



**MEETING AGENDA
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, DECEMBER 6, 2022 AT 6:00 PM**

1. MEETING CALLED TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A Proclamation - Damas de Hierro, Inc.

3.B Employee of the Month for December

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - First Reading - Proposed Ordinance 22-14 to Annex 15.50 acres of land - AX-22-0002

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

5. PUBLIC HEARINGS

5.A Public Hearing - Resolution to Vacate Portions of Right-of-Way on Aultman Street and North Beaumont Avenue - ABDN-22-0002

6. HEAR AUDIENCE

Anything requiring a vote will be heard at a later time.

7. CONSENT AGENDA

The consent agenda is a technique designed to expedite the handling of routine miscellaneous business of the City Commission. The City Commission in one motion may adopt the entire Consent Agenda. The motion for adoption is non-debatable and must receive unanimous approval. By request of any individual member, an item may be removed from the Consent Agenda for discussion.

7.A Approval of City Commission Minutes from the November 15, 2022 meeting

7.B Approval of Fire Departments 5-year Community Driven Strategic Plan

7.C Approval of the 2023 Event and Festival Series Calendar

7.D Agreement for Traffic Control Jurisdiction between the Stonefield Homeowners Association and the City of Kissimmee

7.E Award of Continuing Services Contract Bid RFP2023-001 for Water Quality Analysis and Testing Services

7.F Magnolia Park Replat 2 Final Plat (DRC# SR-22-0007)

- 7.G Construction Manager at Risk Agreement between the City of Kissimmee and Balfour Beatty Construction, LLC. for the City Hall addition that will house the Building Division of the Development Services Department.
- 7.H Approval of Holiday Incentive Payment
- 7.I Utilize the City's continuing services contract with Baker Barrios Architects, Inc. for the design of the Berlinsky Community House project.

8. DISCUSSION ITEMS

- 8.A Proposed Contract with Freebee to Provide a New Micro-Mobility Transit Service with an Accompanying Resolution
- 8.B Legislative Priorities for 2022-2023
- 8.C Advisory Board Vacancy - Board of Adjustment

9. HEAR CITY OFFICIALS

- 9.A CITY MANAGER
- 9.B CITY ATTORNEY
- 9.C CITY COMMISSION

10. ADJOURNMENT

In accordance with Florida Statutes 286.105: Any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing will need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made.

In accordance with Florida State 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 101 Church Street, Kissimmee, Florida, (407) 518-2309.

ITEM 3.A

Proclamation - Damas de Hierro, Inc.

Request

The request is for the Commission to present a Proclamation for the anniversary of Damas de Hierro, Inc. to Daniela Droz and Dr. Vivian Badillo.

Explanation

N/A

Department: City Manager
Presenter: Mike Steigerwald

Attachment(s):

1. Proclamation-Damas de Hierro, Inc.

Proclamation



DAMAS DE HIERRO INC.

WHEREAS, The Organization Damas de Hierro Inc. originated November 18, 2021 from the courage identified in women, tired of fighting their life with fears and prejudices. The desire to contribute to the professional development and emotional balance of women in a holistic way, two professionals joined and founded the organization: the Communicator and Life Coach, Daniela Droz and Dra. Vivian Badillo, Clinical Psychologist; and

WHEREAS, through their life experiences and respective professions, they became Damas de Hierro, regardless of the circumstances, through training they provide tools to achieve success.

WHEREAS, Daniela Droz, President and Founder, of Puerto Rican origin. Renowned Communicator, Certified Professional Life Coach, with 35 years of artistic career in the Hispanic Market who constantly uses her voice as a platform to inspire other women; and

WHEREAS, Dr. Viviana Badillo Cartagena, Co-founder, also of Puerto Rican origin. Clinical Psychologist with a master's degree in Labor Law with 23 years of experience and Communicator of Professional and Personal Development Programs ; and

WHEREAS, Its mission is to educate, support, empower, develop, and influence women and their families, inside and outside the United States, with an educational and motivational message that produces strength, resilience, and an emotional and spiritual balance to be "Damas de Hierro"; and

WHEREAS, it is fair to recognize and honor organizations such as Damas de Hierro Inc. and its founders, who have contributed the best of their talents and knowledge for a better quality of life for women and their families in Florida and Puerto Rico; and

NOW, THEREFORE, we, the City Commission for the City of Kissimmee do hereby recognize "**Damas de Hierro Inc.**", congratulate them on their anniversary, and encourage them to continue providing their educational services to the women in our community.

IN WITNESS, THEREOF, this is signed this 6th day of December, 2022.


CITY MANAGER


MAYOR-COMMISSIONER



ITEM 3.B

Employee of the Month for December

Request

That the City Commission join the City Manager in recognizing Debresha Davis, Parks & Recreation, as December's Employee of the Month

Explanation

The City is honored to announce that the Employee of the Month for December is Debresha Davis, Recreation Leader, for the Parks & Recreation Department. Debresha has been a part-time employee with us since May of 2018.

Debresha has competently filled additional roles during her career, such as various Summer Camp positions, and has assisted with Facility Attendant duties. She is successful due to her versatility and her willingness to be a team player.

One of her current duties is Bright Beginners, where Debresha has exceeded expectations. Bright Beginners is a pre-school enrichment program for 3- and 4-year-old kids. She has adopted a new program and has tailored it to benefit the participants by enriching their education and motor skills. She has helped in the personal growth and development of the children's lives, and the parents are grateful for her hard work and dedication Debresha has to the program. She uses a curriculum that has creative ways to teach kids basic learning skills, and has organized the learning room for them to improve very important development skills.

Debresha's pride in her work shows in her pleasant demeanor and self-starting work ethic. Citizens and employees recognize Debresha's abilities, and the City would also like to.

Department: Human Resources & Risk Management

Presenter: Mike Steigerwald

Attachment(s):

None

ITEM 4.A

Public Hearing - First Reading - Proposed Ordinance 22-14 to Annex 15.50 acres of land - AX-22-0002

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Request

Approval to Annex approximately 15.50 acres of property located east of Bass Road, South of West Vine Street and west of Hoagland Boulevard.

Explanation

This annexation includes three adjacent parcels which include a total area of 15.50 acres of land located on the east of Bass Road, south of West Vine Street and west of Hoagland Boulevard. The property is contiguous, or adjacent, to parcels currently within the city limits along the south and east boundaries meeting the state voluntary annexation and City's Land Development Code criteria to support a staff recommendation of approval.

The applicant will be utilizing the City's land use conversion table in Future Land Use Policy 1.1.10.5 of the Comprehensive Plan (included with attachments) to establish a Single Family Low Density Residential (SF-LDR) designation at the time of annexation. The County's current Future Land Use designation is Low Density Residential (LDR), which is equivalent to the City's SF-LDR designation.

Improvements and conditions to mitigate impacts will be addressed with subsequent development review applications and reviews and are subject to applicable local, state, and federal permitting requirements and standards.

FINDINGS AND REASONS:

1. Compliance with Chapter 171 of the Florida Statutes as it meets all the criteria for voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the easterly and southern boundaries of the parcel. Public services, including water, sewer, drainage, and emergency services are already provided to these adjacent City parcels. The subject property is reasonably compact and will not result in the creation of an enclave if annexed.
2. Compliance with Comprehensive Plan Future Land Use Policy 1.1.10.5, Osceola County and City of Kissimmee Land Use Conversions, in that the the existing Osceola County Low Density Residential (LDR) Future Land Use Map designation is equivalent to the City's Single Family Low Density Residential (SF-LDR) Future Land Use designation and will be given this designation with the approval of this annexation.
3. Compliance with Section 14-3-25 annexation regulations outlined in the Land Development Code that refers to Chapter 171, Florida Statutes, and the general annexation procedures in the City's Comprehensive Plan utilizing either the City's land use conversion table in Future Land Use Policy 1.1.10.5, an Annexation Agreement, or a Future Land Use Map amendment. The land use conversion will be utilized to establish the Future Land Use designation on this property.

Recommendation

The Development Review Committee (DRC) recommended approval on April 19, 2022.

The Planning and Advisory Board recommended approval by a vote of 4-0 on June 15, 2022.

REQUESTED CITY COMMISSION ACTION:

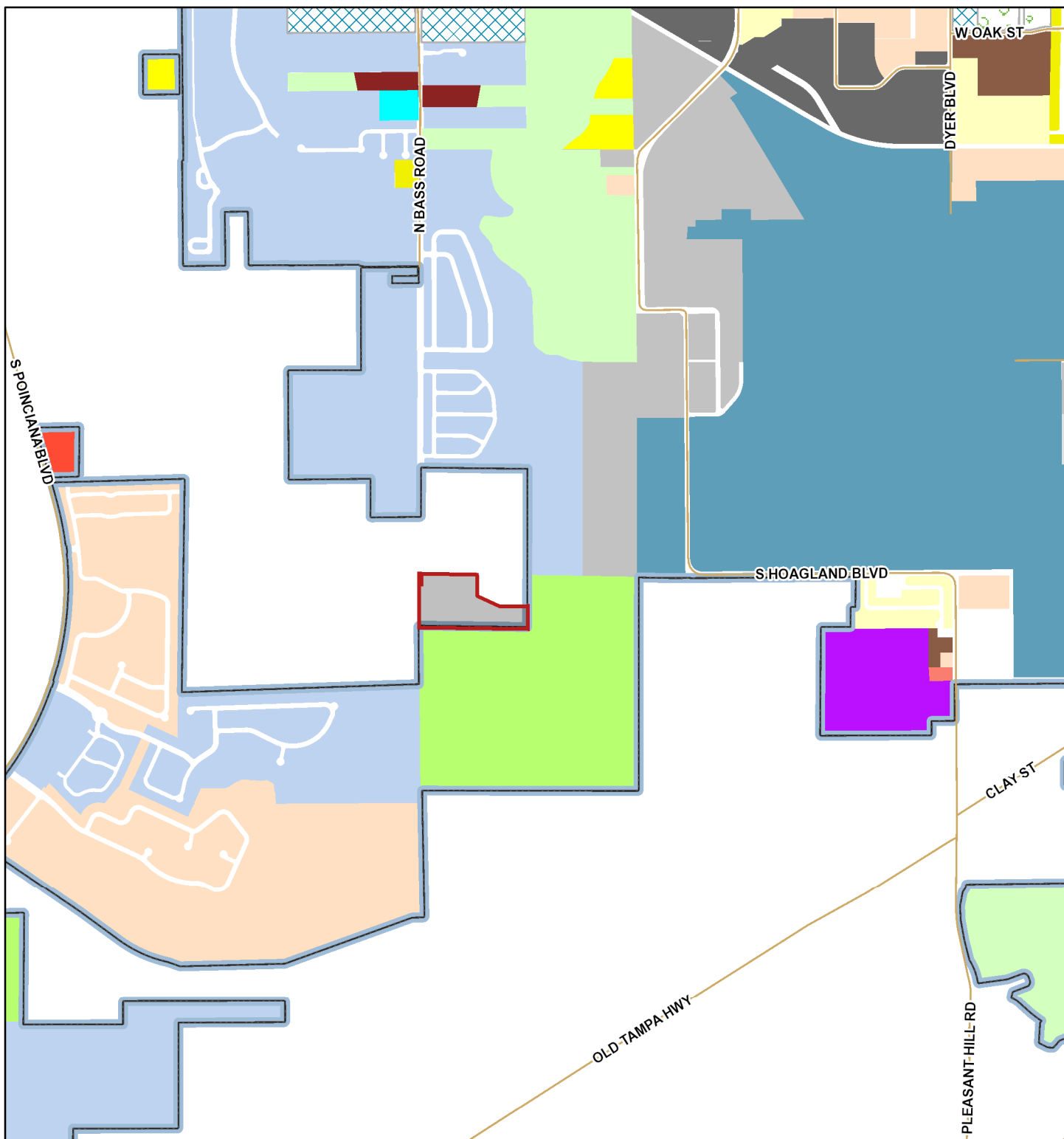
Approve

Department: Development Services

Presenter: Cristian Arias

Attachment(s):

1. AX-22-0002 Vicinity Map
2. AX-22-0002 Aerial Map
3. AX-22-0002 Site Data Tables
4. AX-22-0002 Comp Plan FLU Policy 1.1.10.5
5. AX-22-0002 Proposed Ordinance 22-14
6. AX-22-0002 City Commission Ad
7. AX-22-0002 PAB Actions
8. AX-22-0002 DRC Comments



