program Manual** (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

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- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
- i. Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
 - ii. Maintains familiarity of day to day Project operations, including Project safety issues;
 - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
 - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
 - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
 - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.
- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.

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- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.
- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (“CFO”), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
 - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “E”** to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

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- iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient's resources obtained from other than federal entities).
- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse (“FAC”) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
 - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 - 3. Wholly or partly suspend or terminate the federal award;
 - 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
 - 5. Withhold further federal awards for the Project or program;
 - 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

9. Termination or Suspension of Project:

The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

10. Contracts of the Recipient:

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally

delivered projects. Defect management and supervision of LAP project structures components must be proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

12. Compliance with Conditions and Laws:

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

13. Performance Evaluations:

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

14. Restrictions, Prohibitions, Controls, and Labor Provisions:

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts

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with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public 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.
- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

15. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

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- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

16. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

- ☒ shall
☐ shall not
☐ N/A

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maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

17. Miscellaneous Provisions:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.

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- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.
- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
 - ii. expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

18. Exhibits:

- a. **Exhibits "A", "B", "C", "D", "E" and "F"** are attached to and incorporated into this Agreement.
- b. ☒ If this Project includes Phase 58 (construction) activities, then **Exhibit "G"**, FHWA FORM 1273, is attached and incorporated into this Agreement.
- c. ☐ Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. ☐ State funds are used on this Project. If state funds are used on this Project, then **Exhibit "I"**, State Funds Addendum, is attached and incorporated into this Agreement. **Exhibit "J"**, State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.

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- e. ☐ This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- f. ☐ This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit "L"**, Landscape Maintenance, is attached and incorporated into this Agreement.
- g. ☒ This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit "M"**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- h. ☐ This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit "N"**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- i. ☒ A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit "O"**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- j. ☐ The following Exhibit(s) are attached and incorporated into this Agreement: N/A.

k. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities

Exhibit B: Schedule of Financial Assistance

Exhibit C: Title VI Assurances

Exhibit D: Recipient Resolution

Exhibit E: Federal Financial Assistance (Single Audit Act)

Exhibit F: Contract Payment Requirements

* Exhibit G: FHWA Form 1273

* Exhibit H: Alternative Advance Payment Financial Provisions

* Exhibit I: State Funds Addendum

* Exhibit J: State Financial Assistance (Florida Single Audit Act)

* Exhibit K: Advance Project Reimbursement

* Exhibit L: Landscape Maintenance

* Exhibit M: Roadway Lighting Maintenance

* Exhibit N: Traffic Signal Maintenance

* Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

* Additional Exhibit(s): N/A.

*** Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT CITY OF PORT ORANGE

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: See Attached Signature Page
Name:
Title:

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

Attest: _____

Legal Review:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT:

City of Port Orange, Florida municipal
Corporation

BY: _____
Scott Stiltner, Mayor

Attest: _____
Robin L. Fenwick, City Clerk

EXHIBIT A**PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 448772-2-58-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and
the City of Port Orange (the Recipient)

PROJECT LOCATION:

- ☒ The project is on the National Highway System.
- ☐ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: See Project Description Below

PROJECT DESCRIPTION:

The Williamson Boulevard / Willow Run Boulevard (from south of Town Park Drive to Chardonnay Drive) project is with the City of Port Orange (Recipient). This is a shared use path project to enhance pedestrian connectivity. The project limits on Willow Run Boulevard are from Williamson Boulevard to approximately 225 feet to the east of Chardonnay Drive for an approximate total length of 1,319 feet, and approximately 86 feet to the west of Hidden Lake Drive to approximately 113 feet to the east of Hidden Lake Drive for an approximate total length of 199 feet. The limits on Williamson Boulevard are from Willow Run Boulevard to approximately 1,288 feet to the north of the intersection of Williamson Boulevard and Willow Run. Total project length is approximately 2,806 feet (0.53 miles).

The proposed improvements along Willow Run Boulevard include the construction of a 12-foot wide shared use asphalt path along the north side of Willow Run Boulevard from Williamson Boulevard to Chardonnay Drive, Type F curb and gutter, milling and resurfacing of affected crosswalks at the intersection of Hidden Lake Drive, installation of Rectangular Rapid Flashing Beacon (RRFB) at the intersection of Hidden Lake Drive, concrete curb ramps, and detectable warnings.

The proposed improvements along Williamson Boulevard include the construction of a 12-foot-wide shared use asphalt path along the east side of Williamson Boulevard, turnout construction/driveway, and drainage. Drainage improvements include pipe culvert and a mitered end section

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, excavation, embankment, removal of existing concrete, pavement markings, signing, and sod.

Williamson Boulevard is on the National Highway System.

The following items are not eligible for reimbursement and will be locally funded:

- Item 0107-1 Litter Removal
- Item 0107-2 Mowing

All pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required and has been coordinated. Utility coordination will be required during construction and utility work schedules have been developed. Roadway lighting will be included with this project and will be completed by Florida Power and Light. The City of Port Orange (Recipient) is coordinating permitting requirements with the St. Johns River Water Management District. The City of Port Orange (Recipient) shall construct the project within the limits of the existing right-of-way or easements of

the City of Port Orange (Recipient) and Volusia County.

SPECIAL CONSIDERATIONS BY RECIPIENT:

Exhibit O – Terms and Conditions of Construction in Department Right-of-Way is included in all agreements. This exhibit is only applicable if the Project involves construction on, under, or over the Department's right-of-way.

Based on the Recipient's High financial risk level, this project requires submission and review of the "Project Monitoring Status Report," invoices and supporting documentation monthly. The initial invoice and progress report will be submitted within 180 days of the Department's Notice to Proceed and monthly thereafter. Required documents should be submitted via email to D5-ConstructionSpecialProjects@dot.state.fl.us.

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

- a) Construction contract to be let (Bid Opening) by May 07, 2025.
- b) Construction Duration of 120 days.
- c) Construction to be completed (Final Acceptance) by October 15, 2025.

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

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Invoice payments will be made on a pro-rata basis as a percentage of the federal funding amount compared to the actual award amount. Any contract changes/claims which result in federal aid ineligible cost and/or time will be the sole responsibility of the Recipient. Such changes may include, but are not limited to, premium costs due to Design or CEI errors or omissions, repairing items that had not been properly maintained, additional contract time and/or costs occurring from utility delays, differing site conditions or other unforeseen conditions.

In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible for providing the additional funds that are necessary to complete the Project.

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

CEI services for this project are being provided through the District's Continuing Services CEI contract (CSC). Federal funds in the amount of \$152,705.00, representing the negotiated CEI contract amount, have been programmed on the project (448772-1-62-01). Should costs for federally eligible items exceed the programmed amount and additional federal funding is not available, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project. Federal funds utilized on the District CSC are not subject to Exhibit "E" - Federal Financial Assistance (Single Audit Act). The Recipient will be solely responsible for CEI costs for federally ineligible items that require CEI services.

The Volusia Flagler TPO has established a 10% local match for this project. Invoice payments will be pro-rated to account for this match requirement.

The remainder of this page intentionally left blank.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS: City of Port Orange 1000 City Center Circle Port Orange, Florida 32129	FINANCIAL PROJECT NUMBER: 448772-2-58-01
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PHASE OF WORK By Fiscal Year	MAXIMUM PARTICIPATION			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
Design- Phase 38				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Design Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Right-of-Way- Phase 48				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Right-of-Way Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Construction- Phase 58				
FY: 2024-2025 (LAP)	\$ <u>492,881.00</u>	\$ <u>64,559.00</u>	\$ <u>0.00</u>	\$ <u>428,322.00</u>
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Construction Cost	\$ 492,881.00	\$ 64,559.00	\$ 0.00	\$ 428,322.00
Construction Engineering and Inspection (CEI)- Phase 68				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total CEI Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
(Insert Phase)				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Phase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL COST OF THE PROJECT	\$ 492,881.00	\$ 64,559.00	\$ 0.00	\$ 428,322.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Precious L. Lewis
 District Grant Manager Name

 Signature Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT C****TITLE VI ASSURANCES**

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") **Title 49, Code of Federal Regulations, Part 21**, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation*, or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, or *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(7.) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT E****FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)****FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Site: https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Award Amount: \$428,322.00
Awarding Agency: Florida Department of Transportation
Award is for: No
R&D:
Indirect Cost: N/A
Rate:

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code

<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code

<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”)

<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.pdf>

Federal Highway Administration – Florida Division

<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)

<https://www.fsrs.gov/>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT F****CONTRACT PAYMENT REQUIREMENTS**
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address

<https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT G

**FHWA FORM 1273
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – COMPLIANCE
WITH FHWA 1273.**

The FHWA-1273 version dated October 23, 2023 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:

<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT H****ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS**

If payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes:

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Recipient's contractor(s) or consultant(s).
2. All of the Recipient's costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Recipient shall clearly separate the cost of the contractor(s) or consultant(s) from the Recipient's costs billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor's or consultant's invoice(s), to substantiate the cost on the invoice.
5. The Recipient must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Recipient must contain a statement from the Recipient that the previous month's cost incurred by the contractor(s) or consultant(s) has been paid by the Recipient to the contractor(s) or consultant(s).

**EXHIBIT “M”
ROADWAY LIGHTING MAINTENANCE**

Paragraph 16 is modified to include the following provisions:

1. Maintenance

a) The Recipient shall, at its sole cost and expense, maintain the existing or to-be-installed roadway lighting system throughout its expected useful life unless and until this exhibit is superseded by a State Highway Maintenance and Compensation Agreement.

b) In maintaining the roadway lighting system, the Recipient shall perform all activities necessary to keep the roadway lighting system fully and properly functioning, with a minimum of 90% lights fully functioning for any lighting type (e.g., high mast, standard, under deck, sign) or roadway system at all times for their normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage or acts of nature. Said maintenance shall include, but not limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the facilities (including the poles and any and all other component parts installed as part of the facilities), and the locating (both vertically and horizontally) of the facilities as may be necessary.

c) All maintenance shall be in accordance with the provisions of the following:

(1) Manual of Uniform Traffic Control Devices (MUTCD); and

(2) All other applicable local, state, or federal laws, rules, resolutions, or ordinances and Department procedures.

d) This Exhibit shall remain in force during the life of the originally installed roadway lighting system and/or the life of any replacement roadway lighting system installed with the mutual consent of the parties hereto until superseded by a Roadway Lighting System Maintenance Agreement between the Department and the Recipient.

EXHIBIT O**TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY****Section 17.g. of the Agreement is amended as follows for Construction on the Department's Right of Way.**

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

- a.** The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

- b.** The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is D5-ConstructionSpecialProjects@dot.state.fl.us.
- c.** The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- d.** The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- e.** The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- f.** It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

- g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.
- i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
- k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.
- o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

- p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- r. Restricted hours of operation will be from TO BE DETERMINED PRIOR TO CONSTRUCTION, (DAYS OF THE WEEK FOR RESTRICTED OPERATION TO BE DETERMINED), unless otherwise approved by the Operations Engineer, or designee.
- s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

D5-PIO@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B9) Resolution No. 25-07 - Approval of FDOT Locally Funded Agreement 446285-1-62-02 Construction Engineering Inspection (CEI) for the Willow Run Blvd Sidewalk from Harms Way to Clyde Morris Blvd

DEPARTMENT: Community Development

GOAL: 1 - Public Safety

2 - Infrastructure

3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 25-07, approving the Locally Funded Agreement for 446285-1-62-02 for Construction Engineering Inspection (CEI) and the associated Three Party Escrow Agreement for the Willow Run Blvd Sidewalk Project from Harms Way to Clyde Morris Blvd, and authorizing the Mayor and City Clerk to execute all Agreements and the Resolution.

SUMMARY: The Florida Department of Transportation (FDOT) Local Funding Agreement (LFA) is for the Construction Engineering Inspection (CEI) services required for the construction of a sidewalk on the south side of Willow Run Boulevard from Harms Way to Clyde Morris Boulevard (FDOT #446285). CEI is required for this project to ensure that the contractor adheres to safety standards, regulatory requirements, and completes the project according to the approved plans. For this project, the City will utilize DRMP, FDOT District 5's contract Construction Engineering Inspection (CEI) consultant.