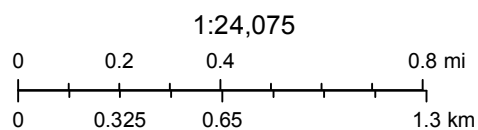
May 11, 2022

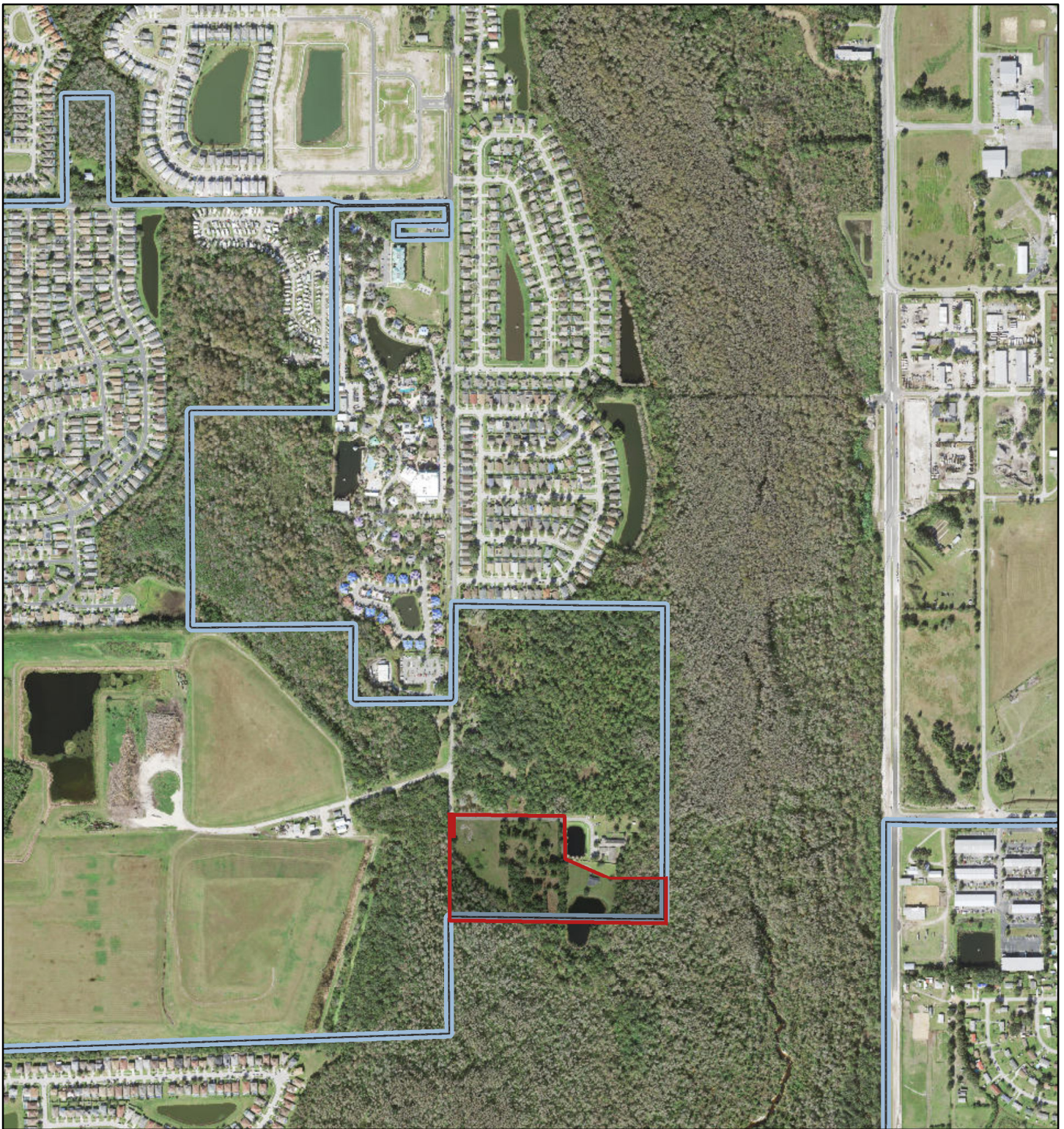
- Toll Roads
- US Roads
- Major Roads

City Limits

- CITY

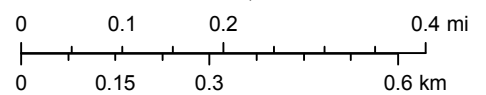
COUNTY





May 11, 2022

1:12,037



- Parcels
- Road Centerlines
- City Limits**
- CITY
- COUNTY
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 2.4m Resolution Metadata

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Give Kids the World, AX-22-0002

Parcel ID# 30-25-29-0000-0110-0000; 30-25-29-0000-0082-0000 & 30-25-29-0000-0081-0000

East of Poinciana Boulevard, north of Old Tampa Highway, south of W. Vine Street, & west of Hoagland Boulevard.

Site Data Tables

Site Data	
Size	15.50 acres
Future Land Use Designation	Low Density Residential (LDR) - County
Proposed Future Land Use Designation	Single Family Low Density (SF-LDR)
Zoning District Designation	AC - County
Proposed Zoning District Designation	AC (Agricultural Conservation) – City
Existing Overlay District	N/A
Existing Use(s)	Vacant
Proposed Use(s)	Low Impact Overflow Parking
Adjacent Land Use	
North	Low Density Residential and Institutional - County
South	Single Family - Low Density Residential (SF-LDR) – City
East	Low Density Residential (LDR) - County
West	Single Family - Low Density Residential (SF-LDR) – City
Adjacent Zoning	
North	Institutional (IN) - County
South	Agricultural Conservation (AC) – City
East	Institutional (IN) - County
West	Agricultural Conservation (AC) – City
Zoning History	N/A – Vacant Land
Past/Current Project Tracking	N/A

Comprehensive Plan Summary

Policy 1.2.1.2, Single Family Low Density Residential (SF-LDR): single family low density residential uses shall accommodate single family detached dwelling units with a maximum density of up to six dwelling units per acre. Specific densities will be determined by such factors as natural features of the land, density and/or intensity of developed and/or undeveloped land surrounding development, level of accessibility, housing supply and demand, adequacy of public facilities, and other factors which may be identified in the land development regulations. Supportive community facilities and accessory land uses may be located within areas designated for single family low density residential uses. The low density designation is intended to protect the quality and character of existing and stable single family detached low density residential neighborhoods

Potential Zoning Districts	Agriculture and Conservation – AC
	Residential Estate District – RE
	Single Family Residential Districts – RA-1, RA-2, RA-3 and RA-4
	Short-Term Rental Planned Unit Development - SRPUD
	Mixed-Use Planned Unit Development District - MUPUD

Zoning District Standards District Summary

Land Development Code Section 14-4-4 (A.3), Agriculture and Conservation District (AC) – When an annexed area is given a future land use designation other than Single Family Low Density Residential (SF-LDR), the AC district should be considered a holding zone which will permit appropriate rural development until such time as new urban development is appropriate. When new urban development is appropriate for such areas, the property subject to the proposed development may be rezoned to be consistent with its future land use designation and the new development shall be consistent with the new zoning.

Comprehensive Plan Future Land Use & Zoning Comparisons

	<i>Existing Future Land Use & Zoning</i>	<i>Requested Future Land Use & Zoning</i>
Uses	Policy 1-1.2.8: Low Density Residential (LDR) (3 - 8 du/ac) – County	Policy 1.2.1.2, Single Family Low Density Residential (SF-LDR) (up to 6 du/ac)

Public Facilities Analysis

Transportation	
Adjacent street	Bass Road
Street Quality of Service (QOS)	Adjacent Streets are under Osceola County jurisdiction.
Sanitary Sewer	
Is volume less than 98% capacity?	N/A – Compliance
Potable Water	
Is volume less than 98% capacity?	N/A – Compliance
Is water pressure at least 40lbs per square inch?	N/A – Compliance
Solid Waste	

Is volume less than 5.1lbs per person per calendar day?	N/A – Compliance
Recreation	
Is active recreation area at least 2 acres per 1,000 population?	N/A – Compliance
Is urban open space area at least 2 acres per 1,000 population?	N/A – Compliance
Is total recreation area at least 4 acres per 1,000 population?	N/A – Compliance
Drainage	
Is off-site discharge; runoff velocities; roadway drainage; pavement; retention; and flood storage LOS standards met?	N/A- Compliance

POLICY 1.1.10.5: OSCEOLA COUNTY AND CITY OF KISSIMMEE LAND USE CONVERSIONS.

Upon annexation, land annexed into the City will be given an appropriate and compatible land use designation in one of the following ways:

1. If at the time of annexation, the City determines that the existing Osceola county Future Land Use Map designation is the most appropriate designation for the property, and will achieve the City's planning objectives for the area, the property will be given a City Future Land Use Map designation as indicated in the conversion table below.

COUNTY TO CITY CONVERSION TABLE

County Future Land Use Designation	City Future Land Use Designation
Rural/Agricultural	Single Family Low Density (SF-LDR)
Rural Enclave	Single Family Low Density (SF-LDR)
Low Density Residential	Single Family Low Density (SF-LDR)
Medium Density	Single Family Low Density (SF-LDR), Multiple Family Medium Density (MF-MDR), or Mixed-Use
High Density Residential	Multiple Family Medium Density (MF-MDR), or Mixed-Use (MU)
Office	Commercial General (CG), or Office-Residential (OR), or Mixed-Use (MU)
Neighborhood Commercial	Commercial General (CG), or Office-Residential (OR), or Mixed-Use (MU)
Community Commercial	Commercial General (CG), or Mixed-Use (MU)
Urban Commercial	Commercial General (CG), or Mixed-Use (MU)
Employment	Commercial General (CG)
Tourist Commercial	Commercial General (CG), or Mixed-Use (MU)
Industrial	Industrial Business (IN)
Conservation	Recreation (REC), or Conservation (CONS)
Institutional	Institutional (INST) or Recreation (REC)
Natural Resource	Utilities (UT)

Additionally, all areas within the 100 year flood plain shall also be included under the Conservation Overlay District regardless of the Osceola County Future Land Use Map designation prior to annexation.

2. If at the time of annexation, the City determines that the existing Osceola County Future Land Use Map designation is not the most appropriate designation for the property, the property will be given a City land use designation in accordance with the land use plan amendment process as defined by Chapter 163 of the Florida Statutes and City codes and policies.

PROPOSED ORDINANCE NO. 22-14
ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR THE ANNEXATION OF
CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF
KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE
TERMS AND CONDITIONS OF SUCH LAND AFTER ITS
ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT
HEREWITH AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA, IN
LAWFUL SESSION ASSEMBLED, AS FOLLOWS:

SECTION 1. After public hearing and proper legal advertisement, the City Commission of the City of Kissimmee determined that the hereinafter described property is susceptible of municipal benefits and that the best interest of the City of Kissimmee will be served by the annexation of the hereinafter described land.

Acreage: 15.5 acres

The subject property is located at S Bass Rd; 1045 S. Bass Rd.; & 1033 S. Bass Rd. Parcel ID: 30-25-29-0000-0110-0000; 30-25-29-0000-0082-0000 & 30-25-29-0000- 0081-0000

Legal Description:

NW 1/4 OF NW 1/4 OF SW 1/4 LESS BEG AT NE COR OF NW 1/4 OF NW 1/4 OF SW 1/4, S 663.4 FT, W 320 FT, N 333.12 FT, W 60 FT, N 330 FT, E 380 FT TO POB

Together with Parcel 2:

COM AT W 1/4 COR OF SEC, S 89 DEG E 680.11 FT TO POB; CONT S 89 DEG E 40.02 FT, S 266.76 FT, S 72 DEG E 198.30 FT, S 29 DEG W 11.71 FT, S 62 DEG E 114.80 FT, N 89 DEG E 354.97 FT, S 285.13 FT, N 89 DEG W 674.90 FT, N 663.40 FT TO POB

Together with Parcel 3:

BEG AT NE COR OF NW 1/4 OF NW 1/4 OF SW 1/4, S 663.4 FT, W 320 FT, N 333.12 FT, W 60 FT, N 330 FT, E 380 FT TO POB

SECTION 2. That upon the effective date of this Ordinance, the land described in Section 1 of this Ordinance shall be part of the City of Kissimmee, Florida, and the boundaries of said shall now include the herein above described land from the effective date of this Ordinance.

SECTION 3. That the land described in Section 1 of this Ordinance shall from the effective date of this Ordinance be susceptible to all of the municipal benefits and responsibilities. That the land shall be subject to taxation by the City of Kissimmee beginning the first date of the first calendar year after the effective date of this Ordinance.

However, until that date, no real or personal property within the area described in this Ordinance and so annexed, shall be liable for or taxed to pay any bonded indebtedness of the City of Kissimmee existing at the time of the passage of this Ordinance. Except the exemption provided in this Ordinance, said land shall be subject to all of the obligations and duties as any other lands within the corporate boundaries of the City of Kissimmee, Florida.

SECTION 4. This Ordinance shall take effect 10 days after its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this ____ day of _____, 20____.

Mayor-Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

**CITY OF KISSIMMEE
NOTICE OF PUBLIC HEARING
VOLUNTARY ANNEXATION**

The City Commission will meet on **December 6, 2022** at 6:00 p.m., in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida, to hear the **First Reading** of the proposed voluntary annexation and vote upon its passage. The proposed annexation ordinance and a complete legal description by metes and bounds may be obtained by contacting the Office of the City Clerk, City Hall.

Any interested party wanting to be heard on this issue may submit testimony to be read into the official record to CityClerkEmail@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.

Any questions regarding this public hearing may be directed to the Development Services Department at (407) 518-2140 or at planning@kissimmee.gov.

PROPOSED ORDINANCE #22-14 AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION.