On September 18, 2024, as part of the FY 25-29 Capital Improvements Program (CIP), the City approved the proposed budget to include funds for the construction of this sidewalk identified in Port Orange Project #CD184. The project consists of installing an eight-foot-wide concrete sidewalk along the south side of Willow Run Boulevard from the intersection of Harms Way to Clyde Morris Boulevard, a distance of 1,298 feet (0.24 miles). The project also includes milling and resurfacing of affected crosswalks for ADA compliance. Construction is anticipated to begin in the summer of 2025 and be completed within 90 days after the Notice to Proceed is issued. Completing this project will improve the safety of pedestrians accessing the City Center area, schools, and the existing sidewalk network and eliminate the need to use the Willow Run Boulevard shoulder.



The negotiated CEI fee for this project is \$120,226.97. Initially, the City was responsible for funding the CEI, but now it will be funded by federal funds. However, the City is responsible for a 15% CEI Contingency in the amount of \$18,035 ("Contingency"). Pursuant to the Locally Funded Agreement, the Contingency is subject to an escrow agreement that is being approved as part of this agenda item. The Locally Funded Agreement stipulates that the City shall furnish the FDOT with an advance deposit of the Contingency within 14 calendar days of the execution of this Agreement. Funds are budgeted and available in Project #CD184 for this purpose. Approval of this Resolution and Locally Funded Agreement will facilitate the issuance of a Notice to Proceed to the CEI consultant in summer 2025, which aligns with the project construction schedule. The overall City's contribution toward Construction and CEI is \$56,836, or 10.5% of the \$541,251 estimated project cost.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Resolution No. 25-07	Resolution No. 25-07 .pdf
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2.	446285-1-62-02 LAP CEI Contingency LFA - Willow Run	446285-1-62-02 LAP CEI Contingency LFA - Willow Run w attest.pdf
3.	446285-1-62-02 Three Party Escrow Agreement w COPO signature pg	446285-1-62-02 Three Party Escrow Agreement w COPO signature pg.pdf

Margaret Tomlinson	Created/Initiated - 1/17/2025
Tim Burman	Approved - 1/19/2025
Linda Truitt	Approved - 1/22/2025
Shannon Balmer	Approved - 1/29/2025
Wayne Clark	Final Approval - 1/29/2025

RESOLUTION NO. 25-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A LOCALLY FUNDED AGREEMENT AND ASSOCIATED THREE PARTY ESCROW AGREEMENT BETWEEN THE CITY OF PORT ORANGE, FLORIDA AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR FPN 446285-1-62-02 FOR CONSTRUCTION ENGINEERING INSPECTION SERVICES FOR THE WILLOW RUN BOULEVARD SIDEWALK PROJECT (FROM HARMS WAY TO CLYDE MORRIS BOULEVARD); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ALL NECESSARY AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to enter into a Locally Funded Agreement for construction engineering inspection services (CEI) for the Willow Run Boulevard Sidewalk Project (from Harms Way to Clyde Morris Boulevard); and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the Locally Funded Agreement and the associated Three Party Escrow Agreement for the aforementioned project, FPN 446285-1-62-02. `

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

Section 1. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Locally Funded Agreement, and the related Three Party Escrow Agreement, and any Supplemental Agreements to the Locally Funded Agreement for the aforementioned project, Financial Project Number (FPN) 446285-1-62-02.

Section 2. This resolution shall become effective immediately upon adoption.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

Agency: City of Port Orange Vendor No: F596000412003	Fund: LF Contract Amount: \$18,035.00	Financial Project No.: 446285-1-62-02
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**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PORT ORANGE**

This **AGREEMENT**, made and entered into _____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter
referred to as the "DEPARTMENT") and the CITY OF PORT ORANGE (hereinafter referred to
as the "LOCAL GOVERNMENT"),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this
Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached
hereto, as Exhibit "B", and made apart hereof, has authorized its officers to execute this
Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year
Work Program, to undertake the Construction Engineering and Inspection (CEI) services for the
project described as: "Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard)",
said project being known as Financial Project Number (FPN) 446285-1-62-01, hereinafter
referred to as the "Project"; and

WHEREAS, the Project is not revenue producing and is contained in the Adopted Work
Program; and

WHEREAS, the implementation of the Project is in the interests of both the
DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious,
and economical for the LOCAL GOVERNMENT to provide a portion of the funds for the CEI
services of the Project in Fiscal Year 2024/2025, said portion of the Project being known as
FPN 446285-1-62-02, and said costs hereinafter referred to as "Federal-Aid Non-Participating
Costs;" and

WHEREAS, in order to maintain uniformity throughout the Project and to provide for the
Federal-Aid Non-Participating Costs in a cost-effective manner, the LOCAL GOVERNMENT
desires to provide funding to the DEPARTMENT to be used for the Federal-Aid Non-
Participating Costs, as described in "Exhibit A".

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the LOCAL GOVERNMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall undertake and complete the CEI services for the Project using the Federal-Aid Non-Participating Costs described in Exhibit "A".

3. The DEPARTMENT shall perform the CEI services for the Project. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The LOCAL GOVERNMENT shall not have any jurisdiction or control over the DEPARTMENT'S activities, except as specifically stated in this Agreement. The LOCAL GOVERNMENT shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

4. Contribution by the LOCAL GOVERNMENT of the funds for the CEI phase of the Project shall be made as follows:

(A) The LOCAL GOVERNMENT and the DEPARTMENT agree to share the cost for CEI services of the Project. The LOCAL GOVERNMENT agrees to provide 100% of the Federal-Aid Non-Participating Costs required for the CEI services and the DEPARTMENT agrees to provide the federal funds for the federal participating share of the CEI services, up to **\$120,227.00 (One Hundred Twenty Thousand Two Hundred Twenty-Seven Dollars and No/100).**

(B) The share of the LOCAL GOVERNMENT shall be, at a minimum, the stated percentage of the actual Federal-Aid Non-Participating Costs of the project. However, in the event the federal government fails to provide an amount which is equal to the anticipated federal participating share, the LOCAL GOVERNMENT shall be responsible for 100% of the funds required to make up the shortfall, including cost overruns and/or supplemental agreements not paid by federal funds. The DEPARTMENT is only responsible for the stated federal participating share as described in paragraph 4(A). The Project is off the "State Highway System", therefore, in

accordance with Section 339.08(1), F.S., State funding cannot be used for payments of non-participating costs on this Project.

(C) Should such shortfalls occur, due to a determination that said costs are non-participating, the LOCAL GOVERNMENT agrees to provide, without delay adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the shortfall. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent there is a shortfall; however, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation of Federal-Aid Non-Participating Costs during the project and on final accounting, as provided herein below.

(D) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this Project is **\$120,227.00 (One Hundred Twenty Thousand Two Hundred Twenty-Seven Dollars and No/100)**. The estimated LOCAL GOVERNMENT share for 100% of the non-federal portion of the project is **\$18,035.00 (Eighteen Thousand Thirty-Five Dollars and No/100)**.

(E) The LOCAL GOVERNMENT agrees that it will, **within at least 14 calendar days of the execution of this Agreement**, furnish the DEPARTMENT an advance deposit in the amount of **\$18,035.00 (Eighteen Thousand Thirty-Five Dollars and No/100)**. The deposit shall be the total estimated Federal-Aid Non-Participating Costs.

(F) If the Federal-Aid Non-Participating Costs are in excess of the advance deposit amount, the LOCAL GOVERNMENT will provide, without delay, an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the Federal-Aid Non-Participating Costs. The DEPARTMENT will notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Non-Participating Costs are in excess of the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below. If the LOCAL GOVERNMENT cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's project manager indicating when the deposit will be made. The LOCAL GOVERNMENT understands the request and approval of the additional time could delay the project, and additional costs may be incurred due to delay of the project.

(G) If the Federal-Aid Non-Participating Costs are less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the LOCAL GOVERNMENT's share of the Federal-Aid Non-Participating Costs if such refund is requested by the LOCAL GOVERNMENT in writing.

(H) Should project modifications occur that increase the Federal-Aid Non-Participating Costs, the LOCAL GOVERNMENT will be notified by the District accordingly. The LOCAL GOVERNMENT agrees to provide, without delay, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Federal-Aid Non-Participating Costs. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Non-Participating Costs will overrun the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below.

(I) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three-hundred and sixty (360) calendar days of final payment to the Consultant. All project cost records and accounts shall be subject to audit by a representative of the LOCAL GOVERNMENT for a period of three (3) years after final close out of the project. The LOCAL GOVERNMENT will be notified of the final cost. The parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the LOCAL GOVERNMENT. If the final accounting is not performed within three-hundred and sixty (360) calendar days, the LOCAL GOVERNMENT is not relieved from its obligation to pay.

(J) In the event said final accounting of total project costs is greater than the total deposits to date, the LOCAL GOVERNMENT will pay the additional amount within forty (40) calendar days from the date of the invoice. The LOCAL GOVERNMENT agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes (F.S.), on any invoice not paid within the forty (40) calendar days until the invoice is paid.

(K) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached escrow agreement between LOCAL GOVERNMENT, DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury.

(L) Contact Persons:

DEPARTMENT

District 5 Local Programs
719 South Woodland Boulevard, M.S. 4-520
DeLand, Florida 32720
(386) 943-5452
D5-LocalPrograms@dot.state.fl.us

District 5 Construction Special Projects
719 South Woodland Boulevard, M.S. 3-506
DeLand, Florida 32720
(386) 943-5406
D5-ConstructionSpecialProjects@dot.state.fl.us

LOCAL GOVERNMENT

Lisa Epstein
Engineering Project Manager
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5667
lepstein@port-orange.org

5. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The LOCAL GOVERNMENT may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.

6. In the event this Agreement is in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

"The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for

in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

7. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by such party in conjunction with this Agreement.

8. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

9. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

10. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

(A) The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the LOCAL GOVERNMENT during the term of the contract; and

(B) The LOCAL GOVERNMENT shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on _____, and the DEPARTMENT has executed this Agreement on _____.

CITY OF PORT ORANGE

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name: Scott Stiltner
Title: Mayor

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

Attest:

Attest:

Robin L. Fenwick

Executive Secretary

Legal Review:

Legal Review:

LOCAL GOVERNMENT Attorney

DEPARTMENT Attorney

Financial Provisions Approval by
Department of Comptroller on:

October 5, 2020

EXHIBIT "A"

SCOPE OF SERVICES

The Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard) project is with the City of Port Orange (LOCAL GOVERNMENT). This is a sidewalk project to enhance pedestrian connectivity. The project limits on Willow Run Boulevard are from just west of Harms Way to Clyde Morris Boulevard for a total length of 1,298 feet. Total project length is 1,298 feet (0.24 miles).

The proposed improvements along Willow Run Boulevard include the construction of a five to eight-foot-wide concrete sidewalk along the south side of Willow Run Boulevard (from Harms Way to Clyde Morris Boulevard), Type F curb and gutter, detectable warnings, crosswalks, milling and resurfacing of affected crosswalks, a service driveway, and drainage. Drainage improvements include an inlet and a pipe culvert.

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, excavation, embankment, removal of existing concrete, pavement markings, signing, and sod.

The proposed sidewalk on the south side of Willow Run Boulevard will be tied into the existing sidewalk at the southwest corner of the intersection of Clyde Morris Boulevard which is on the National Highway System.

The following items are not eligible for reimbursement and will be locally funded:

- Item 0107-1 Litter Removal
- Item 0107-2 Mowing
- Thicker sidewalk depth on either side of the proposed driveway at approximate station 63+90
 - o Item 0522-2 Sidewalk Concrete and Driveways, 6-inch thick (27 Square Yards)

All pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required and has been coordinated. Utility coordination will be required during construction and utility work schedules have been developed. The City of Port Orange (LOCAL GOVERNMENT) is coordinating permitting requirements with the St Johns Water Management District. The City of Port Orange (LOCAL GOVERNMENT) shall construct the project within the limits of the existing right-of-way or easements of the City of Port Orange (LOCAL GOVERNMENT) and Volusia County.