The city is requesting annexation as follows:

The subject property is located at **South Bass Rd; 1045 S. Bass Rd.; & 1033 S. Bass Rd. Parcel ID: 30-25-29-0000-0110-0000; 30-25-29-0000-0082-0000 & 30-25-29-0000-0081-0000**

Legal Description:

NW 1/4 OF NW 1/4 OF SW 1/4 LESS BEG AT NE COR OF NW 1/4 OF NW 1/4 OF SW 1/4, S 663.4 FT, W 320 FT, N 333.12 FT, W 60 FT, N 330 FT, E 380 FT TO POB

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Together with Parcel 3:

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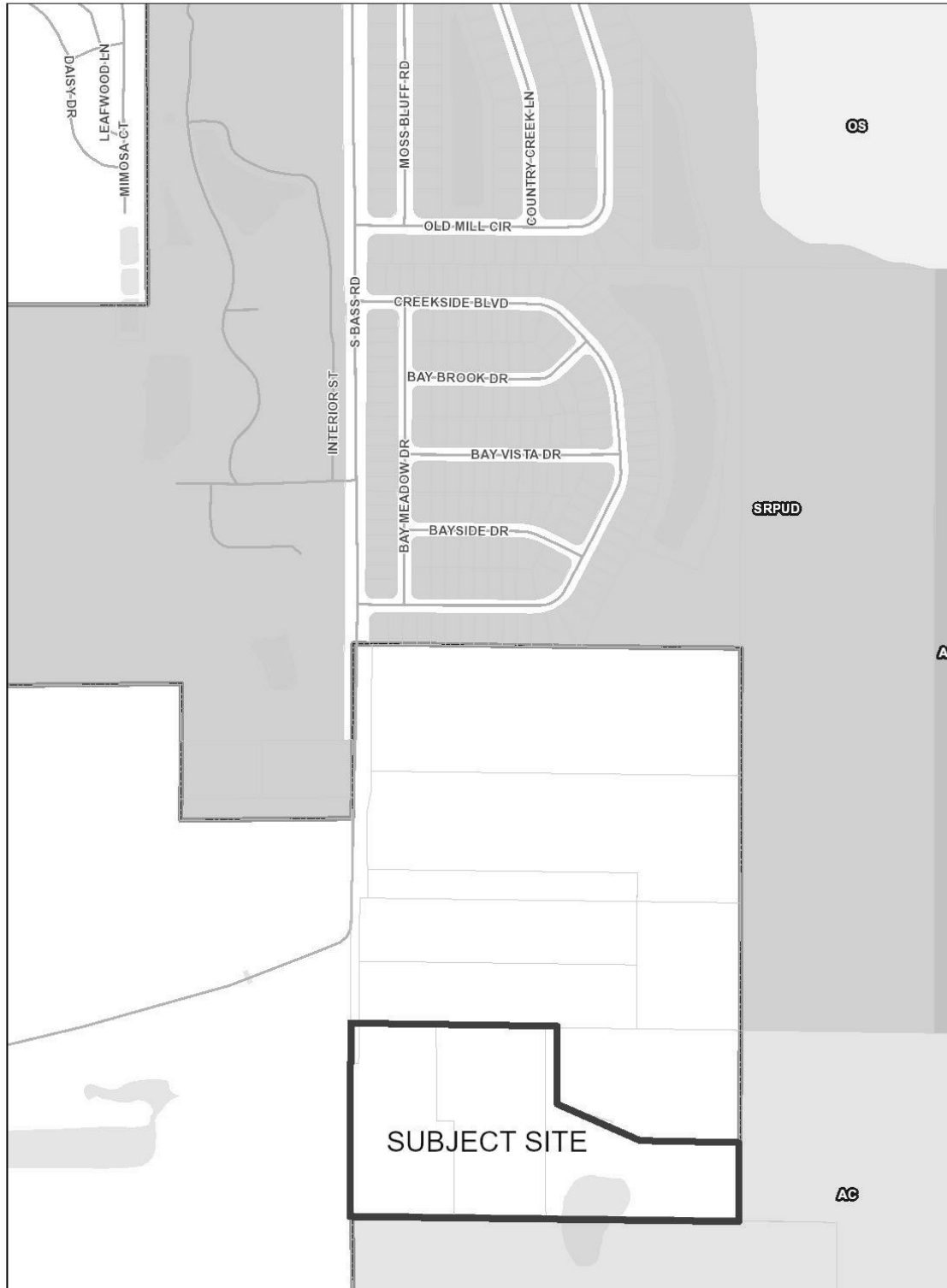
In accordance with [Florida Statutes](#) 286.0105: any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is made.

In accordance with [Florida Statute](#) 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

Reference # **AX-22-0002**
Give Kids the World

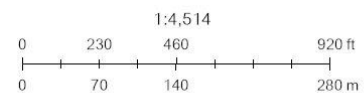
**CITY COMMISSION
KISSIMMEE, FLORIDA**

AX-22-0002



11/8/2022, 10:33:31 AM

- | | | |
|--------------------------------|-------------------------------|-----------------------------|
| City Limits | B-2 (Neighborhood Commercial) | MH (Mobile Home 6,000 sqft) |
| Road Centerlines | B-3 (General Commercial) | MHP (Mobile Home Park) |
| Parcels | B-5 (Office Commercial) | |
| County | BP (Business Park) | |
| Zoning Districts | CF (Community Facility) | |
| AC (Agricultural Conservation) | HC (Highway Commercial) | |
| AI (Airport Industrial) | HF (Hospital Facility) | |
| AO (Airport Operations) | IB (Industrial Business) | |



Web AppBuilder for ArcGIS



MEETING ACTIONS
SESSION OF THE PLANNING ADVISORY BOARD
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
WEDNESDAY, JUNE 15, 2022 AT 6:00 PM

Board Members Present: Chairman Robert Bussiere, Vice Chairman Wolff, Member Diana Marrero-Pinto, **(Absent)**, Member Robert Spalding, Member Jackie Espinosa, **(Absent)**, Member Fatima Santiago, **(Absent)**, Member Melissa Thacker, School Board Member Jason Lindsey

Staff Members Present: Douglas Etheredge, Assistant Director, Cristian Arias, Senior Planner, Kalanit Oded, Deputy City Attorney, Yolanda Hazley, Planning Technician

1. **MEETING CALLED TO ORDER**
2. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**
3. **MINUTES**

3.A Approval of the May 4, 2022 Planning Advisory Board Meeting Minutes

ACTION: Member Spalding made a motion to approve the minutes of the May 4, 2022, Planning Advisory Board meeting. Seconded by Member Thacker.

Chairman Bussiere	AYE	Member Thacker	AYE
Vice Chairman Wolff	AYE		
Member Spalding	AYE		

MOTION CARRIED 4-0

4. **OLD BUSINESS**

4.A Public Hearing - Fountainhead PUD Amendment: PUD-22-0003

ACTION: Member Spalding made a motion to approve. Seconded by Vice Chairman Wolff.

Chairman Bussiere	AYE	Member Thacker	AYE
Vice Chairman Wolff	AYE		
Member Spalding	AYE		

MOTION CARRIED 4-0

4.B Public Hearing - Ordinance to Annex 15.50 acres of land: Give Kids The World, AX-22-0002 - Proposed Ordinance # 22-14

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND

PROVIDING AN EFFECTIVE DATE

ACTION: Member Spalding made a motion to approve. Seconded by Member Thacker.

Chairman Bussiere	AYE	Member Thacker	AYE
Vice Chairman Wolff	AYE		
Member Spalding	AYE		

MOTION CARRIED 4-0

5. NEW BUSINESS

5.A Appoint/Reappoint Planning Advisory Board Chair and Vice Chair

ACTION: Member Spalding made a motion to table this item. Seconded by Member Thacker.

Chairman Bussiere	AYE	Member Thacker	AYE
Vice Chairman Wolff	AYE		
Member Spalding	AYE		

MOTION CARRIED 4-0

6. PUBLIC HEARINGS

7. DISCUSSION

8. HEAR CHAIRMAN AND BOARD MEMBERS

9. ADJOURNMENT

Adjourned - 6:08 pm



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: 30-25-29-0000-0110-0000, 30-25-29-0000-0081-0000 & 30-25-29-0000-0082-0000 DATE: 4/13/2022
PLAN NUMBER: AX-22-0002

Review Status:
APPROVED WITH CONDITIONS.

PLANNING DIVISION - Cristian I. Arias - 407-518-2373 Cristian.Arias@kissimmee.gov

Comments/Conditions (if applicable): Annexation approved subject to review and approval from Planning and Advisory Board and City Commission.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forthcoming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

**ADDRESS: Bass Rd Parking
PLAN (DRC) NUMBER: AX-22-0002**

DATE: 4/11/2022

**Review Status:
APPROVED WITH CONDITIONS.**

ENGINEERING DEPARTMENT - Ryan Kilman - 407.518.2279 - Ryan.Kilman@kissimmee.gov

Comments/Conditions (if applicable):

Conditions of Approval

1. All applicable code requirements of the City of Kissimmee Code of Ordinances shall be adhered to for any proposed use(s) and its processes.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.

ITEM 5.A

Public Hearing - Resolution to Vacate Portions of Right-of-Way on Aultman Street and North Beaumont Avenue - ABDN-22-0002

Request

Public Hearing to vacate 9,187 square feet of right of way on the north side of Aultman Street, 1,967 square feet of right of way on the west side of N. Beaumont Ave. near the intersection with Aultman, and 1,257 square feet of right of way on N. Beaumont adjacent to the intersection with Sumner Street.

Explanation

This is a request to vacate portions of rights-of-way directly adjacent to the Beaumont Government Complex, which is owned by the City but currently supports County offices. There are 3 separate segments of right-of way included with this application. There are 2 portions on N. Beaumont Ave. and 1 portion on Aultman St. The rights of way are only adjacent to the Beaumont Government Complex. Therefore, if vacated, the rights-of-way will be included within the parcel boundary of the Beaumont Complex and will not impact any other adjacent properties. The vacated portions are necessary to facilitate the plan approved for the redevelopment of the approximately 20-acre Beaumont Property parcel with a mixed use development consisting of multi-family and commercial uses (SP-22-0011).

The Beaumont Government Complex was rezoned in 2016 from Community Facilities (CF) to Downtown Commercial (B-1) (DRC#16-079, Ord.#2936) and recently rezoned to Mixed-Use Center (T5-M) with the adoption of the Form Based Code with the updated Land Development Code in 2020 (DRC#20-00053, Ord.#3034) to further encourage redevelopment.

FINDINGS AND REASONS:

1. Removal of the rights-of-way does not have an impact or effect on the City roadway network.
2. Consistent with applicant justification; future development; emergency responses; city services; and other Land Development Code documents.
3. Compliance with Land Development Code Sections 14-3-4, Vacation and Abandonment of Rights-of-Way and Easements, procedures, requirements, and criteria for right of way vacation requests.

Recommendation

REQUESTED PLANNING ADVISORY BOARD ACTION:

Approve

The Development Review Committee (DRC) recommended approval on September 20, 2022.

The Planning Advisory Board (PAB) recommended approval by a vote of 4-0 on November 2, 2022.

CONDITIONS:

1. Any additional easement dedication requirements over the vacated portions of rights of way shall be provided and reviewed with the final plat submittal.

Attachment(s):

1. (S) ABDN-22-0002- ROW Abandonment Resolution
2. ABDN-22-0002 Vicinity Map
3. ABDN-22-0002 Aerial Map
4. ABDN-22-0002 City Commission Ad
5. ABDN-22-0002 Nov. 2, 2022 PAB Actions
6. ABDN-22-0002 DRC Comments
7. ABDN-22-0002 DRC Application

RESOLUTION NO. _____

**A RESOLUTION OF ABANDONMENT
OF PORTIONS OF AULTMAN STREET
AND BEAUMONT AVENUE**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA, IN LAWFUL SESSION ASSEMBLED THAT:

WHEREAS, there exists a recorded right-of-way to Kissimmee, City, which had dedicated that portion of Aultman Street and Beaumont Avenue, and

WHEREAS, the City is desirous of vacating the said portions of Aultman Street and Beaumont Avenue, as hereinafter described, and

WHEREAS, the City Commission of the City of Kissimmee, Florida has determined that the abandonment of a portion of said right-of-way does not materially affect the right of convenient access to lots which may have been previously conveyed under the recorded easement, Kissimmee City and

WHEREAS, the City Commission of the City of Kissimmee, Florida has determined that the public convenience and necessity does not require the use and maintenance of the portion of said right-of-way

WHEREAS, the interest of the City of Kissimmee and its citizens thereof would not be adversely affected by the abandonment and annulment of a portion of said right-of-way appearing of record;

NOW THEREFORE, BE IT RESOLVED that pursuant to Section 14-3-47 of the Code of The City of Kissimmee, that portion of Aultman Street and Beaumont Avenue as described hereinafter shall be hereby abandoned and annulled leaving a blanket access, drainage, maintenance and utility easement.

Legal Description

A parcel of land being a portion of Beaumont Avenue, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Legal Description

Commence at the Southeast corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the North Right of Way line of Sumner Street; thence departing said North Right of Way line, run N00°06'36"E,

along the West Right of Way line of Beaumont Avenue, a distance of 133.24 feet to the Point of Beginning; thence continue N00°06'36"E, along said West Right of Way line, a distance of 299.84 feet to a Point on a Non-Tangent Curve, Concave to the West, having a Radius of 25.00 feet and a Central Angle of 31°51'34"; thence departing said West Right of Way line, run Southerly along the arc of said curve, a distance of 13.90 feet (Chord Bearing = S15°49'09"E, Chord = 13.72 feet); thence S00°02'07"E, a distance of 108.24 feet; thence S01°56'08"E, a distance of 25.04 feet to the Point of Curvature of a curve, Concave to the East, having a Radius of 1,041.50 feet and a Central Angle of 03°18'01"; thence run Southerly along the Arc of said curve, a distance of 59.99 feet (Chord Bearing = S03°35'09"E, Chord = 59.99 feet) to a Point of Reverse Curve, Concave to the West having a Radius of 945.23 feet and a Central Angle of 04°15'39"; thence Southerly along the arc, a distance of 70.29 feet, (Chord Bearing = S03°06'20"E, Chord = 70.28 feet) to a Point on a Non-Tangent Curve, Concave to the Northwest, having a Radius of 25.00 feet and a Central Angle of 64°16'19"; thence run Southwesterly along the arc of said curve, a distance of 28.04 feet (Chord Bearing = S28°44'22"W, Chord = 26.60 feet) to the Point of Beginning.