The LOCAL GOVERNMENT will be responsible for providing funds for any shortfalls, including but not limited to cost over runs, Federal-Aid Ineligible Costs and Federal-Aid Non-Participating Costs including the initial amount of **\$18,035.00 (Eighteen Thousand Thirty-Five Dollars and No/100).**

The remainder of this page intentionally left blank.

EXHIBIT "B"

RESOLUTION

The Resolution, or other official authorization, authorizing entry into this Agreement is attached and incorporated into this Agreement.

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), the City of Port Orange ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Willow Run Boulevard (from Harms Way to Clyde Morris
Boulevard)
Project #: 446285-1-62-02
County: Volusia

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.

7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

The remainder of this page is blank.

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

For FDOT-OOC (signature)

Name and Title

59-3024028

Federal Employer I.D. Number

Date

FDOT Legal Review:

For Escrow Agent (signature)

Name and Title

Date

See Attached Signature Page

For PARTICIPANT (signature)

Name and Title

Federal Employer I.D. Number

Date

Three Party Escrow Agreement

City of Port Orange, a Florida
municipal Corporation

BY: _____
Scott Stiltner, Mayor

Attest: _____
Robin L. Fenwick, City Clerk

Federal Employer I.D. Number

Date: _____



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B10) Resolution No. 25-08 - Approval of FDOT Locally Funded Agreement 448772-1-62-02 Construction Engineering Inspection (CEI) for Williamson Blvd / Willow Run Blvd Sidewalk from south of Town Park Dr to Chardonney Dr

DEPARTMENT: Community Development

GOAL: 1 - Public Safety

2 - Infrastructure

3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 25-08, approving the Locally Funded Agreement for 448772-1-62-02 for Construction Engineering Inspection (CEI) and the associated Three Party Escrow Agreement for Williamson Blvd / Willow Run Blvd Sidewalk from south of Town Park Dr to Chardonney Dr, and authorizing the Mayor and City Clerk to execute all Agreements and the Resolution.

SUMMARY: The Florida Department of Transportation (FDOT) Local Funding Agreement (LFA) is for the Construction Engineering Inspection (CEI) services for the Williamson Blvd / Willow Run Blvd sidewalk project (FDOT #448772). CEI is required for this project to ensure that the contractor adheres to the safety standards and regulatory requirements and completes the project according to the approved plans. For this project, the City will utilize DRMP, FDOT District 5's contract Construction Engineering Inspection (CEI) consultant.

On September 18, 2024, as part of the FY 25-29 Capital Improvements Program (CIP), the City approved the proposed budget to include funds for the construction of this sidewalk identified in Port Orange Project #CD244. The project consists of the installation of a 12-foot wide shared-use asphalt path along the north side of Willow Run Boulevard, starting at the west end of the existing Willow Run Trail at Chardonney Drive and continuing along the east side of Williamson Boulevard, connecting with the existing sidewalk at the south end of Town Park subdivision for a total length of 2,806 feet (0.53 miles). The project also includes pedestrian improvements across Willow Run Boulevard at Chardonney Drive and Hidden Lake Drive. Construction is anticipated to begin in the summer of 2025 and be complete within 120 days after the Notice to Proceed is issued.



Completing this project will provide a safe route for residents living on the north side of Willow Run Boulevard to access City parks, schools, and the existing sidewalk network. This project also fills a gap in the existing sidewalk network, which includes the 8-foot-wide sidewalk on Williamson Boulevard at the south end of the Town Park Subdivision and an existing 12-foot trail on the north side of Willow Run Boulevard east of Chardonay Drive.

The negotiated CEI fee for this project is \$152,705. Initially, the City was responsible for funding the CEI, but now it will be funded by federal funds. However, the City is responsible for a 15% CEI Contingency in the amount of \$22,906 ("Contingency"). Pursuant to the Locally Funded Agreement, the Contingency is subject to an escrow agreement that is being approved as part of this agenda item. The Locally Funded Agreement stipulates that the City shall furnish the FDOT with an advance deposit of the Contingency within 14 days of calendar days of the execution of this Agreement. Funds are budgeted and available in Project #CD244 for this purpose. Approval of this Resolution and Locally Funded Agreement will facilitate the issuance of a Notice to Proceed to the CEI consultant in summer 2025, which aligns with the project construction schedule. The overall City's contribution toward CEI and construction costs for this project is \$87,465, or 12.7% of the \$690,033 estimated project cost.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Resolution No. 25-08	Resolution No. 25-08 .pdf
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2.	448772-1-62-02 (FY25) - Contingency LFA - Williamson w attest	448772-1-62-02 (FY25) - Contingency LFA - Williamson w attest.pdf
3.	448772-1-62-02 Three Party Agreement w COPO signature pg	448772-1-62-02 Three Party Agreement w COPO signature pg.pdf

Margaret Tomlinson

Created/Initiated - 1/17/2025

Tim Burman

Approved - 1/19/2025

Linda Truitt

Approved - 1/22/2025

Shannon Balmer

Approved - 1/29/2025

Wayne Clark

Final Approval - 1/29/2025

RESOLUTION NO. 25-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A LOCALLY FUNDED AGREEMENT AND ASSOCIATED THREE PARTY ESCROW AGREEMENT BETWEEN THE CITY OF PORT ORANGE, FLORIDA AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR FPN 448772-1-62-02 FOR CONSTRUCTION ENGINEERING INSPECTION SERVICES FOR THE WILLIAMSON BOULEVARD/WILLOW RUN BOULEVARD SIDEWALK PROJECT (FROM SOUTH OF TOWN PARK DRIVE TO CHARDONNAY); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ALL NECESSARY AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation and the City of Port Orange desire to enter into a Locally Funded Agreement for construction engineering inspection services (CEI) for the Williamson Boulevard/Willow Run Boulevard Sidewalk Project (from south of Town Park Drive to Chardonnay); and

WHEREAS, the State of Florida Department of Transportation has requested the City of Port Orange to execute and deliver to the State of Florida Department of Transportation the Locally Funded Agreement and the associated Three Party Escrow Agreement for the aforementioned project, FPN 448772-1-62-02. `

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

Section 1. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the Mayor and City Clerk to make, execute, and deliver to the State of Florida Department of Transportation the Locally Funded Agreement, and the related Three Party Escrow Agreement, and any Supplemental Agreements to the Locally Funded Agreement for the aforementioned project, Financial Project Number (FPN) 448772-1-62-02.

Section 2. This resolution shall become effective immediately upon adoption.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

Agency: City of Port Orange Vendor No: F596000412018	Fund: LF Contract Amount: \$22,906.00	Financial Project No.: 448772-1-62-02
---	--	--

**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PORT ORANGE**

This **AGREEMENT**, made and entered into _____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter
referred to as the "DEPARTMENT") and the CITY OF PORT ORANGE (hereinafter referred to
as the "LOCAL GOVERNMENT"),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this
Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached
hereto, as Exhibit "B", and made apart hereof, has authorized its officers to execute this
Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year
Work Program, to undertake the Construction Engineering and Inspection (CEI) services for the
project described as: "Williamson Boulevard / Willow Run Boulevard (from south of Town Park
Drive to Chardonay)", said project being known as Financial Project Number (FPN) 448772-1-
62-01, hereinafter referred to as the "Project"; and

WHEREAS, the Project is not revenue producing and is contained in the Adopted Work
Program; and

WHEREAS, the implementation of the Project is in the interests of both the
DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious,
and economical for the LOCAL GOVERNMENT to provide a portion of the funds for the CEI
services of the Project in Fiscal Year 2024/2025, said portion of the Project being known as
FPN 448772-1-62-02, and said costs hereinafter referred to as "Federal-Aid Non-Participating
Costs;" and

WHEREAS, in order to maintain uniformity throughout the Project and to provide for the
Federal-Aid Non-Participating Costs in a cost effective manner, the LOCAL GOVERNMENT
desires to provide funding to the DEPARTMENT to be used for the Federal-Aid Non-
Participating Costs, as described in "Exhibit A".

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the LOCAL GOVERNMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall undertake and complete the CEI services for the Project using the Federal-Aid Non-Participating Costs described in Exhibit "A".

3. The DEPARTMENT shall perform the CEI services for the Project. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The LOCAL GOVERNMENT shall not have any jurisdiction or control over the DEPARTMENT'S activities, except as specifically stated in this Agreement. The LOCAL GOVERNMENT shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

4. Contribution by the LOCAL GOVERNMENT of the funds for the CEI phase of the Project shall be made as follows:

(A) The LOCAL GOVERNMENT and the DEPARTMENT agree to share the cost for CEI services of the Project. The LOCAL GOVERNMENT agrees to provide 100% of the Federal-Aid Non-Participating Costs required for the CEI services and the DEPARTMENT agrees to provide the federal funds for the federal participating share of the CEI services, up to **\$152,705.00 (One Hundred Fifty-Two Thousand Seven Hundred Five Dollars and No/100).**

(B) The share of the LOCAL GOVERNMENT shall be, at a minimum, the stated percentage of the actual Federal-Aid Non-Participating Costs of the project. However, in the event the federal government fails to provide an amount which is equal to the anticipated federal participating share, the LOCAL GOVERNMENT shall be responsible for 100% of the funds required to make up the shortfall, including cost overruns and/or supplemental agreements not paid by federal funds. The DEPARTMENT is only responsible for the stated federal participating share as described in paragraph 4(A). The Project is off the "State Highway System", therefore, in

accordance with Section 339.08(1), F.S., State funding cannot be used for payments of non-participating costs on this Project.

(C) Should such shortfalls occur, due to a determination that said costs are non-participating, the LOCAL GOVERNMENT agrees to provide, without delay adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the shortfall. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent there is a shortfall; however, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation of Federal-Aid Non-Participating Costs during the project and on final accounting, as provided herein below.

(D) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this Project is **\$152,705.00 (One Hundred Fifty-Two Thousand Seven Hundred Five Dollars and No/100)**. The estimated LOCAL GOVERNMENT share for 100% of the non-federal portion of the project is **\$22,906.00 (Twenty-Two Thousand Nine Hundred Six Dollars and No/100)**.

(E) The LOCAL GOVERNMENT agrees that it will, **within at least 14 calendar days of the execution of this Agreement**, furnish the DEPARTMENT an advance deposit in the amount of **\$22,906.00 (Twenty-Two Thousand Nine Hundred Six Dollars and No/100)**. The deposit shall be the total estimated Federal-Aid Non-Participating Costs.

(F) If the Federal-Aid Non-Participating Costs are in excess of the advance deposit amount, the LOCAL GOVERNMENT will provide, without delay, an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the Federal-Aid Non-Participating Costs. The DEPARTMENT will notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Non-Participating Costs are in excess of the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below. If the LOCAL GOVERNMENT cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's project manager indicating when the deposit will be made. The LOCAL GOVERNMENT understands the request and approval of the additional time could delay the project, and additional costs may be incurred due to delay of the project.

(G) If the Federal-Aid Non-Participating Costs are less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the LOCAL GOVERNMENT's share of the Federal-Aid Non-Participating Costs if such refund is requested by the LOCAL GOVERNMENT in writing.

(H) Should project modifications occur that increase the Federal-Aid Non-Participating Costs, the LOCAL GOVERNMENT will be notified by the District accordingly. The LOCAL GOVERNMENT agrees to provide, without delay, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Federal-Aid Non-Participating Costs. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Non-Participating Costs will overrun the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below.

(I) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three-hundred and sixty (360) calendar days of final payment to the Consultant. All project cost records and accounts shall be subject to audit by a representative of the LOCAL GOVERNMENT for a period of three (3) years after final close out of the project. The LOCAL GOVERNMENT will be notified of the final cost. The parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the LOCAL GOVERNMENT. If the final accounting is not performed within three-hundred and sixty (360) calendar days, the LOCAL GOVERNMENT is not relieved from its obligation to pay.

(J) In the event said final accounting of total project costs is greater than the total deposits to date, the LOCAL GOVERNMENT will pay the additional amount within forty (40) calendar days from the date of the invoice. The LOCAL GOVERNMENT agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes (F.S.), on any invoice not paid within the forty (40) calendar days until the invoice is paid.

(K) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached escrow agreement between LOCAL GOVERNMENT, DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury.

(L) Contact Persons:

DEPARTMENT

District 5 Local Programs
719 South Woodland Boulevard, M.S. 4-520
DeLand, Florida 32720
(386) 943-5537
D5-LocalPrograms@dot.state.fl.us

District 5 Construction Special Projects
719 South Woodland Boulevard, M.S. 3-506
DeLand, Florida 32720
(386) 943-5406
D5-ConstructionSpecialProjects@dot.state.fl.us

LOCAL GOVERNMENT

Lisa Epstein
Engineering Project Manager
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5667
lepstein@port-orange.org

5. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The LOCAL GOVERNMENT may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.

6. In the event this Agreement is in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

"The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be

executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

7. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by such party in conjunction with this Agreement.

8. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

9. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

10. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

(A) The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the LOCAL GOVERNMENT during the term of the contract; and

(B) The LOCAL GOVERNMENT shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on _____, and the DEPARTMENT has executed this Agreement on _____.

CITY OF PORT ORANGE

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name: Scott Stiltner
Title: Mayor

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

Attest:

Attest:

Robin L. Fenwick, MMC, City Clerk

Executive Secretary

Legal Review:

Legal Review:

LOCAL GOVERNMENT Attorney

DEPARTMENT Attorney

Financial Provisions Approval by
Department of Comptroller on:

October 5, 2020

EXHIBIT “A”

SCOPE OF SERVICES

The Williamson Boulevard / Willow Run Boulevard (from south of Town Park Drive to Chardonay Drive) project is with the City of Port Orange (LOCAL GOVERNMENT). This is a shared use path project to enhance pedestrian connectivity. The project limits on Willow Run Boulevard are from Williamson Boulevard to approximately 225 feet to the east of Chardonay Drive for an approximate total length of 1,319 feet, and approximately 86 feet to the west of Hidden Lake Drive to approximately 113 feet to the east of Hidden Lake Drive for an approximate total length of 199 feet. The limits on Williamson Boulevard are from Willow Run Boulevard to approximately 1,288 feet to the north of the intersection of Williamson Boulevard and Willow Run. Total project length is approximately 2,806 feet (0.53 miles).

The proposed improvements along Willow Run Boulevard include the construction of a 12-foot wide shared use asphalt path along the north side of Willow Run Boulevard from Williamson Boulevard to Chardonay Drive, Type F curb and gutter, milling and resurfacing of affected crosswalks at the intersection of Hidden Lake Drive, installation of Rectangular Rapid Flashing Beacon (RRFB) at the intersection of Hidden Lake Drive, concrete curb ramps, and detectable warnings.

The proposed improvements along Williamson Boulevard include the construction of a 12-foot-wide shared use asphalt path along the east side of Williamson Boulevard, turnout construction/driveway, and drainage. Drainage improvements include pipe culvert and a mitered end section

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, excavation, embankment, removal of existing concrete, pavement markings, signing, and sod.

Williamson Boulevard is on the National Highway System.

The following items are not eligible for reimbursement and will be locally funded:

- Item 0107-1 Litter Removal
- Item 0107-2 Mowing

All pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required and has been coordinated. Utility coordination will be required during construction and utility work schedules have been developed. Roadway lighting will be included with this project and will be completed by Florida Power and Light. The City of Port Orange (LOCAL GOVERNMENT) is coordinating permitting requirements with the St. Johns River Water Management District. The City of Port Orange (LOCAL GOVERNMENT) shall construct the project within the limits of the existing right-of-way or easements of the City of Port Orange (LOCAL GOVERNMENT) and Volusia County.

The LOCAL GOVERNMENT will be responsible for providing funds for any shortfalls, including but not limited to cost over runs, Federal-Aid Ineligible Costs and Federal-Aid Non-Participating Costs including the initial amount of **\$22,906.00 (Twenty-Two Thousand Nine Hundred Six Dollars and No/100)**

The remainder of this page intentionally left blank.

EXHIBIT "B"

RESOLUTION

The Resolution, or other official authorization, authorizing entry into this Agreement is attached and incorporated into this Agreement.

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), the City of Port Orange ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Williamson Boulevard / Willow Run Boulevard (from south of
Town Park Drive to Chardonay)
Project #: 448772-1-62-02
County: Volusia

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.

7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

The remainder of this page is blank.

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

For FDOT-OOC (signature)

Name and Title

59-3024028

Federal Employer I.D. Number

Date

FDOT Legal Review:

For Escrow Agent (signature)

Name and Title

Date

See Attached Signature Page

For PARTICIPANT (signature)

Name and Title

Federal Employer I.D. Number

Date

Three Party Escrow Agreement

City of Port Orange, a Florida
municipal Corporation

BY: _____
Scott Stiltner, Mayor

Attest: _____
Robin L. Fenwick, City Clerk

Federal Employer I.D. Number

Date: _____



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B11) Resolution No. 25-10 - Ratification of Emergency Powers Taken During Hurricane Milton and Temporarily Extending the Waiver of Certain Permit Fees

DEPARTMENT: City Attorney

GOAL: 1 - Public Safety

RECOMMENDED MOTION: Move to approve Resolution No. 25-10.

SUMMARY: As Hurricane Milton approached the State of Florida, City Council adopted Resolution No. 24-44 declaring a local state of emergency and authorizing the City Manager or his designee to serve as Emergency Management Director. During the local state of emergency, the City Council waived the procedures and formalities required by law and City ordinances and authorized the City Manager to exercise all powers and duties and take all actions deemed appropriate.

The City Manager executed 26 Executive Orders (EO) and requests City Council ratify the actions taken during the local state of emergency. The majority of the EO's (16) were to extend the local state of emergency. The actions taken by the City Manager through executive orders also included providing a temporary increase in spending authority for certain designated employees, providing for the closure of City of Port Orange offices, allowing for telework, temporarily suspending utility shut-offs and late fees for delinquent utility accounts, adopting Volusia County's curfew, temporary waiver of permit fees for certain repairs and tree removal caused by the Hurricane Milton Storm Event, providing for a procedure for temporary permit fee waiver, providing for certain adjustments for utility charges, and ordering debris removal from private and public rights-of-way.

As part of the recovery efforts from Hurricane Milton, the permit fees for building permits needed to complete repairs to structures damaged by wind, flooding, and falling trees were waived through Executive Order No. 7. The fee waiver for repairs associated with damage due to Hurricane Milton began on October 10, 2024, and will end February 10, 2025. However, due to the processing time for insurance claims and securing contractors to complete the needed repairs, staff is requesting a six (6) month extension through July 28, 2025, for fee waivers for repairs associated with damage due to Hurricane Milton.

PRESENTER: Matthew Jones

ATTACHMENTS:

1.	Resolution No. 25-10	Resolution No. 25-10 .pdf
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Amanda Bonin	Created/Initiated - 1/17/2025
Matthew Jones	Approved - 1/17/2025
Linda Truitt	Approved - 1/21/2025
Matthew Jones	Approved - 1/22/2025
Wayne Clark	Final Approval - 1/24/2025

RESOLUTION NO. 25-10

A RESOLUTION OF THE CITY COUNCIL OF PORT ORANGE FLORIDA RATIFYING EMERGENCY POWERS TAKEN BY THE EMERGENCY MANAGEMENT DIRECTOR AND/OR DESIGNEE DURING THE HURRICANE MILTON STORM EVENT EMERGENCY; PROVIDING FOR TEMPORARY PROCEDURES AND EXTENSION OF WAIVER OF PERMIT FEES FOR DAMAGED PROPERTIES CAUSED BY HURRICANE MILTON; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 5, 2024, Governor Ron Desantis issued Executive Order Number 24-214, declaring that a state of emergency exists in Volusia County, Florida; and

WHEREAS, on October 6, 2024, Governor Ron DeSantis issued Executive Order Number 24-215, amending Executive Order Number 24-214, to include additional counties, and as such, reaffirming declaration that a state of emergency exists in Volusia County; and

WHEREAS, the City Council of the City of Port Orange declared a Local State of Emergency beginning October 7, 2024, at approximately 5:17 p.m. pursuant to Resolution 24-44; and

WHEREAS, this emergency has been extended in seven (7) day increments since said time and will expire on February 10, 2025; and

WHEREAS, during the local state of emergency, the City Council waived the procedures and formalities required by law, in accordance with Section 252.38, Florida Statutes, and Chapter 26 of the City of Port Orange Code of Ordinances, and authorized and empowered the City Manager to exercise all powers and duties and take all actions deemed appropriate as authorized in Section 252.38, Fla. Stat., and Sections 26.6.1, et seq. of the City of Port Orange Code of Ordinances; and

WHEREAS, the actions taken by the City Manager included providing a temporary increase in spending authority for certain designated employees, providing for the closure of City of Port Orange offices, allowing temporary telework, temporarily suspending utility shut-offs and late fees for delinquent utility accounts, adopting Volusia County's curfew, temporary waiver of permit fees for certain repairs and tree removal caused by the Hurricane Milton Storm Event and providing for a procedure for temporary permit fee waiver, providing for certain adjustments for utility charges, ordering debris removal from private and public rights-of-way, and extending the emergency; and

WHEREAS, the City Manager executed approximately 26 Executive Orders during the local state of emergency which are on file in the City Clerk's Office; and

WHEREAS, due to the storm's significant and widespread impact to the City of Port Orange, the recovery effort is a protracted one and still requires permits for repair of damaged properties caused by Hurricane Milton; and

WHEREAS, it is in the public's interest that these fees are waived; and

WHEREAS, the City Council seeks to ratify the emergency actions taken by the City Manager during the Hurricane Milton Storm Event emergency.

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

SECTION 1. The City Council of the City of Port Orange hereby ratifies all emergency actions taken by the City Manager and his designee in response to the Hurricane Milton Storm Event emergency as authorized by Resolution No. 24-44.

SECTION 2. Until July 28, 2025, upon application, the City may temporarily waive permit fees for the following activities requiring a permit to bring a structure that has been damaged from the Hurricane Milton Storm Event into compliance with the Land Development Code and/or the Florida Building Code:

- Demolition of a structure
- Elevation and repair of a structure
- Replacement of a structure
- Other activities necessary to comply with the Land Development Code and/or Florida Building Code due to damage caused by the Hurricane Milton Storm Event.

In order to request the permit fee waiver provided for herein, each permit applicant shall be required to execute an affidavit affirmatively stating that the repair/replacement activity requiring a permit is to bring the structure into compliance with the Land Development Code and/or Florida Building Code. The Community Development Department may require or rely on historic data, photos, or other evidence to substantiate each application for permit fee waiver.

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

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

SECTION 5. This Resolution shall become effective immediately upon adoption by the City Council.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (B12) Removal of a Storm Damaged Historic Tree at 940 N Lakewood Terrace in HOA Common Area

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve the tree removal permit for a damaged 41-inch historic Live Oak tree and waive the mitigation for removal of a damaged historic tree, as recommended by the Environmental Advisory Board.

SUMMARY: The Countryside HOA requests the removal of a 41-inch diameter at breast height (DBH) Live Oak tree. The historic tree is located in a common area owned by the HOA on the south side of Village Trail, east of Country Lane (Figure 1), and was damaged during Hurricane Milton. According to the Land Development Code (LDC), the Environmental Advisory Board is required to recommend a mitigation plan for the removal of a historic tree based on the current tree mitigation resolution adopted by the City Council (Resolution No. 20-46).