Containing 1,967 square feet or 0.045 acres, more or less.

Together with:

A parcel of land being a portion of Beaumont Avenue, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeast corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the North Right of Way line of Sumner Street; thence departing said North Right of Way line, run N00°06'36"E, along the West Right of Way line of Beaumont Avenue, a distance of 103.33 feet to a Point on a Non-Tangent Curve, Concave to the Southwest, having a Radius of 25.00 feet and a Central Angle of 63°36'31"; thence departing said West Right of Way line, run Southeasterly along the arc of said curve, a distance of 27.75 feet (Chord Bearing = S31°05'33"E, Chord = 26.35 feet); thence S00°42'26"W, a distance of 67.08 feet to a Point on a Non-Tangent Curve, Concave to the Northwest, having a Radius of 28.58 feet and a Central Angle of 32°09'39"; thence run Southwesterly along the arc of said curve, a distance of 16.04 feet (Chord Bearing = S26°33'08"W, Chord = 15.83 feet); thence N85°26'30"W, a distance of 5.92 feet to the Point of Beginning.

Containing 1,257 square feet or 0.029 acres, more or less

Together with:

A parcel of land being a portion of Aultman Street, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeasterly corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the West Right of Way line of Central Avenue; thence N89°57'18"W, along the South line of said Lot 1, said line also being the North Right of Way line of Aultman Street, a distance of 579.54 feet; thence departing said North Right of Way line, run S84°48'22"E, a distance of 29.17 feet; thence S84°53'56"E, a distance of 31.01 feet; thence S82°33'44"E, a distance of 44.39 feet; thence S83°19'49"E, a distance of 20.72 feet; thence S84°14'22"E, a distance of 10.64 feet; thence S85°09'55"E, a distance of 21.28 feet; thence S86°23'58"E, a distance of 21.28 feet; thence S87°56'32"E, a distance of 31.92 feet; thence S89°16'46"E, a distance of 89.66 feet; thence N89°49'35"E, a distance of 247.35 feet to the Point of Curvature of a curve, Concave to the North, having a Radius of 51.22 feet and a Central Angle of 39°52'08"; thence run Easterly along the Arc of said curve, a distance of 35.64 feet (Chord Bearing = N69°53'31"E, Chord = 34.93 feet); thence N02°11'36"E, a distance of 6.82 feet to the Point of Beginning.

Containing 9,187 square feet or 0.211 acres, more or less.

This resolution shall take effect upon its adoption.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this 6th day of December, 2022.

Mayor - Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEETS 2 & 3 OF 3 FOR SKETCH

LEGAL DESCRIPTION:

A parcel of land being a portion of Aultman Street, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeasterly corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the West Right of Way line of Central Avenue; thence N89°57'18"W, along the South line of said Lot 1, said line also being the North Right of Way line of Aultman Street, a distance of 579.54 feet; thence departing said North Right of Way line, run S84°48'22"E, a distance of 29.17 feet; thence S84°53'56"E, a distance of 31.01 feet; thence S82°33'44"E, a distance of 44.39 feet; thence S83°19'49"E, a distance of 20.72 feet; thence S84°14'22"E, a distance of 10.64 feet; thence S85°09'55"E, a distance of 21.28 feet; thence S86°23'58"E, a distance of 21.28 feet; thence S87°56'32"E, a distance of 31.92 feet; thence S89°16'46"E, a distance of 89.66 feet; thence N89°49'35"E, a distance of 247.35 feet to the Point of Curvature of a curve, Concave to the North, having a Radius of 51.22 feet and a Central Angle of 39°52'08"; thence run Easterly along the Arc of said curve, a distance of 35.64 feet (Chord Bearing = N69°53'31"E, Chord = 34.93 feet); thence N02°11'36"E, a distance of 6.82 feet to the Point of Beginning.

Containing 9,187 square feet or 0.211 acres, more or less.

REQUESTED BY: SKYVIEW KISSIMMEE DEVELOPER, LLC

SHEET 1 OF 3

DATE OF SURVEY	7/14/2022	REVISIONS
SCALE	1" = 60'	
F.B.	PAGE	
SECTION	21	
TWP.	25 S., RNG. 29 E.	
JOB NO.	20-274A	

JOHNSTON'S
SURVEYING INC.

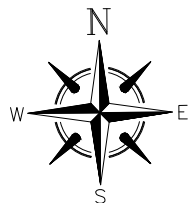
900 Cross Prairie Parkway, Kissimmee, Florida 34744
Tel. (407) 847-2179 Fax (407) 847-6140

R.D.B.

7/15/2022

RICHARD D. BROWN, P.S.M. #5700 (DATE)

NOTE: NOT VALID WITHOUT RAISED SURVEYOR'S SEAL



SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEET 1 OF 3 FOR LEGAL DESCRIPTION

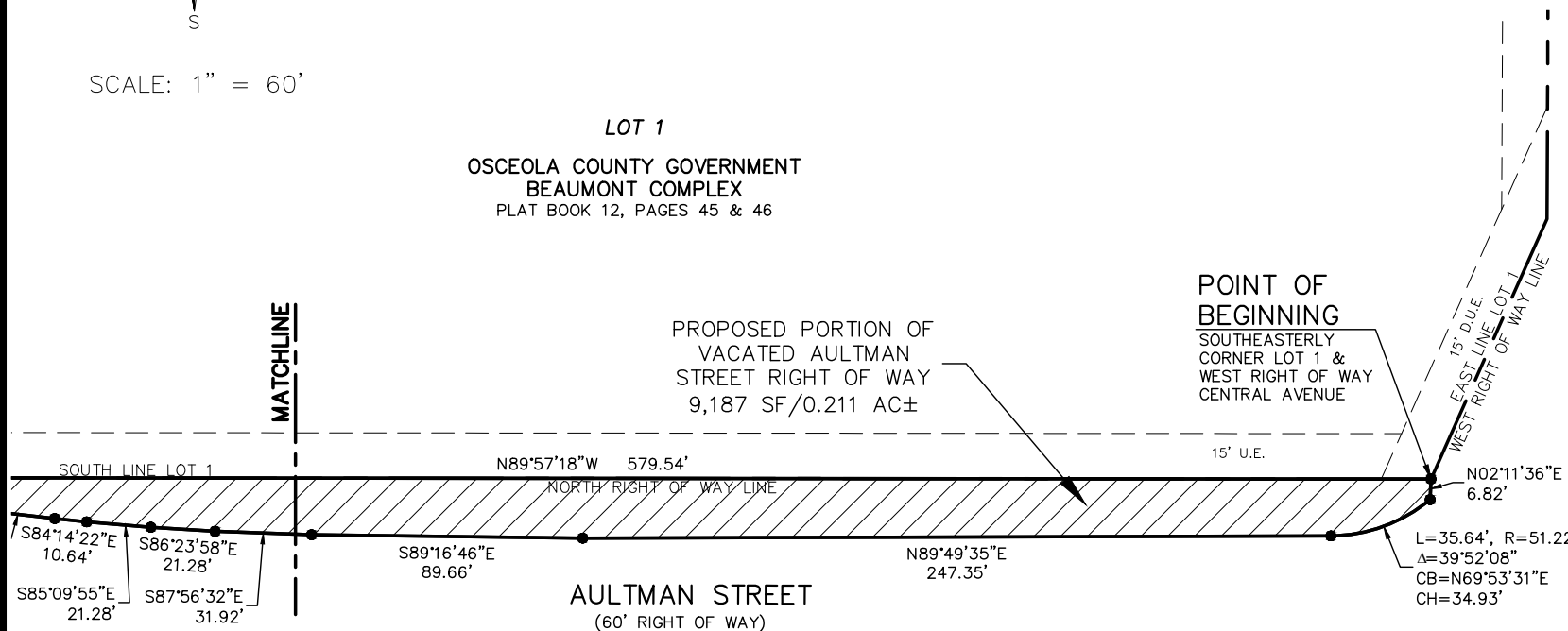
SCALE: 1" = 60'

LOT 1
OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

PROPOSED PORTION OF
VACATED AULTMAN
STREET RIGHT OF WAY
9,187 SF/0.211 AC±

POINT OF
BEGINNING
SOUTHEASTERLY
CORNER LOT 1 &
WEST RIGHT OF WAY
CENTRAL AVENUE

CENTRAL AVENUE
R/W WIDTH VARIES



MAPLE AVENUE
(50.6' R/W)

BLOCK D

OSBORN & O'NEIL ADDITION
PLAT BOOK 1, PAGE 7

NEW YORK AVENUE
(50.6' R/W)

BLOCK C

OSBORN & O'NEIL ADDITION
PLAT BOOK 1, PAGE 7

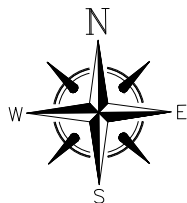
LEGEND AND ABBREVIATIONS

TWP. = TOWNSHIP
RNG. = RANGE
NO. = NUMBER
LB = LICENSED BUSINESS
R/W = RIGHT OF WAY
P.S.M. = PROFESSIONAL
SURVEYOR AND MAPPER
TEL. = TELEPHONE
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SHEET 2 OF 3



SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

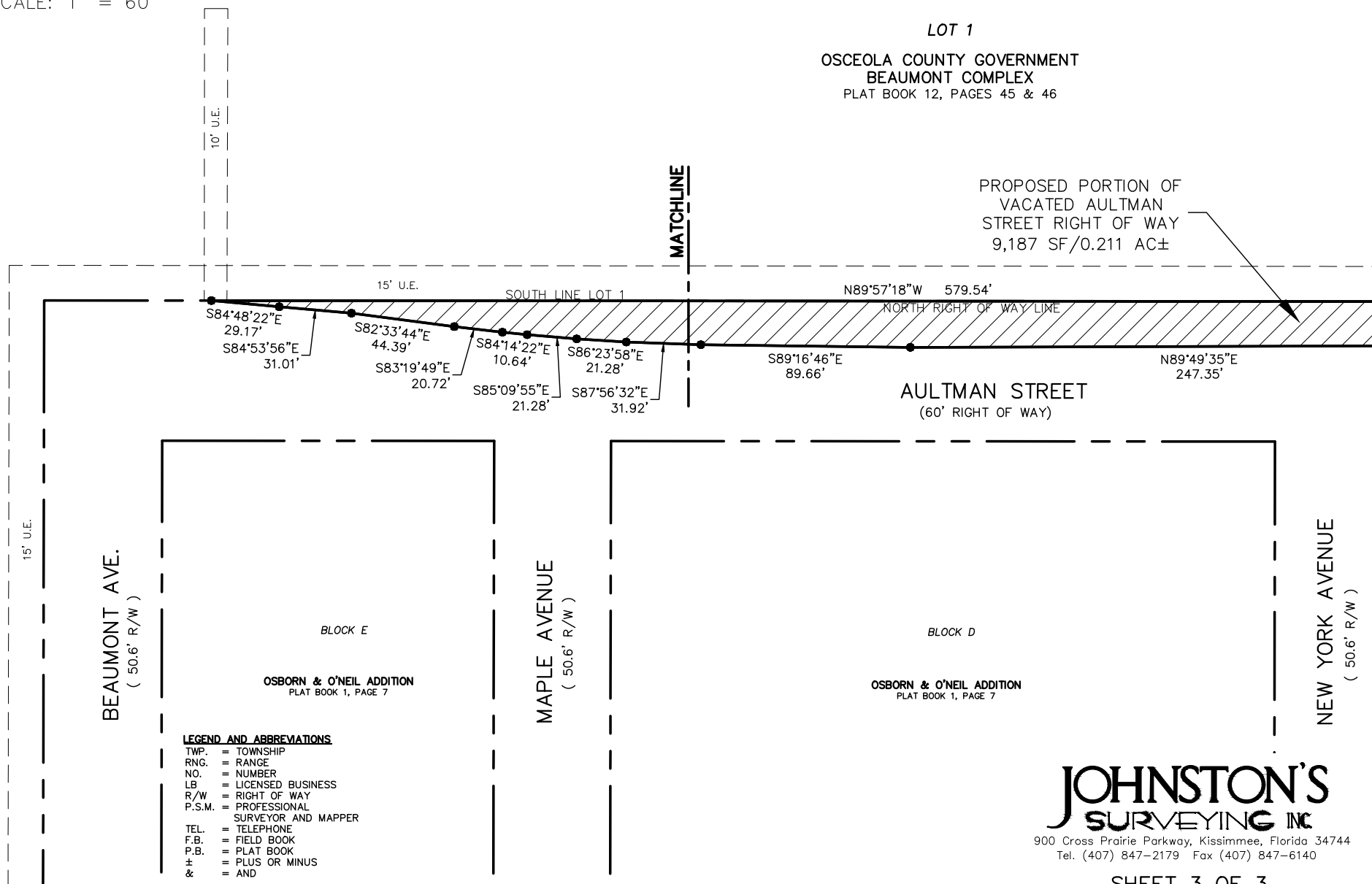
SEE SHEET 1 OF 3 FOR LEGAL DESCRIPTION

SCALE: 1" = 60'

LOT 1

OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

PROPOSED PORTION OF
VACATED AULTMAN
STREET RIGHT OF WAY
9,187 SF/0.211 AC±



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SHEET 3 OF 3

SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEET 2 OF 2 FOR SKETCH

LEGAL DESCRIPTION:

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Containing 1,967 square feet or 0.045 acres, more or less.