Figure 1. Map Showing the Location of the Damaged Historic Tree



In November 2024, the Countryside HOA submitted a tree removal permit to remove a 41-inch diameter at base height (DBH) historic Live Oak tree. The tree has large branches that overhang the Village Trail right-of-way (Figure2). According to the documents submitted with the permit, the HOA is requesting to remove the tree due to damage from Hurricane Milton and the risk posed to vehicles and pedestrians. The City Forester Technician has evaluated the tree and determined that it is a historic Live Oak with a diameter at breast height (DBH) of approximately 41" that has a large wound in the trunk. According to the City Forester Technician, the tree will not be able to heal before rot and decay set in, and the tree will eventually die. Due to the severity of damage to the tree, and the tree has large branches extending that extend over Village Trail, the tree has been determined to be a "high risk" and should be removed.

Figure 2. Pictures of the Damaged Historic Tree



The LDC defines a Live Oak tree with a 36-inch diameter at breast height (DBH) or greater as a historic tree. According to the LDC, a historic tree that has been damaged by fire, windstorm, lightning, or other acts of God and poses an imminent danger to life or property must still follow the permitting process for tree removal along with mitigating the tree in an amount as established by resolution by the city council. However, if a historic tree is determined to be dead, it still must follow the permitting process for tree removal, but no mitigation is required. According to the City Forester Technician's report, the historic tree is damaged and deteriorated, but at the time of the evaluation, the tree was not dead; therefore, according to the LDC, the HOA is required to mitigate the removal of the historic tree.

According to the LDC, all historic tree removal permits (alive, damaged, or dead) on

land other than single-family and two-family lots, are required to go before the EAB for a recommendation on how the property owner is to mitigate the removal of the historic trees and City Council for final review of the tree removal permit and approval of the mitigation plan. The subject historic tree is located on HOA common area and not a residential lot.

MITIGATION REQUIRED BY THE LDC:

According to the LDC, the EAB may recommend mitigation for removing a damaged historic tree based on the current tree mitigation resolution adopted by the City Council (Resolution 20-46). The EAB may recommend the mitigation for the removal of a damaged historic tree through a combination of planting replacement trees on the subject property and contribution to the city's tree bank, provided that the combination equals or exceeds the required percentage of the total cross-sectional area of the damaged historic tree as established by Resolution 20-46.

The Countryside HOA requests that mitigation for the tree's removal be waived due to it being damaged during Hurricane Milton and that the City Forester Technician's evaluation report concluded the tree will not be able to heal before rot and decay set in, and the tree will eventually die. As stated above, if the historic tree being removed is damaged or deteriorating, it still must follow the permitting process for tree removal, and mitigation is required; however, if a historic tree being removed is determined to be dead, **no mitigation is required**. Therefore, staff recommends that the mitigation be waived since the damage to this tree will eventually lead to its death, and according to the LDC, no mitigation is required for the removal of a dead historic tree.

Environmental Advisory Board Recommendation:

At their January 27, 2025, meeting, the EAB recommended waiving the mitigation for the removal of the damaged historic tree since the damage to this tree will eventually lead to its death and according to the LDC, no mitigation is required for the removal of a dead historic tree.

The Staff Report is attached for more information.

PRESENTER: Tim Burman, Penelope Cruz

ATTACHMENTS:

1.	STAFF REPORT	STAFF REPORT.pdf
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Penelope Cruz	Created/Initiated - 12/30/2024
Tim Burman	Approved - 1/17/2025
Shannon Balmer	Approved - 1/29/2025
Wayne Clark	Final Approval - 1/29/2025



EAB AGENDA ITEM

EAB MEETING DATE 1/27/25

CITY COUNCIL DATE 2/04/25

SUBJECT: Recommendation of Mitigation Options for the Removal of a Historic Live Oak Tree at 940 N Lakewood Terrace in HOA Common Area

DEPARTMENT: Community Development

REQUEST:

The Countryside HOA requests removal of a 41-inch diameter at breast height (DBH) Live Oak tree. The historic tree is located in a common area owned by the HOA, on the south side of Village Trail, east of Country Lane and was damaged during Hurricane Milton. According to the Land Development Code (LDC), the Environmental Advisory Board is required to recommend a mitigation plan for the removal of a historic tree, as provided by city staff, based upon the current tree mitigation resolution adopted by the City Council (Resolution 20-46). The EAB may recommend mitigation by planting replacement trees on the subject property, contribution to the city's tree bank, or a combination that equals or exceeds 5% of the total cross-sectional area of the removed damaged/deteriorated historic tree as established by Resolution 20-46.

SUMMARY:

In November 2024, the Countryside HOA submitted a tree removal permit to remove a 41-inch diameter at base height (DBH) historic Live Oak tree. The tree has large branches that overhang the Village Trail right-of-way. According to the documents submitted with the permit, the HOA is requesting to remove the tree due to damage from Hurricane Milton and the risk posed to vehicles and pedestrians.

Figure 1. Map Showing the Location of the Damaged Historic Tree



The City Forester Technician has evaluated the tree and determined the tree is a historic Live Oak with a diameter at breast height (DBH) of approximately 41" that has a large wound in the trunk. According to the City Forester Technician, the tree will not be able to heal before rot and decay set in, and the tree will eventually die. Due to the severity of damage to the tree, and the tree has large branches extending that extend over Village Trail, the tree has been determined to be a "high risk" and should be removed.

Figure 2. Pictures of the Damaged Historic Tree



The LDC defines a Live Oak tree with a 36-inch diameter at breast height (DBH) or greater as a historic tree. According to the LDC, a historic tree that has been damaged by fire, windstorm, lightning, or other acts of God and poses an imminent danger to life or property must still follow the permitting process for tree removal along with mitigating the tree in an amount as established by resolution by the city council. However, if a historic tree is determined to be dead, it still must follow the permitting process for tree removal, but **no** mitigation is required. According to the City Forester Technician's report, the historic tree is damaged and deteriorated but at the time of the evaluation the tree was not dead; therefore, according to the LDC, the HOA is required to mitigate the removal of the historic tree.

According to the LDC, all historic tree removal permits (alive, damaged, or dead) on land other than single-family and two-family lots, are required to go before the EAB for a recommendation on how the property owner is to mitigate for the removal of the historic trees and City Council for final review of the tree removal permit and approval of the mitigation plan. The subject historic tree is located on HOA common areas and not a residential lot.

MITIGATION REQUIRED BY THE LDC:

According to the LDC, the EAB may recommend mitigation for removing a historic tree, as provided by city staff, based upon the current tree mitigation resolution adopted by the City Council (Exhibit 2 - Resolution 20-46). The EAB may allow the mitigation for the removal of a historic tree through a combination of planting replacement trees on the subject property and contribution to the city's tree bank, provided that the combination equals or exceeds the required percentage of the total cross-sectional area of the historic tree as established by Resolution 20-46. Exhibit B of the resolution is used in this case since the historic tree is damaged and therefore a lower mitigation rate is charged.

Mitigation Options:**41" Live Oak Tree**

- a. Payment of \$1,782 into the tree bank (41-inch DBH @ 5% cross-sectional area = 66.01 x \$27.00); or
- b. Plant 4 trees on the subject property. The replacement trees shall be 4.5" caliper measured 12" above ground and 14' tall; or
- c. A combination of payment into the tree bank and replacement trees.

The HOA is requesting that the mitigation be waived as the damage to the tree was due to damage from Hurricane Milton. Staff is recommending that the mitigation be waived in this case since the damage to this tree will eventually lead to the tree dying and according to the LDC, no mitigation is required for the removal of a dead historic tree.

This item is scheduled for City Council on February 4, 2025, and will include the mitigation recommendation made by the EAB in the City Council agenda item.

ATTACHMENTS:

Exhibit 1 – ISA Basic Tree Risk Assessment Form Complete by City Forester

Exhibit 2 – Resolution 20-46



Basic Tree Risk Assessment Form

EXHIBIT 1

Client CITY OF PORT ORANGE Date 11/19/24 Time 3 YEAR ASSESSMENT
Address/Tree location 100 YARDS E. OF VILLAGE TR. AND COUNTRY LANE Tree no. 1 Sheet 1 of 2
Tree species LIVE OAK, (QUERCUS VIRGINIANA) dbh 42" Height 90' EST. Crown spread dia. 100'
Assessor(s) STEVE EDGAR, PORT ORANGE CITY FORESTER Time frame 3 YEAR Tools used STANDARD

Target Assessment

Target number	Target description	Target zone			Occupancy rate 1 – rare 2 – occasional 3 – frequent 4 – constant	Practical to move target?	Restriction practical?
		Target within drip line	Target within 1 x Ht.	Target within 1.5 x Ht.			
1	VILLAGE TR. SIDEWALK	✓			3	NO	NO
2	VILLAGE TR.	✓			4	NO	NO
3					2		
4							

Site Factors

History of failures YES Topography Flat ☐ Slope ☒ 10 % Aspect S
Site changes None ☐ Grade change ☐ Site clearing ☒ Changed soil hydrology ☐ Root cuts ☒ Describe ROAD AND SIDEWALK CONST.
Soil conditions Limited volume ☐ Saturated ☐ Shallow ☐ Compacted ☒ Pavement over roots ☒ 40 % Describe ROAD AND SIDEWALK
Prevailing wind direction _____ Common weather Strong winds ☒ Ice ☐ Snow ☐ Heavy rain ☒ Describe FL

Tree Health and Species Profile

Vigor Low ☐ Normal ☐ High ☒ Foliage None (seasonal) ☐ None (dead) ☐ Normal 99 % Chlorotic _____ % Necrotic _____ %
Pests _____ Abiotic _____
Species failure profile Branches ☒ Trunk ☒ Roots ☒ Describe LIVE OAK IS RESISTANT TO DECAY

Load Factors

Wind exposure Protected ☐ Partial ☒ Full ☐ Wind funneling ☐ Relative crown size Small ☐ Medium ☐ Large ☒
Crown density Sparse ☐ Normal ☐ Dense ☒ Interior branches Few ☒ Normal ☒ Dense ☐ Vines/Mistletoe/Moss ☐
Recent or planned change in load factors _____

Tree Defects and Conditions Affecting the Likelihood of Failure

— Crown and Branches —

Unbalanced crown ☒ LCR 75 % Cracks ☐ Lightning damage ☐
Dead twigs/branches ☐ _____ % overall Max. dia. _____ Codominant ☒ MAJOR CO-DOM STEM Included bark ☒
Broken/Hangers Number _____ Max. dia. _____ Weak attachments ☐ Cavity/Nest hole _____ % circ.
Over-extended branches ☐ Previous branch failures ☒ CO-DOM FAIL Similar branches present ☒
Pruning history Dead/Missing bark ☒ Cankers/Galls/Burls ☐ Sapwood damage/decay ☒
Crown cleaned ☐ Thinned ☐ Raised ☐ Conks ☐ Heartwood decay ☒
Reduced ☐ Topped ☐ Lion-tailed ☐ Response growth _____
Flush cuts ☐ Other _____
Main concern(s) THIS LARGE WOUND WILL ALLOW DECAY THE TREE WILL NOT BE ABLE TO HEAL

Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☒
Likelihood of failure Improbable ☐ Possible ☐ Probable ☒ Imminent ☐

— Trunk —

Dead/Missing bark ☒ Abnormal bark texture/color ☐
Codominant stems ☒ Included bark ☒ Cracks ☐
Sapwood damage/decay ☒ Cankers/Galls/Burls ☐ Sap ooze ☐
Lightning damage ☐ Heartwood decay ☒ Conks/Mushrooms ☐
Cavity/Nest hole _____ % circ. Depth _____ Poor taper ☐
Lean _____ ° Corrected? _____
Response growth NONE
Main concern(s) CATOSTROPHIC TRUNK FAILURE

Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☒
Likelihood of failure Improbable ☐ Possible ☐ Probable ☒ Imminent ☐

— Roots and Root Collar —

Collar buried/Not visible ☐ Depth _____ Stem girdling ☐
Dead ☐ Decay ☐ Conks/Mushrooms ☐
Ooze ☐ Cavity ☐ _____ % circ.
Cracks ☐ Cut/Damaged roots ☐ Distance from trunk _____
Root plate lifting ☐ Soil weakness ☐
Response growth _____
Main concern(s) _____

Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐
Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

Risk Categorization																							
Condition number	Tree part	Conditions of concern	Part size	Fall distance	Target number	Target protection	Likelihood												Consequences				Risk rating of part (from Matrix 2)
							Failure				Impact				Failure & Impact (from Matrix 1)								
							Improbable	Possible	Probable	Imminent	Very low	Low	Medium	High	Unlikely	Somewhat	Likely	Very likely	Negligible	Minor	Significant	Severe	
1	CROWN & BRANCHES	DECAY CAUSING BRANCH FALLING	24"	60	1	NO																LOW	
					2	YES																MOD	
																							na
2	TRUNK	DECAY CAUSING STEM FAILURE	24	50	1	NO																LOW	
					2	YES																MOD	
																							na
3																						na	
																					nA		
																						nA	
4																							

Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impacting Target			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low

Notes, explanations, descriptions THIS LARGE LIVE OAK LOST A MAJOR BRANCH DURING THE HURICANE. THE LARGE OPEN WOUND WILL ALLOW MAJOR DECAY BEFORE THE TREE CAN GROW ENOUGH HOLDING WOOD TO SUPPORT IT'S WEIGHT.