REQUESTED BY: SKYVIEW KISSIMMEE DEVELOPER, LLC

SHEET 1 OF 2

DATE OF SURVEY	7/14/2022	REVISIONS
SCALE	1" = 60'	
F.B.	PAGE	
SECTION	21	
TWP.	25 S., RNG. 29 E.	
JOB NO.	20-274A	

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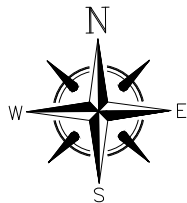
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R.D.B.

7/15/2022

RICHARD D. BROWN, P.S.M. #5700 (DATE)

NOTE: NOT VALID WITHOUT RAISED SURVEYOR'S SEAL



SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION

SCALE: 1" = 60'

LOT 1

OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

PROPOSED PORTION OF
VACATED BEAUMONT
AVENUE RIGHT OF WAY
1,967 SF/0.045 AC±

20' D.U.E.

LOT 1

OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

POINT OF
BEGINNING

POINT OF
COMMENCEMENT

SOUTHEAST CORNER LOT 1,
OSCEOLA COUNTY
GOVERNMENT BEAUMONT
COMPLEX & NORTH RIGHT
OF WAY OF SUMNER STREET

15' U.E.

SOUTH LINE LOT 1
NORTH RIGHT OF WAY LINE

SUMNER STREET

(50.6' R/W)

AULTMAN STREET

(60' RIGHT OF WAY)

L=13.90', R=25.00'
Δ=31°51'34"
CB=S15°49'09"E
CH=13.72'

15' U.E.

108.24'

S00°02'07"E

S01°56'08"E

N00°06'36"E

EAST LINE LOT 1

WEST RIGHT OF WAY LINE

133.24'

N00°06'36"E

BEAUMONT AVE.
(50.6' R/W)

BLOCK E

OSBORN & O'NEIL ADDITION
PLAT BOOK 1, PAGE 7

L=59.99', R=1041.50'
Δ=3°18'01"
CB=S03°35'09"E
CH=59.99'

L=70.29', R=945.23'
Δ=4°15'39"
CB=S03°06'20"E
CH=70.28'

L=28.04', R=25.00'
Δ=64°16'19"
CB=S28°44'22"W
CH=26.60'

LEGEND AND ABBREVIATIONS

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SHEET 2 OF 2

SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEET 2 OF 2 FOR SKETCH

LEGAL DESCRIPTION:

A parcel of land being a portion of Beaumont Avenue, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeast corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the North Right of Way line of Sumner Street; thence departing said North Right of Way line, run N00°06'36"E, along the West Right of Way line of Beaumont Avenue, a distance of 103.33 feet to a Point on a Non-Tangent Curve, Concave to the Southwest, having a Radius of 25.00 feet and a Central Angle of 63°36'31"; thence departing said West Right of Way line, run Southeasterly along the arc of said curve, a distance of 27.75 feet (Chord Bearing = S31°05'33"E, Chord = 26.35 feet); thence S00°42'26"W, a distance of 67.08 feet to a Point on a Non-Tangent Curve, Concave to the Northwest, having a Radius of 28.58 feet and a Central Angle of 32°09'39"; thence run Southwesterly along the arc of said curve, a distance of 16.04 feet (Chord Bearing = S26°33'08"W, Chord = 15.83 feet); thence N85°26'30"W, a distance of 5.92 feet to the Point of Beginning.

Containing 1,257 square feet or 0.029 acres, more or less

REQUESTED BY: SKYVIEW KISSIMMEE DEVELOPER, LLC

SHEET 1 OF 2

DATE OF SURVEY	7/14/2022	REVISIONS
SCALE	1" = 60'	
F.B.	PAGE	
SECTION	21	
TWP.	25 S., RNC. 29 E.	
JOB NO.	20-274A	

**JOHNSTON'S
SURVEYING INC.**

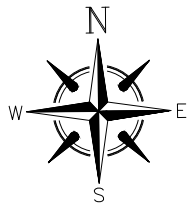
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R.D.B.

7/15/2022

RICHARD D. BROWN, P.S.M. #5700 (DATE)

NOTE: NOT VALID WITHOUT RAISED SURVEYOR'S SEAL



SKETCH OF DESCRIPTION TO VACATE RIGHT OF WAY

SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION

SCALE: 1" = 60'

LOT 1

OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

20' D.U.E.

LOT 1

OSCEOLA COUNTY GOVERNMENT
BEAUMONT COMPLEX
PLAT BOOK 12, PAGES 45 & 46

PROPOSED PORTION OF
VACATED BEAUMONT
AVENUE RIGHT OF WAY
1,257 SF/0.029 AC±

POINT OF
BEGINNING

SOUTHEAST CORNER LOT 1,
OSCEOLA COUNTY
GOVERNMENT BEAUMONT
COMPLEX & NORTH RIGHT OF
WAY LINE OF SUMNER STREET

15' U.E.

SOUTH LINE LOT 1
NORTH RIGHT OF WAY LINE

SUMNER STREET

(50.6' R/W)

15' U.E.

EAST LINE LOT 1
WEST RIGHT OF WAY LINE

BEAUMONT AVE.
(50.6' R/W)

AULTMAN STREET
(60' RIGHT OF WAY)

BLOCK E

OSBORN & O'NEIL ADDITION
PLAT BOOK 1, PAGE 7

L=27.75', R=25.00'
Δ=63°36'31"
CB=S31°05'33"E
CH=26.35'

LEGEND AND ABBREVIATIONS

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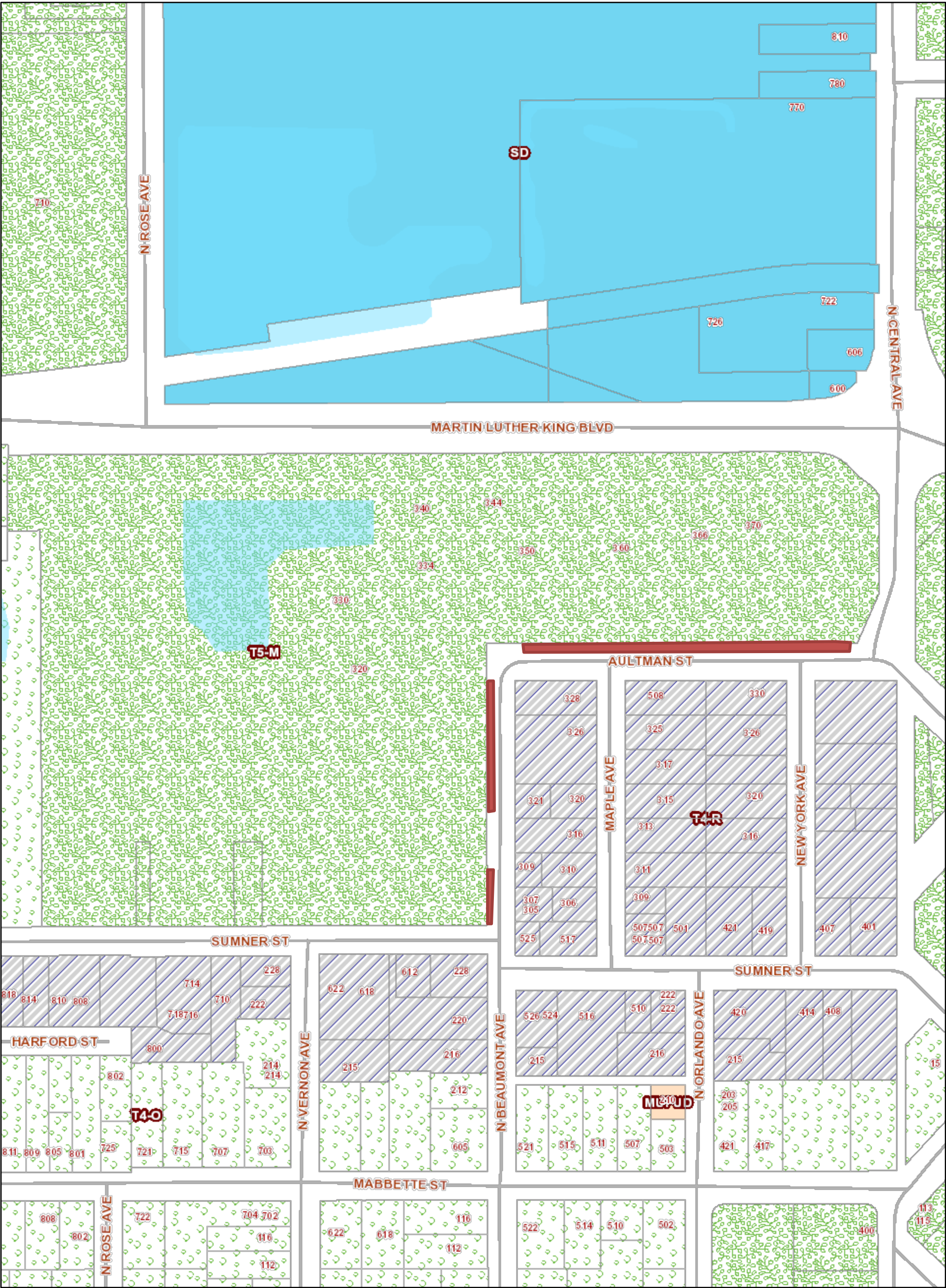
L=16.04', R=28.58'
Δ=32°09'39"
CB=S26°33'08"W
CH=15.83'

JOHNSTON'S
SURVEYING INC

900 Cross Prairie Parkway, Kissimmee, Florida 34744
Tel. (407) 847-2179 Fax (407) 847-6140

SHEET 2 OF 2

ABDN-22-0002 Vicinity Map



11/23/2022, 11:13:49 AM

- City Limits

Road Centerlines

Parcels

Address Points

County

AO (Airport Operations)

B-2 (Neighborhood Commercial)

B-3 (General Commercial)

B-5 (Office Commercial)

BP (Business Park)

CF (Community Facility)

HC (Highway Commercial)

HF (Hospital Facility)

IB (Industrial Business)

MH (Mobile Home 6,000 sqft)

MHP (Mobile Home Park)

AC (Agricultural Conservation)

AI (Airport Industrial)

1:2,257

00.020.040.08 mi

00.030.070.13 km

Web AppBuilder for ArcGIS

Page 34 of 404

This aerial map displays a residential neighborhood in Jacksonville, Florida. The map is oriented with North at the top. Key streets include N Rose Ave on the left, Martin Luther King Blvd running horizontally across the middle, and N Central Ave on the right. Other streets shown are Aultman St, Sumner St, Harford St, N Vernon Ave, N Beaumont Ave, N Orlando Ave, and N Central Ave. The map shows a large pond in the upper left quadrant, surrounded by greenery. Numerous residential lots are visible, many of which are numbered. The map also shows various buildings, including houses and commercial structures, and a parking lot with many cars. The map is overlaid with a grid of lot lines and street names.



Parcels

1:2,257

Page 35 of 404

NOTICE OF PUBLIC HEARING

The City Commission will hold a Public Hearing on **Tuesday, December 6, 2022** at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida, 34741. The purpose of this Public Hearing is to make a recommendation to the City Commission to vacate the right-of-way as described as follows:

That portion of **W. Aultman Street & N Beaumont Ave.**

A parcel of land being a portion of Beaumont Avenue, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Legal Description

Commence at the Southeast corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the North Right of Way line of Sumner Street; thence departing said North Right of Way line, run N00°06'36"E, along the West Right of Way line of Beaumont Avenue, a distance of 133.24 feet to the Point of Beginning; thence continue N00°06'36"E, along said West Right of Way line, a distance of 299.84 feet to a Point on a Non-Tangent Curve, Concave to the West, having a Radius of 25.00 feet and a Central Angle of 31°51'34"; thence departing said West Right of Way line, run Southerly along the arc of said curve, a distance of 13.90 feet (Chord Bearing = S15°49'09"E, Chord = 13.72 feet); thence S00°02'07"E, a distance of 108.24 feet; thence S01°56'08"E, a distance of 25.04 feet to the Point of Curvature of a curve, Concave to the East, having a Radius of 1,041.50 feet and a Central Angle of 03°18'01"; thence run Southerly along the Arc of said curve, a distance of 59.99 feet (Chord Bearing = S03°35'09"E, Chord = 59.99 feet) to a Point of Reverse Curve, Concave to the West having a Radius of 945.23 feet and a Central Angle of 04°15'39"; thence Southerly along the arc, a distance of 70.29 feet, (Chord Bearing = S03°06'20"E, Chord = 70.28 feet) to a Point on a Non-Tangent Curve, Concave to the Northwest, having a Radius of 25.00 feet and a Central Angle of 64°16'19"; thence run Southwesterly along the arc of said curve, a distance of 28.04 feet (Chord Bearing = S28°44'22"W, Chord = 26.60 feet) to the Point of

Beginning. Containing 1,967 square feet or 0.045 acres, more or less.