Mitigation options NONE, REMOVAL IS RECOMENDED

Residual risk _____

Residual risk _____

Residual risk _____

Residual risk _____

Overall tree risk rating Low ☐ Moderate ☒ High ☐ Extreme ☐

Work priority 1 ☒ 2 ☐ 3 ☐ 4 ☐

Overall residual risk Low ☐ Moderate ☐ High ☐ Extreme ☐

Recommended inspection interval _____

Data ☒ Final ☐ Preliminary **Advanced assessment needed** ☒ No ☐ Yes-Type/Reason _____

Inspection limitations ☒ None ☐ Visibility ☐ Access ☐ Vines ☐ Root collar buried Describe _____

EXHIBIT 2

RESOLUTION NO. 20-46

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING MITIGATION TABLES FOR HISTORIC TREE REMOVAL ON RESIDENTIAL AND NONRESIDENTIAL PROPERTY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article II of Chapter 9 of the City of Port Orange Land Development Code authorizes adoption of mitigation tables for historic tree removal on residential and nonresidential property by resolution of the City Council of the City of Port Orange; and

WHEREAS, pursuant to this authority the City hereby adopts mitigation tables for historic tree removal on residential and nonresidential property by resolution; and

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

SECTION 1. The City Council of the City of Port Orange hereby adopts the Mitigation Table for removal of Healthy Historic Trees, attached hereto as **Exhibit "A."**

SECTION 2. The City Council of the City of Port Orange hereby adopts the Mitigation Table for removal of Diseased or Deteriorated Historic Trees, attached hereto as **Exhibit "B."**

SECTION 3. The City Council of the City of Port Orange hereby adopts the Mitigation Table for removal of Healthy Historic Trees Removed Without a Permit, attached hereto as **Exhibit "C."**

SECTION 4. The City Council of the City of Port Orange hereby adopts the Mitigation Table for removal of Diseased or Deteriorated Historic Trees Removed Without a Permit, attached hereto as **Exhibit "D."**

SECTION 5. All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

SECTION 6. This resolution shall become effective immediately upon adoption.


MAYOR DONALD O. BURNETTE

ATTEST:


Robin L. Fenwick, MMC, City Clerk



Adopted on the 15 day of September, 2020.

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

EXHIBIT A HEALTHY HISTORIC TREES**15% CROSS SECTIONAL AREA REPLACEMENT**

MITIGATION FOR HISTORIC TREES ON MULTI-FAMILY, COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL LOTS

A	B	C	D	
SIZE OF TREE BEING REMOVED	15% CROSS SECTIONAL AREA IN SQUARE INCHES	# OF 4 1/2" CALIPER TREES REQUIRED FOR REPLACEMENT	TREE BANK CONTRIBUTION*	
36	152.68	10	B x \$27 =	\$ 4,122
37	161.28	10	B x \$27 =	\$ 4,355
38	170.12	11	B x \$27 =	\$ 4,593
39	179.19	11	B x \$27 =	\$ 4,838
40	188.50	12	B x \$27 =	\$ 5,089
41	198.04	12	B x \$27 =	\$ 5,347
42	207.82	13	B x \$27 =	\$ 5,611
43	217.83	14	B x \$27 =	\$ 5,881
44	228.08	14	B x \$27 =	\$ 6,158
45	238.57	15	B x \$27 =	\$ 6,441
46	249.29	16	B x \$27 =	\$ 6,731
47	260.24	16	B x \$27 =	\$ 7,027
48	271.43	17	B x \$27 =	\$ 7,329
49	282.86	18	B x \$27 =	\$ 7,637
50	294.53	19	B x \$27 =	\$ 7,952
51	306.42	19	B x \$27 =	\$ 8,273
52	318.56	20	B x \$27 =	\$ 8,601
53	330.93	21	B x \$27 =	\$ 8,935
54	343.53	22	B x \$27 =	\$ 9,275
55	356.38	22	B x \$27 =	\$ 9,622
56	369.45	23	B x \$27 =	\$ 9,975
57	382.76	24	B x \$27 =	\$ 10,335
58	396.31	25	B x \$27 =	\$ 10,700
59	410.10	26	B x \$27 =	\$ 11,073
60	424.12	27	B x \$27 =	\$ 11,451
61	438.37	28	B x \$27 =	\$ 11,836
62	452.86	28	B x \$27 =	\$ 12,227
63	467.59	29	B x \$27 =	\$ 12,625
64	482.55	30	B x \$27 =	\$ 13,029
65	497.75	31	B x \$27 =	\$ 13,439
66	513.18	32	B x \$27 =	\$ 13,856
67	528.85	33	B x \$27 =	\$ 14,279
68	544.75	34	B x \$27 =	\$ 14,708
69	560.89	35	B x \$27 =	\$ 15,144
70	577.27	36	B x \$27 =	\$ 15,586
71	593.88	37	B x \$27 =	\$ 16,035
72	610.73	38	B x \$27 =	\$ 16,490
73	627.81	39	B x \$27 =	\$ 16,951
74	645.13	41	B x \$27 =	\$ 17,418
75	662.68	42	B x \$27 =	\$ 17,892

* \$27 - ACCEPTED NATIONAL VALUE PER SQUARE INCH

EXHIBIT B DISEASED OR DETERIORATED HISTORIC TREES**5% CROSS SECTIONAL AREA REPLACEMENT**

MITIGATION FOR HISTORIC TREES ON MULTI-FAMILY, COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL LOTS

A	B	C	D	
SIZE OF TREE BEING REMOVED	5% CROSS SECTIONAL AREA IN SQUARE INCHES	# OF 4 1/2" CALIPER TREES REQUIRED FOR REPLACEMENT	TREE BANK CONTRIBUTION*	
36	50.89	3	B x \$27 =	\$ 1,374
37	53.76	3	B x \$27 =	\$ 1,452
38	56.71	4	B x \$27 =	\$ 1,531
39	59.73	4	B x \$27 =	\$ 1,613
40	62.83	4	B x \$27 =	\$ 1,696
41	66.01	4	B x \$27 =	\$ 1,782
42	69.27	4	B x \$27 =	\$ 1,870
43	72.61	5	B x \$27 =	\$ 1,960
44	76.03	5	B x \$27 =	\$ 2,053
45	79.52	5	B x \$27 =	\$ 2,147
46	83.10	5	B x \$27 =	\$ 2,244
47	86.75	5	B x \$27 =	\$ 2,342
48	90.48	6	B x \$27 =	\$ 2,443
49	94.29	6	B x \$27 =	\$ 2,546
50	98.18	6	B x \$27 =	\$ 2,651
51	102.14	6	B x \$27 =	\$ 2,758
52	106.19	7	B x \$27 =	\$ 2,867
53	110.31	7	B x \$27 =	\$ 2,978
54	114.51	7	B x \$27 =	\$ 3,092
55	118.79	7	B x \$27 =	\$ 3,207
56	123.15	8	B x \$27 =	\$ 3,325
57	127.59	8	B x \$27 =	\$ 3,445
58	132.10	8	B x \$27 =	\$ 3,567
59	136.70	9	B x \$27 =	\$ 3,691
60	141.37	9	B x \$27 =	\$ 3,817
61	146.12	9	B x \$27 =	\$ 3,945
62	150.95	9	B x \$27 =	\$ 4,076
63	155.86	10	B x \$27 =	\$ 4,208
64	160.85	10	B x \$27 =	\$ 4,343
65	165.92	10	B x \$27 =	\$ 4,480
66	171.06	11	B x \$27 =	\$ 4,619
67	176.28	11	B x \$27 =	\$ 4,760
68	181.58	11	B x \$27 =	\$ 4,903
69	186.96	12	B x \$27 =	\$ 5,048
70	192.42	12	B x \$27 =	\$ 5,195
71	197.96	12	B x \$27 =	\$ 5,345
72	203.58	13	B x \$27 =	\$ 5,497
73	209.27	13	B x \$27 =	\$ 5,650
74	215.04	14	B x \$27 =	\$ 5,806
75	220.89	14	B x \$27 =	\$ 5,964

* \$27 - ACCEPTED NATIONAL VALUE PER SQUARE INCH

EXHIBIT C HEALTHY HISTORIC TREES
REMOVED WITHOUT A PERMIT
MITIGATION FOR HISTORIC TREES ON SINGLE AND TWO-FAMILY LOTS

A	B	C	
SIZE OF TREE BEING REMOVED	15% CROSS SECTIONAL AREA IN SQUARE INCHES	TREE BANK CONTRIBUTION*	
36	152.68	B x \$27 =	\$ 4,122
37	161.28	B x \$27 =	\$ 4,355
38	170.12	B x \$27 =	\$ 4,593
39	179.19	B x \$27 =	\$ 4,838
40	188.50	B x \$27 =	\$ 5,089
41	198.04	B x \$27 =	\$ 5,347
42	207.82	B x \$27 =	\$ 5,611
43	217.83	B x \$27 =	\$ 5,881
44	228.08	B x \$27 =	\$ 6,158
45	238.57	B x \$27 =	\$ 6,441
46	249.29	B x \$27 =	\$ 6,731
47	260.24	B x \$27 =	\$ 7,027
48	271.43	B x \$27 =	\$ 7,329
49	282.86	B x \$27 =	\$ 7,637
50	294.53	B x \$27 =	\$ 7,952
51	306.42	B x \$27 =	\$ 8,273
52	318.56	B x \$27 =	\$ 8,601
53	330.93	B x \$27 =	\$ 8,935
54	343.53	B x \$27 =	\$ 9,275
55	356.38	B x \$27 =	\$ 9,622
56	369.45	B x \$27 =	\$ 9,975
57	382.76	B x \$27 =	\$ 10,335
58	396.31	B x \$27 =	\$ 10,700
59	410.10	B x \$27 =	\$ 11,073
60	424.12	B x \$27 =	\$ 11,451
61	438.37	B x \$27 =	\$ 11,836
62	452.86	B x \$27 =	\$ 12,227
63	467.59	B x \$27 =	\$ 12,625
64	482.55	B x \$27 =	\$ 13,029
65	497.75	B x \$27 =	\$ 13,439
66	513.18	B x \$27 =	\$ 13,856
67	528.85	B x \$27 =	\$ 14,279
68	544.75	B x \$27 =	\$ 14,708
69	560.89	B x \$27 =	\$ 15,144
70	577.27	B x \$27 =	\$ 15,586
71	593.88	B x \$27 =	\$ 16,035
72	610.73	B x \$27 =	\$ 16,490
73	627.81	B x \$27 =	\$ 16,951
74	645.13	B x \$27 =	\$ 17,418
75	662.68	B x \$27 =	\$ 17,892