Together with:

A parcel of land being a portion of Beaumont Avenue, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeast corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the North Right of Way line of Sumner Street; thence departing said North Right of Way line, run N00°06'36"E, along the West Right of Way line of Beaumont Avenue, a distance of 103.33 feet to a Point on a Non-Tangent Curve, Concave to the Southwest, having a Radius of 25.00 feet and a Central Angle of 63°36'31"; thence departing said West Right of Way line, run Southeasterly along

the arc of said curve, a distance of 27.75 feet (Chord Bearing = S31°05'33"E, Chord = 26.35 feet); thence S00°42'26"W, a distance of 67.08 feet to a Point on a Non-Tangent Curve, Concave to the Northwest, having a Radius of 28.58 feet and a Central Angle of 32°09'39"; thence run Southwesterly along the arc of said curve, a distance of 16.04 feet (Chord Bearing = S26°33'08"W, Chord = 15.83 feet); thence N85°26'30"W, a distance of 5.92 feet to the Point of Beginning.

Containing 1,257 square feet or 0.029 acres, more or less

Together with:

A parcel of land being a portion of Aultman Street, lying in Section 21, Township 25 South, Range 29 East, Osceola County, Florida and being more particularly described as follows:

Begin at the Southeasterly corner of Lot 1, OSCEOLA COUNTY GOVERNMENT BEAUMONT COMPLEX, according to the plat thereof, as recorded in Plat Book 12, Pages 45 and 46 of the Public Records of Osceola County, Florida and the West Right of Way line of Central Avenue; thence N89°57'18"W, along the South line of said Lot 1, said line also being the North Right of Way line of Aultman Street, a distance of 579.54 feet; thence departing said North Right of Way line, run S84°48'22"E, a distance of 29.17 feet; thence S84°53'56"E, a distance of 31.01 feet; thence S82°33'44"E, a distance of 44.39 feet; thence S83°19'49"E, a distance of 20.72 feet; thence S84°14'22"E, a distance of 10.64 feet; thence S85°09'55"E, a distance of 21.28 feet; thence S86°23'58"E, a distance of 21.28 feet; thence S87°56'32"E, a distance of 31.92 feet; thence S89°16'46"E, a distance of 89.66 feet; thence N89°49'35"E, a distance of 247.35 feet to the Point of Curvature of a curve, Concave to the North, having a Radius of 51.22 feet and a Central Angle of 39°52'08"; thence run Easterly along the Arc of said curve, a distance of 35.64 feet (Chord Bearing = N69°53'31"E, Chord = 34.93 feet); thence N02°11'36"E, a distance of 6.82 feet to the Point of Beginning.

Containing 9,187 square feet or 0.211 acres, more or less.

A copy of the proposed request may be inspected in the Development Services Department at City Hall, 101 Church Street. Any questions regarding this public hearing may be directed to the Development Services Department at (407) 518-2140 or planning@kissimmee.gov.

Any interested party wanting to be heard on this issue may submit testimony to be read into the official record to CityClerkEmail@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.

Reference # ABDN-22-0002
Beaumont Redevelopment Phase I

CITY COMMISSION
KISSIMMEE, FLORIDA

In accordance with Florida Statutes 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS 286.26)

In accordance with Florida Statutes 286.0105: any person wishing to appeal any decision made by the Planning Advisory Board with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is made.



MEETING ACTIONS
SESSION OF THE PLANNING ADVISORY BOARD
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
WEDNESDAY, NOVEMBER 2, 2022 AT 6:00 PM

Board Members Present: Chairman Robert Bussiere, Vice Chairman Wolff, **(Absent)**, Member Diana Marrero-Pinto, **(Absent)**, Member Robert Spalding, Member Jackie Espinosa, **(Absent)**, Member Fatima Santiago, Member Melissa Thacker, School Board Member Jason Lindsey **(Absent)**

Staff Members Present: Brenda Ryan, Planning Manager, Cristian Arias, Senior Planner, Patricia Prevost, Planner I, Kalanit Oded, Deputy City Attorney, Yolanda Hazley, Planning Technician

1. **MEETING CALLED TO ORDER**
2. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**
3. **MINUTES**

3.A Approval of the September 7, 2022 and October 5, 2022 Planning Advisory Board Meeting Minutes.

ACTION: Member Spalding made a motion to approve the minutes of the September 7, 2022, and October 5, 2022. Planning Advisory Board meeting. Seconded by Member Santiago.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

4. **OLD BUSINESS**
5. **NEW BUSINESS**

5.A Public Hearing - Ordinance amending the Zoning Map from County Agricultural & Conservation (AC) to City Agricultural & Conservation (AC): Give Kids the World, ZMA-22-0005 - Proposed Ordinance #22-14

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Member Thacker made a motion to approve. Seconded by Member Spalding.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

- 5.B Public Hearing to vacate portions of Right-of-Way on Aultman Street and N. Beaumont Avenue -- ABDN-22-0002

ACTION: Member Spalding made a motion to approve. Seconded by Member Santiago.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

- 5.C Public Hearing for a Conditional Use with Site Plan to develop a six-unit multifamily residential project at 925 Hughey Street -- CU-22-0004

ACTION: Member Spalding made a motion to approve. Seconded by Member Santiago.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

- 5.D Public Hearing for a Conditional Use with Site Plan Waiver for a heavy manufacturing use at 941 Armstrong Boulevard. -- CU-22-0008

ACTION: Member Spalding made a motion to approve. Seconded by Member Thacker.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

- 5.E Public Hearing for a Conditional Use with Site Plan Waiver for a cosmetology school at 505 W Vine St. -- CU-22-0017

ACTION: Member Spalding made a motion to approve. Seconded by Member Santiago.

Chairman Bussiere	AYE	Member Thacker	AYE
Member Spalding	AYE		
Member Santiago	AYE		

MOTION CARRIED 4-0

6. PUBLIC HEARINGS
7. DISCUSSION

8. **HEAR CHAIRMAN AND BOARD MEMBERS**
9. **ADJOURNMENT**– Meeting adjourned at 6:44 p.m.

DEVELOPMENT PROJECT COMMENT FORM



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGOV & BLUEBEAM

DATE: 9/14/2022

PROJECT: Beaumont Redevelopment Phase 1

DRC NUMBER: ABDN-22-0002

REVIEW NUMBER: 1

Review Status:
REVISE & RESUBMIT

ENGINEERING DEPARTMENT - Ryan Kilman - 407.518.2279 - ryan.kilman@kissimmee.gov

GENERAL INFORMATION:

1. Please provide the following:
 - a) Reason for the request to abandon. Ref. LDC §14-3-47(B)(1)(c)
 - b) Names and addresses of the owners and occupants of real property bounding and abutting the street, alley, special purpose easement or other nonfee interest of the city which the applicant seeks to have abandoned. Ref. LDC §14-3-47(B)(1)(d)
 - c) Supporting documentation showing the location of all existing utilities/improvements within the boundary of the proposed right-of-way to be vacated. Ref. LDC §14-3-47(B)(1)(e)

ADVISORY COMMENTS/CONDITIONS OF APPROVAL (No Responses Necessary):

SITE SPECIFIC:

- Access easement(s) may be required over the vacated right-of-way. Ref. §14-3-47(E)(1,2)
- A perpetually unobstructed drainage easement of sufficient width shall be provided over any existing stormwater drainage pipe(s). Easement widths shall be in conformance with City Construction Standards and Specifications.

GENERAL:

- Please login to the Citizen Self Service portal at <http://www.kissimmee.gov/energov> to upload any revisions to plans and/or response to comments.
- If you have any questions regarding the comments/conditions above, please use the contact information provided above.

###



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: off Central Ave., Altman St., & Beaumont

DATE: 6/29/2022

PLAN NUMBER: ABDN- 22-0002, Beaumont Redevelopment ROW Vacation

**Review Status:
APPROVED WITH CONDITIONS.**

PLANNING - Brenda Ryan - 407.518.2104 - Brenda.Ryan@kissimmee.gov

1. Subject to Planning Advisory Board and City Commission approval.
2. Note that a Preliminary Plat (SR-22-0018) and a Final Plat (SR-22-0017) has been submitted. The Final Plat has been placed on hold until the Preliminary Plat has been reviewed and approved.
3. All right of way, easements, tract, and lot dedications will also be reviewed under the Preliminary and Final Plat applications.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: 343 N CLYDE AVE
PLAN (DRC) NUMBER: ABDN-22-0002

DATE: 8/29/2022

**Review Status:
APPROVED WITH CONDITIONS.**

TOHO WATER AUTHORITY – Crystal Muniz - 407.833.3855 - cmuniz@tohowater.com

Comments/Conditions (if applicable):

1. Toho does not object as long as a utility easement be placed on the vacated right away.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



DISCLAIMER FOR ALL CITY OF KISSIMMEE DEVELOPMENT REVIEW APPLICATIONS

Important note: The Development Review process associated with this request (as outlined in the attached application) is intended to ensure that the request meets the requirements established in the City of Kissimmee Land Development Code and site development criteria for the City of Kissimmee, and other local, regional and state agencies. It is not intended to constitute approval of building construction or permits as required by external agencies.

Other processes, permits, authorizations, and/or fees may be required prior to construction of requested improvements. These may include, but are not limited to:

- ❖ Mobility/Impact Fees (Transportation, Water & Sewer, Recreation, School)
- ❖ Building permits and review fees
- ❖ Right-of-Way Utilization permits
- ❖ South Florida Water Management District (SFWMD) permits
- ❖ Utility permits and/or fees
- ❖ Federal Aviation Administration (FAA) authorizations
- ❖ Business Tax Receipts (BTRs)
- ❖ State Permits and/or Licenses
- ❖ Development Service Agreements (Toho Water Authority)
- ❖ Florida Department of Environmental Protection (FDEP) Permits
- ❖ NPDES Permits (Stormwater permitting)

The Agent of record and/or property owner for the attached request is responsible for coordinating with applicable agencies to ensure all requirements for the requested improvements have been met prior to construction.

Please read all information above and complete the lower portion of this disclaimer. This document must be signed by both agent and property owner and shall be included with the attached application. Failure to submit this form with the completed application will result in Staff finding the application to be insufficient for review and will delay your request.

Project Name: Beaumont Redevelopment Phase I DRC# SP-22-001

I Certify that I have read the above and understand/acknowledge the information contained therein.

Agent Signature: [Signature] Date: 08/16/2022

Agent Name (Print): Abdul Alkadry

Property Owner Signature: _____ Date: _____

Property Owner Name (Print): City of Kissimmee



CITY OF KISSIMMEE
SITE DEVELOPMENT PLAN (CONSTRUCTION PLAN)
AND MINOR SITE PLAN APPLICATION

PROJECT

Name of Project: Beaumont Redevelopment Phase I
(If site development plans, use name on DRC submittal)
343 N Clyde Ave, Kissimmee FL 34741 & 310 N Beaumont Ave, Kissimmee FL 34741 &
Location (Address if possible): TBD Sumner St, Kissimmee FL 34741
Parcel ID#: 21-25-29-1884-0001-0010 & 21-25-29-1700-000N-0150 & 21-25-29-1558-0001-0010
Associated DRC#(s): SP-22-001

APPLICANT

Name: Abdul Alkadry, P.E.
Firm: Harris Civil Engineers, LLC
Address: 1200 Hillcrest Street Suite 200 Orlando, FL 32803
Phone: (407) 629 - 4777 E-Mail: AbdulA@harriscivilengineers.com

AGENT (Contact Person)

Name: Abdul Alkadry, P.E.
Firm: Harris Civil Engineers, LLC
Address: 1200 Hillcrest Street Suite 200 Orlando, FL 32803
Phone: (407) 629 - 4777 E-Mail: AbdulA@harriscivilengineers.com

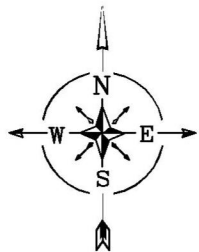
OWNER

Name: City of Kissimmee
Firm: _____
Address: 101 Church St. Kissimmee, FL 34741
Phone: (_____) _____ - _____ E-Mail: _____

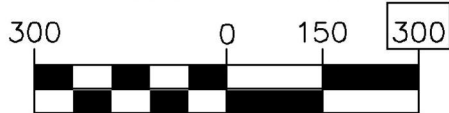
*** An email address is required in order to facilitate and expedite communication between staff reviewers and the applicant. Please provide if possible.**

NOTE: All requests must be accompanied by a completed application, fee, plan(s), a CD containing PDFs of all documentation submitted, and any other supporting materials. A sufficiency review will be conducted with 24 hours of submittal. If submittal is insufficient, the request will not be scheduled or distributed for review. Please allow 15 business days for preliminary site development plan review. A comment letter will be sent out to the agent on record at the end of this period.

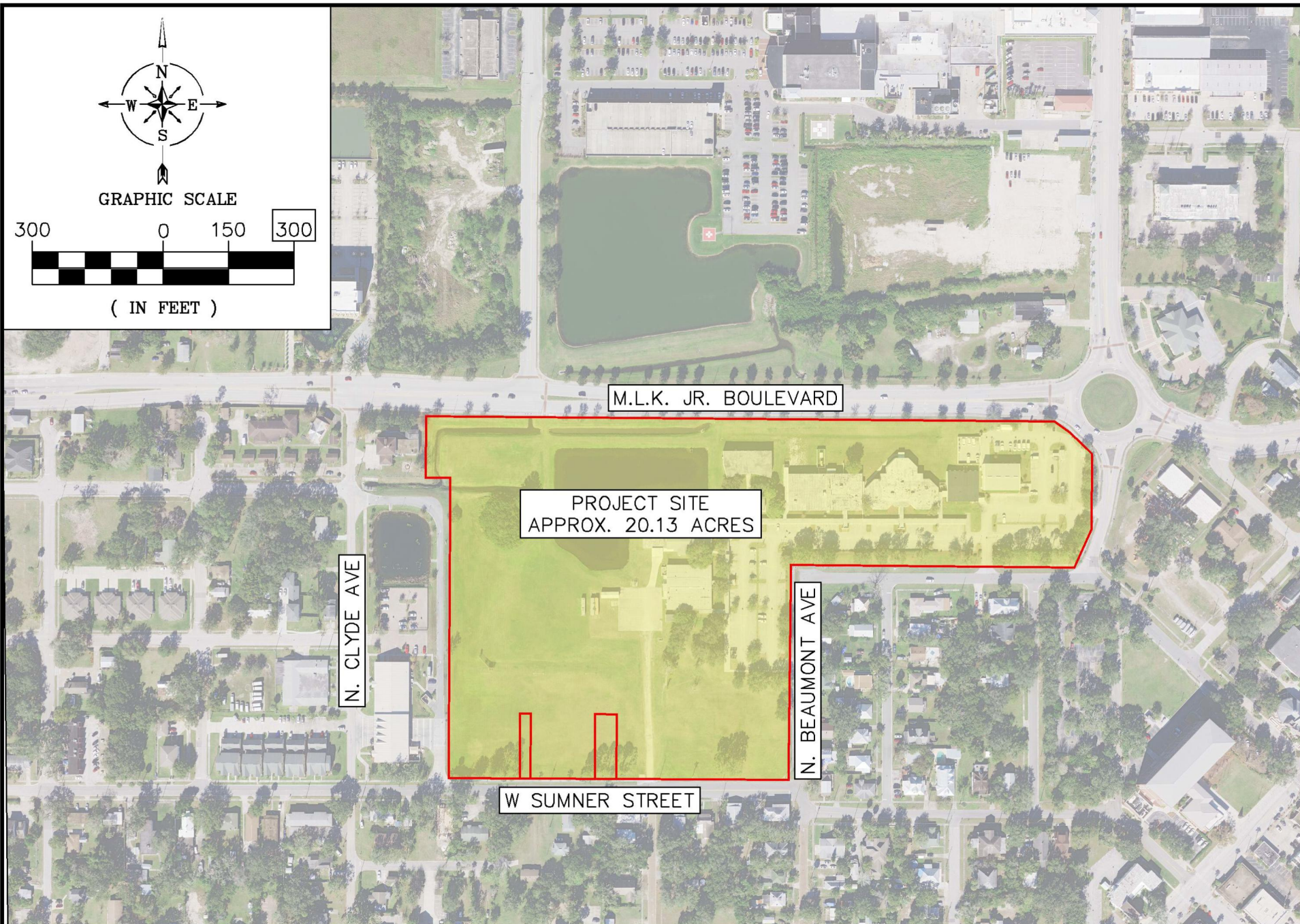
FOR OFFICE USE ONLY			
REQUEST _____		FEE COLLECTED _____	
DATE _____	REC'D BY _____	DRC # _____	
SUFFICIENCY REVIEW (Y/N) _____		PROJECT MANAGER _____	



GRAPHIC SCALE



(IN FEET)



HARRIS

Harris Civil Engineers, LLC
1200 E. Hillcrest Street
Suite 200
Orlando, Florida 32803

BEAUMONT REDEVELOPMENT PROJECT - PROJECT LOCATION

BEAUMONT AVE, CITY OF KISSIMMEE

MAP

ITEM 7.A**Approval of City Commission Minutes from the November 15, 2022 meeting****Request****Explanation**

Minutes of the Commission meeting held on November 15, 2022 are attached for approval.

Recommendation**REQUESTED CITY COMMISSION ACTION:**

Approve

Department: City Commission

Presenter:

Attachment(s):

1. (S) Commission Minutes - November 15, 2022



**MEETING MINUTES
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, NOVEMBER 15, 2022 AT 6:00 PM**

1. MEETING CALLED TO ORDER

Members Present: Mayor Olga Gonzalez, Commissioners Olga Castano, Angela Eady, Carlos Alvarez, III, Janette Martinez

Staff Present: City Manager Mike Steigerwald, City Attorney Olga Sanchez de Fuentes, Deputy City Manager Desiree Matthews, Assistant City Manager Austin Blake, City Clerk Linda Hansell

Members Absent: None

Mayor Gonzalez called the meeting to order at 6:00 PM.

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

After a Moment of Silence, Commissioner Alvarez led the audience in the Pledge of Allegiance.

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A First Fair Housing Drawing Contest

To recognize the winners and participants of the Fair Housing Drawing Contest.

Frances DeJesus from Development Services presented the award winners of the Fair Housing Drawing Contest. Twis Lizasuain, Executive Director of Osceola County Realtors, was present to assist with the presentation.

Present at the meeting were Ezequiel Hernandez Rivera (Teacher Donatina Quintana), Alyssa Troche (Teacher Alma Fontaine), Saniya Warden (Teacher Shena Wilkins), and from the Opportunity Center: Clark Bruce, Joseph Humm (Absent), Peter Almodovar (Absent). All individuals who entered artwork will receive a certificate of appreciation.

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second and Final Reading - Glitch Ordinance LUPA-22-0005 - Proposed Ordinance #22-017

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES TITLES; UPDATING LANGUAGE THROUGHOUT THE LAND DEVELOPMENT CODE, CHAPTER 14; MOVING A STATEMENT IN CODE OF ORDINANCES SECTION 42-48 TO SECTION 14-4-6.A.9 IN THE LAND DEVELOPMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Requesting approval for an ordinance to make minor language and formatting amendments to the Land Development Code.

City Attorney Sanchez de Fuentes read Proposed Ordinance # 3067 by title.

Planner Ashley Cornelison reviewed the requested Commission action and stated staff is recommending approval.

Mayor Gonzalez announced the Public Hearing with no response from the audience.

Commissioner Eady moved to adopt Ordinance # 3067. Commissioner Castano seconded the motion.

Upon roll call, the vote was as follows:

Commissioner Alvarez	AYE
Commissioner Martinez	AYE
Commissioner Castano	AYE
Commissioner Eady	AYE
Mayor Gonzalez	AYE

Motion carried 5 - 0.

4.B Public Hearing - Second and Final Reading - Car Washes in the FBC: ZMA-22-0003 - Proposed Ordinance #22-018

AN ORDINANCE AMENDING THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES PART III, CHAPTER 14-5-8; ADDING SECTION 14-5-8.G. TO ESTABLISH DEVELOPMENT STANDARDS FOR CAR WASHES WITHIN THE FORM-BASED CODE AREA; AMENDING 14-5-6 SITE STANDARDS, TABLE 5-1 PERMITTED USES TO ADD CAR WASH AS A PERMITTED USE IN THE T5-U TRANSECT ZONE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Requesting approval of standards for car washes in the Form-Based Code area.

City Attorney Sanchez de Fuentes read Proposed Ordinance # 3068 by title.

Planner Cornelison reviewed the proposed changes and stated that staff is recommending approval.

Mayor Gonzalez announced the Public Hearing with no response from the audience.

Commissioner Castano moved to adopt Ordinance # 3068. Commissioner Martinez seconded the motion.

Upon roll call, the vote was as follows:

Commissioner Martinez	AYE
Commissioner Castano	AYE
Commissioner Eady	AYE
Commissioner Alvarez	AYE
Mayor Gonzalez	AYE

Motion carried 5 - 0.

5. PUBLIC HEARINGS

5.A Public Hearing - Adoption of Resolution to Amend the City's FY2021-2022 Operating Budget

This request is for Commission approval to adopt a resolution amending the City's operating budget for 2021-2022.

City Manager Steigerwald reviewed the request for approval of changes to the FY 2021-2022 Budget. The total increase in last year's budget resulted in \$35.6 million dollars. Staff recommends approval of the Resolution.

Mayor Gonzalez announced the Public Hearing with no response from the audience.

Commissioner Castano made a motion to adopt Resolution # 25-2022. Commissioner Eady seconded the motion.

AYE: Mayor-Commissioner Gonzalez, Commissioner Alvarez, Commissioner Castano, Commissioner Eady, Commissioner Martinez

NAY: None

Motion carried 5 - 0.

6. HEAR AUDIENCE.

None.

7. CONSENT AGENDA.

The consent agenda is a technique designed to expedite the handling of routine miscellaneous business of the City Commission. The City Commission in one motion may adopt the entire Consent Agenda. The motion for adoption is non-debatable and must receive unanimous approval. By request of any individual member, an item may be removed from the Consent Agenda for discussion.

Commissioner Eady made a motion to approve the consent agenda in its entirety. Commissioner Martinez seconded the motion.

AYE: Mayor-Commissioner Gonzalez, Commissioner Alvarez, Commissioner Castano, Commissioner Eady, Commissioner Martinez

NAY: None

Motion carried 5 - 0.

7.A Approval of City Commission Minutes from the October 18, 2022 and November 1, 2022 meetings

Request Commission approval of the October 18, 2022 and November 1, 2022 Commission Minutes.

7.B Purchase of Archer 1200 Steel Barrier Security Kit Barricades for Roadway Closures

Staff requests approval to purchase an Archer 1200 Steel Barrier Security Kit.

7.C Security Information and Event Monitoring Enterprise Software Agreement

Approval of a three-year Security information and event monitoring (SIEM) Enterprise Software Agreement in the amount of \$113,019.39 (\$37,673.13 annually) from Software

House International utilizing the Sourcewell purchasing contract.

- 7.D First Amendment to the Community Development Block Grant (CDBG) Contract - Hudson Street Public Improvements
Approve the First Amendment to the CDBG Program Contract with DB Civil Construction, LLC for the Hudson Street Improvement Project.
- 7.E Approval of Task Work Orders with RS&H, Inc. for Design Services of the Woodside Drainage Improvement Project
Approval of Task Work Order No. 5 & 6 with RS&H, Inc. to provide additional design services for the Woodside Drainage Improvement project.
- 7.F Approval of Purchase Agreement between Argo Partners and City of Kissimmee to purchase claims against Physicians United Plan, Inc.
Staff requests approval of the Purchase Agreement between Argo Partners and City of Kissimmee which will result in the receipt of \$31,146.63 of the \$50,236.50 owed by Physicians United Plan, Inc.
- 7.G Recommendation to Award Trinity Electrical Services, Inc. to construct Secondary Weather Sensor
Request Commission approval to award a construction contract and authorize staff to issue Notice to Procure and to Proceed to Trinity Electrical Services, Inc. (Trinity) for a Secondary Weather Sensor (AWOS-1) unit at the Kissimmee Gateway Airport.
- 7.H Amendment No. 14 to the Professional Service Agreement with AVCON, Inc. for bidding and engineering services to oversee the construction of a Weather Station at Kissimmee Gateway Airport
Request Commission approval of Amendment No. 14 to the professional service agreement between the City of Kissimmee and AVCON, Inc. dated December 19, 2017, for the design, bidding, and construction engineering services for the construction of a Weather Station.
- 7.I Request to use funds from airport reserves for Auxiliary Weather Station to support the Air Traffic Control Tower
Request Commission approval to transfer funds from Airport Reserves to complete financial requirements for an Automated Weather Observation System an FAA requirement to support the air traffic control tower.
- 7.J Knightsbridge Phase 1 Major Subdivision, Final Plat (DRC# SR-22-0009)
Approval of the final plat known as Knightsbridge Phase 1, with performance guarantee/agreement.
- 7.K Approval to Adjust the Fiscal Year 2021-2022 Budget
This request is for Commission approval to adjust the budget for fiscal year 2021-2022 due to line-item variances in certain department budgets.
- 7.L Osceola Village Center Phase 2 Major Subdivision, Final Acceptance with Condition (DRC# 19-00100)
Acceptance of the required subdivision improvements with conditions for Phase 2 of the subdivision known as Osceola Village Center.
- 7.M Resolution 26-2022 - Ratification of City Manager Declaration of Local State of Emergency and Extension of State of Emergency

City Commission ratification of Executive Order 2022-02 issued November 07, 2022 for the Local Declaration of Emergency to November 14, 2022, and approval to extend the Declaration to November 21, 2022.

8. DISCUSSION ITEMS

8.A 2023 City Commission Meeting Calendar

Request City Commission approval to establish the Commission meeting calendar for 2023.

City Manager Steigerwald reviewed the revised Commission Annual Calendar (Exhibit "A") and requested Commission approval.

Commissioner Eady made a motion to approve the 2023 Commission Annual Calendar. Commissioner Castano seconded the motion.

AYE: Mayor-Commissioner Gonzalez, Commissioner Alvarez, Commissioner Castano, Commissioner Eady, Commissioner Martinez
NAY: None

Motion carried 5 - 0.

9. HEAR CITY OFFICIALS

9.A CITY MANAGER

City Manager Steigerwald thanked Wing House of Kissimmee for providing food at tonight's meeting.

9.B CITY ATTORNEY

Nothing.

9.C CITY COMMISSION

Commissioner Castano stated she recently received statistics regarding the benefits of working with Osceola Legislative Effort ("OLE") and wanted the Commission to reconsider their participation along with the agreement that was previously presented to the Commission. City Attorney Sanchez de Fuentes recommended a motion be made to open the floor for discussion and possible consideration of the agreement.