**Replacement tree schedule will follow the existing LDC requirements based on the size of the lot (1 shade tree/2,500

* \$27 - ACCEPTED NATIONAL VALUE PER SQUARE INCH

**EXHIBIT D DISEASED OR DETERIORATED HISTORIC TREES
REMOVED WITHOUT A PERMIT
MITIGATION FOR HISTORIC TREES ON SINGLE AND TWO-FAMILY LOTS**

A	B	D	
SIZE OF TREE BEING REMOVED	5% CROSS SECTIONAL AREA IN SQUARE INCHES	TREE BANK CONTRIBUTION*	
36	50.89	B x \$27 =	\$ 1,374
37	53.76	B x \$27 =	\$ 1,452
38	56.71	B x \$27 =	\$ 1,531
39	59.73	B x \$27 =	\$ 1,613
40	62.83	B x \$27 =	\$ 1,696
41	66.01	B x \$27 =	\$ 1,782
42	69.27	B x \$27 =	\$ 1,870
43	72.61	B x \$27 =	\$ 1,960
44	76.03	B x \$27 =	\$ 2,053
45	79.52	B x \$27 =	\$ 2,147
46	83.10	B x \$27 =	\$ 2,244
47	86.75	B x \$27 =	\$ 2,342
48	90.48	B x \$27 =	\$ 2,443
49	94.29	B x \$27 =	\$ 2,546
50	98.18	B x \$27 =	\$ 2,651
51	102.14	B x \$27 =	\$ 2,758
52	106.19	B x \$27 =	\$ 2,867
53	110.31	B x \$27 =	\$ 2,978
54	114.51	B x \$27 =	\$ 3,092
55	118.79	B x \$27 =	\$ 3,207
56	123.15	B x \$27 =	\$ 3,325
57	127.59	B x \$27 =	\$ 3,445
58	132.10	B x \$27 =	\$ 3,567
59	136.70	B x \$27 =	\$ 3,691
60	141.37	B x \$27 =	\$ 3,817
61	146.12	B x \$27 =	\$ 3,945
62	150.95	B x \$27 =	\$ 4,076
63	155.86	B x \$27 =	\$ 4,208
64	160.85	B x \$27 =	\$ 4,343
65	165.92	B x \$27 =	\$ 4,480
66	171.06	B x \$27 =	\$ 4,619
67	176.28	B x \$27 =	\$ 4,760
68	181.58	B x \$27 =	\$ 4,903
69	186.96	B x \$27 =	\$ 5,048
70	192.42	B x \$27 =	\$ 5,195
71	197.96	B x \$27 =	\$ 5,345
72	203.58	B x \$27 =	\$ 5,497
73	209.27	B x \$27 =	\$ 5,650
74	215.04	B x \$27 =	\$ 5,806
75	220.89	B x \$27 =	\$ 5,964

**Replacement tree schedule will follow the existing LDC requirements based on the size of the lot (1 shade tree/2,500

* \$27 - ACCEPTED NATIONAL VALUE PER SQUARE INCH



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (F17) First Reading - Ordinance No. 2025-06 - Designating Registered Agent for Service of Process on the City

DEPARTMENT: City Attorney

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: To approve Ordinance No. 2025-06 and designate the City Attorney and the City Attorney's Office as the City's Registered Agent for purposes of service of original process.

SUMMARY: The procedure for service of process on local governments is governed by s. 48.111 of the Florida Statutes. This section was amended recently to add additional officials and/or employees that may be served on behalf of the City. This laundry list of officials and employees causes concern in two ways: 1) this requires training for multiple officials and employees on what to do when receiving service of process; and 2) we are unable to predict which official or employee will be served. In the interest of judicial economy, by designating the City Attorney (and the City Attorney's Office) as its registered agent for purposes of accepting service of original process, the City will have a single point of contact when suits are initiated which will allow for an immediate review and response by the City's legal representative(s) within the established legal deadlines.

PRESENTER: Matthew Jones

ATTACHMENTS:

1.	Ord. No. 2025-06 - Designating CA as Registered Agent	Ord. No. 2025-06 - Designating CA as Registered Agent.docx
2.	Business Impact Estimate - Ordinance 2025-06 Service of Process on the City	Business Impact Estimate - Ordinance 2025-06 Service of Process on the City.pdf

Robin Fenwick
Matthew Jones
Wayne Clark

Created/Initiated - 1/21/2025
Approved - 1/21/2025
Final Approval - 1/24/2025

ORDINANCE NO. 2025-06

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE I TO ESTABLISH A NEW SECTION 2-5 DESIGNATING THE CITY ATTORNEY AS THE CITY'S REGISTERED AGENT FOR PURPOSES OF ACCEPTING SERVICE OF ORIGINAL PROCESS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange is a municipal corporation duly formed and existing under the Florida Constitution and the laws of the State of Florida; and

WHEREAS, the City of Port Orange has authority to exercise broad municipal home rule powers under Section 2, Article VIII, Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, as a municipal corporation and subdivision of the State of Florida, the City of Port Orange may sue and be sued; and

WHEREAS, a civil action is ordinarily commenced when a complaint or petition is filed in a court having jurisdiction over the parties and the subject matter of the dispute; and

WHEREAS, § 48.111 of the Florida Statutes prescribes the procedures and order by which service of original process (i.e. service of a summons and copy of the initial pleading or petition) shall be made on a municipal corporation; and

WHEREAS, circumstances routinely arise where it is impossible or impractical to serve original process on the city's elected officials; and

WHEREAS, in the interest of judicial economy, the city council hereby determines that the City Attorney or any employee within the City Attorney's Office should serve as its registered agent for purposes of accepting service of process; and

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

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

SECTION 1. The City Council of the City of Port Orange, Florida hereby establishes Chapter 2, Article I, Section 2-5 of the Code of Ordinances to read as follows:

Sec. 2-5. – Registered agent.

In accordance with § 48.111 of the Florida Statutes related to service of process on public agencies, the city hereby designates its city attorney, and in his/her absence, any employee in the city attorney's office, as its registered agent to accept service of original process (i.e. service of a summons and copy of initial pleading or petition) in any civil action filed against the city.

SECTION 2. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange, and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

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

SECTION 5. This ordinance shall become effective immediately upon final passage by the City Council.

MAYOR SCOTT STILTNER

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of _____, 2025

Passed and adopted on second and final reading on the day of _____, 2025

Reviewed and Approved: _____
Matthew Jones, City Attorney

[CA-8591]



Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance No. 2025-06 – Service of Process on the City

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law¹ for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Development orders, and development permits, as those terms are defined in s. 163.3164; and development agreements as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
 - b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
 - c. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
 - d. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
 - e. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

The proposed amendment to the Code of Ordinances amends Chapter 2, adding a new Section 2-5, to establish the manner by which service of legal process may be effectuated on the City of Port Orange.

The proposed Ordinance 2025-06 serves the public health, safety, morals, and welfare of the municipality by promoting judicial economy and optimizing operations for the City of Port Orange and its citizens, thru streamlining the service of legal process against the City of Port Orange.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur:
No direct compliance costs to businesses are estimated by Ordinance 2025-06.

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:
N/A

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:
No new regulatory costs are anticipated. No new charges or fees are anticipated to business owners.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

No businesses are estimated to be impacted by Ordinance 2025-06.

4. Additional information the governing body deems useful² (if any):

² You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable



ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/4/2025

SUBJECT: (F18) Request for Approval of Waiver of Species of Animals

DEPARTMENT: Police Services

GOAL: 1 - Public Safety
3 - Quality of Life

RECOMMENDED MOTION: Move to approve the request for a waiver of species, with the Animal Control Authority's recommended conditions and safeguards.

SUMMARY: Anthony Ryan Liszkiewicz, the property owner of 668 Herbert St., is requesting a waiver to keep two Nigerian Dwarf goats on the property. The goats are owned by Mr. Liszkiewicz's sister, Adrienne Liszkiewicz. Animal Control Officer Korey Fox has interviewed the surrounding neighbors who do not feel that the animals will be a nuisance to the community.

City Ordinance 10-12 Limitation of Number of Animals allows residents to have up to fourteen (14) animals that belong to the species of animals listed in the ordinance. Those species are dogs, cats, rabbits, guinea pigs, ferrets, geckos, iguanas, specific birds, gerbils, hamsters, mice, aquarium fish, aquarium amphibians, aquarium reptiles, livestock, and horses, all under specific requirements. Section 10-12 (g) provides that "any person may apply for a waiver from the limitation on the maximum number of animals ***and/or species of animals listed in this section by filing a written request with the animal control authority.***"

The owner, Mr. Liszkiewicz, has requested a waiver based on animal species (Nigerian Dwarf Goat). The animals in question are two Nigerian Dwarf goats, which are 2.5 years old and have reached full size at 24 inches tall and weighing approximately 70lbs. There are no other animals located on the property. The attached survey information for 668 Herbert St., shows the lot size at 16,553 square feet (100 feet X 165 feet/0.38 acre). However, the property owner owns the adjacent lot as well bringing the total to 0.5 acres. An inspection of the home and property was completed on October 4, 2024, by Port Orange Animal Control Officer (ACO) Korey Fox. ACO Fox observed the following as it relates to the factors referenced in the City's Code of Ordinances:

Section 10-12 (i) identifies five (5) factors to be considered when reviewing a waiver request. Those factors are:

1. Conditions of confinement of the animal, including but not limited to sanitation

and security:

- The animals will live in a 20ft. X 40ft. fenced pen.
- The pen is comprised of 5.5ft welded steel panels and gates stay locked to prevent escape.
- There will be regular maintenance of the yard to keep the yard clear of feces.

2. The proximity of the animal to adjacent residential property:

- The lot size is 0.5 acres.
- The pen is located on the rear east side of the property furthest from street.

3. Impact of the animal on surrounding property and residents:

- There appears to be no impact on surrounding properties or residents.
- ACO Fox spoke to surrounding neighbors (listed below) who advised that they have no issues with the goats (Miller & Dill) living on the property.
 - 662 Herbert St
 - 664 Herbert St
 - 672 Herbert St
 - 105 Judges Ln

4. Nuisance or disturbance to the public caused by the animal; and:

- The goats (Miller & Dill) are quiet, non-aggressive, and relatively odorless.
- They tend to sleep in the sun or eat from the hay feeders.

5. Interest of the public health, safety, and welfare:

- The goats are both neutered with no upper incisors in the mouth.
- The 2.5-year-old goats have reached full size at 24 inches tall and weighing approximately 70lbs which is comparable to a fully grown mid to large breed dog.
- Both goats have a microchip implanted
- Miller & Dill appear to be happy and healthy.

Staff recommends approving this waiver for the two Nigerian Dwarf goats (Miller & Dill) with the following conditions:

1. The goats are provided necessary care, veterinary shots are kept up to date, and the goats maintain a healthy weight.
2. The fenced enclosure will be maintained to provide adequate confinement.
3. The fenced enclosure will remain secured so that the goats cannot escape.
4. Regular maintenance of the yard will be conducted to keep it free and clear of feces and/or animal waste.
5. Any behaviors that may develop in the future that create a nuisance and/or affect the public health, safety and welfare including, but not limited to, any noise issues will be

remedied immediately.

If the waiver is granted, the waiver of the species is only for these particular Nigerian Dwarf goats and would not allow for any additional goats without approval.

PRESENTER: William Proctor

ATTACHMENTS:

1.	Species Waiver Application	Species Waiver Application.pdf
2.	Application to Port Orange	Application to Port Orange.pdf
3.	668 Herbert St	668 Herbert St.pdf
4.	Letter of Recommendation - Adrienne	Letter of Recommendation - Adrienne.pdf
5.	668 Herbert St Survey	668 Herbert St Survey.png
6.	Enclosure #1	Enclosure #1.jpg
7.	Enclosure #2	Enclosure #2.jpg
8.	Enclosure #3	Enclosure #3.jpg
9.	Enclosure #5	Enclosure #5.jpg
10.	Enclosure #9	Enclosure #9.jpg

Manuel Marino	Created/Initiated - 1/13/2025
Manuel Marino	Approved - 1/13/2025
Linda Truitt	Approved - 1/13/2025
Matthew Jones	Approved - 1/24/2025
Wayne Clark	Final Approval - 1/29/2025



PORT ORANGE POLICE DEPARTMENT



REQUEST FOR WAIVER OF LIMITATION ON THE MAXIMUM NUMBER OF ANIMALS AND/OR SPECIES

Please attach HOA/POA approval, if applicable, and any documents that you would like the City Council to consider.

In accordance with the Code of Ordinances of the City of Port Orange ("City Ordinances") Section 10-12 (G) the Owner(s) hereby requests a waiver from the maximum number of animals and/or species to be reviewed by City Council in accordance with Section 10-12 (H-J) City Ordinances.

Address of the property where the animal(s) would be kept:

668 Herbert Street, Port Orange FL 32129

Name of the owner of the animal(s) and mailing address (if different):

Adrienne Liszkiewicz - 6313 Deer Meadows Road
Greenwood DE 19950

Name of the property owner where the animal(s) would be kept:

Anthony Ryan Liszkiewicz

Description and species of each animal(s):

Domestic Goats - Nigerian Dwarf

Number of animal(s):

2

Justification for the waiver:

I have attached a written note as
Justification for the city council to consider
Thank you!

Request for Waiver of Limitation on the
Maximum Number of Animals and/or Species
Page - 2 -

By signing this request for waiver, you acknowledge that you understand the waiver will be reviewed and either granted or denied by City Council pursuant to Section 10-12 (H), City Ordinances. If the waiver is granted, the waiver shall only apply to the specified animal and shall not be transferred to any other animal. By signing this waiver, you acknowledge that, if the request is granted by City Council, you will comply with any and all conditions and safeguards imposed and shall notify the animal control authority immediately upon the death, relocation, sale or transfer of such animal. You further acknowledge that if you fail to comply with any and/or all of the conditions and/or safeguards imposed, any request granted will be revoked.

Animal Owner (#1) signature:

Animal Owner (#2) signature:

Adrienne Liszkiewicz
Printed name: Adrienne Liszkiewicz
Date: 9/25/2024

Printed name: _____
Date: _____

Property Owner (#1) signature:

Property Owner (#2) signature:

Anthony Ryan Liszkiewicz
Printed name: Anthony Ryan Liszkiewicz
Date: 9/25/2024

Printed name: _____
Date: _____

To :
Animal Control Port Orange, FL
City Council Port Orange, FL

Port Orange is a fantastic city! We are so happy and excited to live in the nice community! The properties are perfect, and the residents are special too! Respectfully, I hope to request an approved permit for animals at 668 Herbert Street Port Orange, FL 32129.

If possible, please allow me to receive permission for 2 domestic goats (both male). This sweet, and silly connection is remarkable to find. I love them and have them as companions. Traditionally, friends and families seek a puppy as a companion, but I'm much more attached to the goats for reasons I will list:

- Characteristics - considerate : no noise or aggression, no smells, no disturbance
 - o Overall, their demeanor is mellow! Tendencies to sleep in the sun or munch on the hay feeders. Extremely discreet. Harmlessness - no upper incisors in mouth, flee or hide if harassed. Attractive and charming, kind. Polite manners. Affable. Tremendously loved.
 - o Care : clean and files from vet (exam included : vaccinations, full condition score - normal, hoof trimming, labs to confirm no transmissible issues)
 - No treatment *worming* to report as a result of parasite free history noted in routine vet testing
 - Hand tools to maintain hoof trimming, noted in vet file
- Friendliness + Fun + Fastidious --- trained
- Smallness - the breed is called *Nigerian Dwarf Goat*, the males have reached full size (weight : 70lbs. height : 24in.) no commercial business herd, no production at all
 - o non-breeding (neutered) males - 2 individuals (age 2.5 yrs)

Enclosures -

Housing : Comfortable and dry. Room for a bench and buckets. Windows and door. Clean supplies maintained (Floor is composite deck, bedding is wood shavings).

Sanitation is focused. Attentive to health.

- 100% wellness (nutrition, enrichment, grooming, rest, and environment)
- 2 shelters available to hide in

Outdoor home: 0.5 acres is owned, but the animals will live in 20ft. X 40ft. yard furthest from street

Safety + Security : fence is sturdy and secure - welded steel panels 5.5ft. tall

- Gate is locked

Photos -



Me, Miller (blue halter + white hair + brown eyes), and Dill (green halter + black hair + blue eyes)



Enclosure - 5.5ft tall fence and lock on door + 2 barns as shelters + platforms to climb or sleep on + enrichment + clean water container filled daily + hay feeder + shade





Property, 668 Herbert Street Port Orange FL, has no other animals

668 Herbert St



September 26, 2024

To whom it may concern,

September 26, 2024

My name is Jacki Schell. I run a rental property management company in my small hometown of Lewes, Delaware. I proudly offer full support to allowing Adrienne Liszkiewicz to bring her beloved goats to live on the property.

While her request may be outside of your comfort zone, I can assure you the need for concern is not necessary. I have personally known Adrienne for a handful of years. She is one of the most genuine people I have ever met and her love of animals compares to none.

My work with rentals has revealed many different types of people and personalities. Over the years, I've realized reliable and trustworthy humans, like Adrienne, are very hard to come by. Her goats are her babies. She treats them as most people treat their dogs or kids. I have witnessed her passion and experience towards all animals while working at the zoo. I am confident you will have no issues in your arrangement with her and won't find a kinder, more animal-loving human being. I give my highest recommendation.

Please feel free to reach out to me should you have any questions.

Best,

Jacki Schell

302-313-6595

MinosManagementCo@gmail.com

LEGAL DESCRIPTION

PART OF DUNLAWTON AS PER MAP BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEGINNING AT AN IRON PIPE SET IN CONCRETE IN SOUTHERLY LINE OF NEW ROAD AS SHOWN, SAID PIPE BEING 75 FEET WESTERLY, AS MEASURED ALONG THE SOUTHERLY RIGHT-OF-WAY LINE FROM THE EAST LINE OF DUNLAWTON, THENCE SOUTHEASTERLY, 170 FEET MORE OR LESS, TO A POINT IN THE EASTERN BOUNDARY OF DUNLAWTON, SAID POINT BEING 125 FEET SOUTHERLY FROM THE INTERSECTION OF THE SOUTHERLY LINE OF SAID NEW ROAD, THENCE NORTHWESTERLY AT AN ANGLE OF 70 DEGREES 30 MINUTES WITH THE SAID EASTERN BOUNDARY OF DUNLAWTON, 100 FEET, TO A POINT, THENCE NORTHWESTERLY AND PARALLEL TO THE FIRST COURSE ABOVE DESCRIBED, 160 FEET, MORE OR LESS, TO AN IRON PIPE SET IN CONCRETE ON THE SOUTHERLY BOUNDARY OF SAID NEW ROAD, SAID PIPE BEING 100 FEET, AS MEASURED ALONG THE SOUTHERLY BOUNDARY OF NEW ROAD FROM THE POINT OF BEGINNING ABOVE DESCRIBED, THENCE EASTERLY ALONG THE SOUTHERLY LINE OF NEW ROAD, 100 FEET TO THE POINT OF BEGINNING, SAID PARCEL ALSO BEING DESCRIBED AS LOT 28-A, PLANTATION ACRES, AS PER MAP IN MAP BOOK 23, PAGES 69 AND 70, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

LOT 50, PLANTATION ACRES, ACCORDING TO MAP THEREOF, AS RECORDED IN MAP BOOK 23, PAGES 69 AND 70, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PROPERTY BEING ALSO DESCRIBED AS FOLLOWS, TO WIT, THAT PORTION OF THE SUGAR HOUSE RESERVATION, DUNLAWTON, AS PER MAP IN DEED BOOK "M", PAGE 187, DESCRIBED AS FOLLOWS BEGIN AT IRON PIPE SET IN CONCRETE IN SOUTHERLY RIGHT-OF-WAY OF NEW SUGAR MILL ROAD, A 50 FOOT STREET AS NOW LAID OUT, SAID PIPE BEING 75 FEET WESTERLY AS MEASURED ALONG THE SAID SOUTHERLY RIGHT-OF-WAY LINE FROM THE EAST LINE OF SAID DUNLAWTON, THENCE EASTERLY ALONG THE SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 75 FEET TO THE EASTERN LINE OF DUNLAWTON, THENCE SOUTHERLY ALONG THE EAST LINE OF DUNLAWTON, A DISTANCE OF 125 FEET, THENCE NORTHWESTERLY A DISTANCE OF 170 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 16,973.3 S.F. MORE OR LESS (AS SURVEYED).

PROPERTY ADDRESS: 668 HERBERT STREET, PORT ORANGE, FLORIDA 32129

PARCEL ID: 633704000281

CERTIFIED TO:
JULIE ST. ARNALD

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PER CHAPTER 5J-17.050 THRU 17.053, FLORIDA ADMINISTRATIVE CODE.

KENNETH J. KUJAR
FLORIDA PROFESSIONAL SURVEYOR/MAPPER #6105



SURVEYOR'S NOTES:

1. THE LEGAL DESCRIPTION AS SHOWN HEREON WAS TAKEN VERBATIM FROM OFFICIAL RECORDS BOOK 7540, PAGES 1421-1422, AS RECORDED IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

2. BEARINGS BASED ON GPS/RTK OBSERVATIONS, WITH THE BEARING OF S 20°06'53\"

3. HORIZONTAL DATUM IS NORTH AMERICAN DATUM 1983 (NAD 83), FLORIDA STATE PLANT COORDINATE SYSTEM, EAST ZONE, DISTANCES SHOWN HEREON ARE GROUND DISTANCES.

4. THIS PROPERTY IS LOCATED IN FLOOD INSURANCE RATE MAP (F.I.R.M.), ZONE "X" (0.2 PER CENT ANNUAL CHANCE FLOOD HAZARD), ZONE "X" (AREA OF MINIMAL FLOOD HAZARD) AND ZONE "AE" (BFE-6), MAP NUMBER 1212700388J, EFFECTIVE DATE SEPTEMBER 29, 2017.

5. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SURVEY WHICH MAY BE FOUND IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. NO TITLE WORK HAS BEEN PROVIDED TO THE UNDERSIGNED FOR THIS PARCEL OF LAND OR ADJACENT PARCELS.

6. UNDERGROUND FOUNDATIONS AND UTILITIES (IF ANY) NOT SHOWN HEREON.

7. FIELD WORK FOR THIS SURVEY WAS PERFORMED ON JULY 08, 2022.

8. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR/MAPPER.

9. NO TREES, LANDSCAPING OR WETLANDS (IF ANY) WERE LOCATED OR SHOWN AS PART OF THIS SURVEY.

10. THE PURPOSE OF THIS SURVEY WAS TO SHOW THE PROPERTY GEOMETRY AS DEFINED BY THE LEGAL DESCRIPTION SHOWN ON THE FACE OF THIS SURVEY AND LOCATE ON-SITE MAJOR IMPROVEMENTS RELATIVE TO THE OCCUPIED PLATTED BOUNDARY.

LEGEND

- IRON ROD WITH CAP
- IRON PIPE
- ⊗ WATER METER
- ⊕ UTILITY POLE
- GUY ANCHOR
- ⊙ SHOWN
- ⊙ SHOWN
- ⊙ SHOWN



KUJAR SURVEYING & MAPPING, LLC

1501 RIDGEWOOD AVENUE, SUITE 205, HOLLY HILL, FLORIDA 32117
Phone: 386-672-0002 WWW.KUJARSURVEYING.COM

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MAP OF SURVEY

DATE: AUGUST 03, 2022
PROJECT: K22168
FILE: K22168 WORKSHEET.DWG
FIELD BOOK: JS PAGE 121
SHEET 1 OF 1 1" = 20'