Commissioner Castano made a motion to reconsider the OLE agreement for \$40,000. Commissioner Martinez seconded the motion.

The Commissioners engaged in discussion regarding the previous decision to deny the \$40,000 OLE Agreement at the November 1, 2022 Commission Meeting and their opinions on that decision. After discussion amongst the board, Commissioner Castano made a motion to approve the OLE Agreement for FY2023 for \$40,000 that was previously denied. Commissioner Martinez seconded the motion.

AYE: Commissioner Castano, Commissioner Eady, Commissioner Martinez
NAY: Mayor-Commissioner Gonzalez, Commissioner Alvarez

Motion carried 3 - 2.

Commissioner Eady expressed her gratitude for all that the City has been through and encouraged the community to continue working together.

Commissioner Alvarez wished everyone a happy Thanksgiving and reminded us all to reflect on all we have been through.

Commissioner Martinez thanked Wing House for the refreshments provided tonight and briefly discussed the OLE item and the basis for her vote. She ended her comments with asking the City Manager for more information on the CRA map areas and funding sources. City Manager Steigerwald clarified that advertisement and marketing for the CRA are overseen by Kissimmee Main Street.

Commissioner Martinez thanked the City of St. Cloud for sponsoring the Annual Veteran's Day Parade this year and stated she is thankful to be a Commissioner.

Mayor Gonzalez wished everyone a happy Thanksgiving.

10. ADJOURNMENT

There being no further business to come before the Commission, Mayor Gonzalez adjourned the meeting at 6:23 PM.

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK

Exhibit "A"
Revised: 2023 City Commission Meeting Calendar
Item 8.A.

ITEM 7.B

Approval of Fire Departments 5-year Community Driven Strategic Plan

Request

The Fire Department requests Commission approval of the Department's 5-year Community Driven Strategic Plan and is requesting approval to publish this document on the City's website.

Explanation

The Fire Department is working with the Center for Public Safety Excellence (CPSE) to obtain international accreditation. The Community Driven Strategic Plan is one of the foundational documents of the international accreditation process. It is a roadmap for change and future success. It is based on feedback from many stakeholders, including members of the community that we serve. The Community-Driven Strategic Plan, along with the Fire Chief's direction, will guide the Department over the next 3 - 5 years. It also builds a shared vision between our department and the community to set clear strategic goals.

Through the Department's strategic planning process, the plan will be a living document and will be published on the City's website to encourage continued collaboration with all stakeholders.

Recommendation

Staff recommends approval of the Fire Department's 5-year Community Driven Strategic Plan and approval to publish it on the City's website.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Fire

Presenter:

Attachment(s):

1. Community Driven Strategic Plan - Final (11-09-2022)

CITY OF
KISSIMMEE
FIRE DEPT

**Five-Year
Community-
Driven
Strategic Plan
2022-2027**

Approved December 2022





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Introduction

The City of Kissimmee Fire Department (Department) provides fire, rescue, and emergency medical service (EMS) to the citizens and visitors of the City and surrounding communities. The service includes fire suppression, advanced life support (ALS), technical-level vehicle-machinery rescue (VMR), rope rescue, and confined space rescue. The Department also provides operations level hazardous materials mitigation and operations level trench rescue. In addition to these emergency services, the Department and the City of Kissimmee provide public education, fire prevention, disaster preparedness, and emergency management.

The Department is continuously working to improve all services and to maintain the highest level of professionalism. The Department holds the top-level Public Protection Classification rating by the Insurance Services Office (ISO), ISO Public Protection Class 1. Less than 5% of the fire departments in the United States have an ISO Class 1 rating. The City of Kissimmee Fire Department is now working with the Center for Public Safety Excellence (CPSE) to obtain international accreditation. This Community-Driven Strategic Plan along with the fire chief's direction will guide the Department over the next 3-5 years. It also builds a shared vision between our Department and community to set clear strategic goals.

Through the plan's development, the Department embraced input from internal and external stakeholders. Information from surveys, meetings, and a SWOT analysis (strengths, weaknesses, opportunities, threats) has been collected and analyzed by Department personnel, City and community leaders, citizens, businesses, and community organizations. This process has challenged the Department to fully examine its operations. The Department has established a solid direction for the future. It has listened to the community's voice and has enabled firefighters and paramedics to have a valuable say in the vision and direction of the Department.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Message from the Fire Chief

I would like to thank the numerous members of our community, business leaders, civic organizations, elected officials, City leaders, City employees, my staff, and all fire department personnel for the many hours of hard work spent developing this strategic plan. A community-driven organization must seek the expectations, concerns, and ideas from as many internal and external stakeholders as possible. The voice of the community and our personnel was heard, and their input greatly influenced this valuable document. The community survey, the community workshop, City staff meetings, and our Officer Development Day were instrumental in the direction of this document. Because of this information, numerous goals and objectives were identified and added to our existing strategic plan and initiatives and all of them are outlined in this document.



While planning is a continuous process, this strategic plan will provide valuable guidance as we move forward over the next five years. I will ensure that this plan is a living document and will be updated annually, or more frequently as needed. To assist in implementing this plan, I would like to invite all stakeholders to participate in the Department's budget process which starts in January of each year. Staff will review all feedback that is received from stakeholders.

It is my honor and privilege to be your fire chief. The City of Kissimmee Fire Department is well over 100 years old and is rich in history and tradition. We pride ourselves on respecting the past as we move into the future and continue to be one of the nation's best and most progressive fire departments.

Sincerely,

Jim Walls

Fire Chief

City of Kissimmee Fire Department



Tribute to 9/11



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Table of Contents

Introduction	1
Message from the Fire Chief	2
Department Background.....	4
History of the Department	4
Current Fire Stations	7
Department Operating Budget	7
Services Provided by the City of Kissimmee Fire Department	8
Incident Responses: 2021 - 2019	9
Incidents by Call Type	9
Department Fire/Rescue Apparatus	10
Fire Station Locations	11
Organization Chart.....	12
Strategic Planning	13
Department Stakeholders.....	13
Results from SWOT Analysis.....	15
Vision, Mission, Core Values, Motto.....	16
External Stakeholders.....	19
Workshop and Survey Results – Community Priorities	21
Ranking of Community Expectations.....	22
Ranking of Public Education Programs.....	22
Areas for Improvement Discussed	23
Critical Issues, Service Gaps & Strategic Initiatives.....	25
Identified Service Gaps and Initiatives.....	26
Goals, Objectives, Critical Tasks and Timelines	27
Success of the Plan.....	54
Appendix 1	55
Glossary of Acronyms.....	55
Appendix 2	56
Community Survey Results	56
Sources	62



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Department Background

History of the Department

The City of Kissimmee (City) was incorporated in 1883 by the State of Florida. It is located near the geographic center of Florida and is the County Seat of Osceola County. Osceola is the State of Florida's sixth largest county in geographical size with a land area of 1507 square miles.

The City is a mix of residential, commercial, and some light industrial properties. The City has a population of 82,000 residents living in 22 square miles

and is 70% Hispanic or of Latino Origin. The City has a seasonal increase of about 5,000 visitors due to its proximity to Disney and other area attractions.

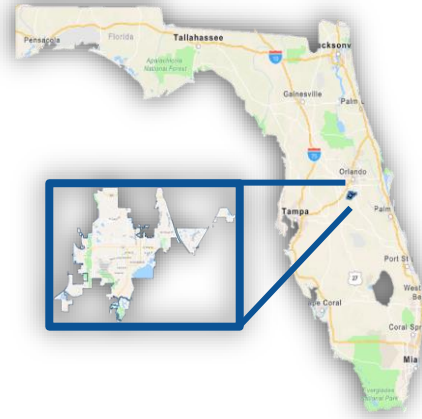
The Department consists of 105 uniformed career personnel and eight non-uniform staff. The minimum daily apparatus staffing is 27 uniformed personnel working out of four fire stations, staffing five ALS Ambulances, three Engines, one Squad (rescue engine), and one Tower Truck. A fifth station is scheduled to open in 2023. In 2014, the Insurance Services Office



1909 Hose Wagon

(ISO) increased the City's public protection classification from an ISO Class 2 to an ISO Class 1 rating. In 2021, the Department responded to over 14,500 calls.

Following three large disastrous fires in the City between 1906 and 1908, one that included almost the entire downtown Broadway business district, the fire department was formed in 1909. Funding for this new venture was financed through a 1910 bond issue. The City purchased standard hydrants, 1500-



1912 American LaFrance Engine



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



feet of 2.5-inch hose, constructed a 75,000-gallon elevated water tank and drilled two deep artesian wells. The wells brought fresh water to the City and provided water to the hydrants. Three fire stations were erected as metal roof buildings and were strategically positioned around the City to provide maximum fire protection. Each station had eight to ten volunteers and housed a 500-foot wheeled spool of fire hose that was hand-pulled to a fire.

Very few automobiles were available in those days to assist in pulling the hose reel to the fire, so the fireman (firefighters) usually pulled it. When there was a fire, the call for help went to the City Utility Plant where a shrill variable steam whistle told the volunteers the approximate location of



1917 American LaFrance Engine

the fire. Each fireman (firefighter) who responded to the fire was usually paid a dollar or two for his labor.

This method of firefighting continued in Kissimmee until 1912 when the City purchased its first piece of motorized equipment, a 1912 American LaFrance. This new fire truck was a chemical truck that carried two 35-gallon chemical tanks, 200 feet of 1-inch rubber hose and 1,000 feet



1923 American LaFrance Engine

of 2.5-inch supply hose. This new fire truck was state-of-the-art for its time and came equipped with Dayton solid-rubber tires, hand-crank starting motor and siren, and could carry 8-10 men (firefighters) on the running and tailboards. The truck also carried a 20-foot extension ladder and a 12-foot roof ladder. Unfortunately, the new truck was in an accident soon after it was accepted, but that convinced the City to hire the first paid fire department employee who was paid 60 dollars a month to be the driver/engineer of



1954 Seagrave Engine



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



the new truck. The 1912 fire truck protected Kissimmee until 1917 when the City Commission purchased a new 1917 American LaFrance fire truck, similar to the 1912 model. The 1917 fire truck remained in service until it was placed into reserve status with the purchase of a 1923 American LaFrance fire truck that had many significant upgrades from the previous two fire trucks. This 1923 fire truck remained in service until 1956 when it was stored at the Kissimmee



Station 4 1986-1989

care and transport began in the late 1970s and the city started ALS service in 1979. Since then, the City has maintained an aggressive fire and EMS apparatus replacement schedule. Fire stations were built in 1934 and 1948, but the first modern fire station was built in 1967 next to the Kissimmee City Hall (old station 11). Station 12 was then constructed in 1979 and a temporary station was built in 1986 to the west of the City due to needed fire/rescue protection in that area. Station 13 was built in 1989 and Station 14 in 2004. Old Station 11 was demolished in 2009 due to the size and mold issues. In 2010, a new, modern Station 11 was built nearby.



1948 Fire Station

Airport and all but forgotten. In 1975, a hanger demolition crew notified fire department staff that they located the old fire truck. The Department restored it with donations from the community and it is proudly displayed at Station 11.

In 1976, the volunteers were disbanded, and the Department transitioned into a fully paid fire department. Pre-hospital patient



Old Station 11 Dedicated 1967



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Current Fire Stations



Station 12 Dedicated 1979



Station 13 Dedicated 1989

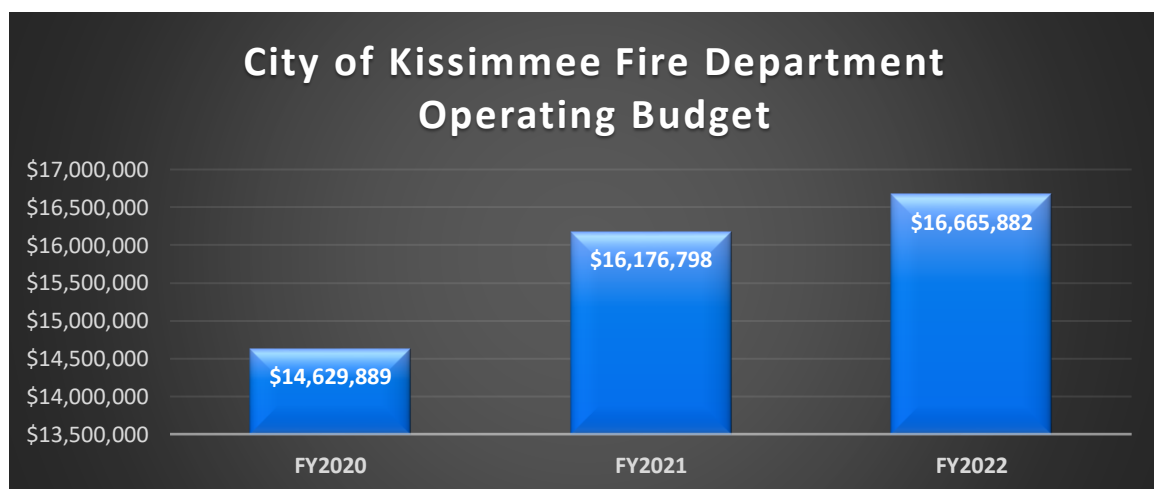


Station 14 Dedicated 2004



Station 11 Dedicated 2010

Department Operating Budget





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Services Provided by the City of Kissimmee Fire Department

Fire Suppression	The City of Kissimmee firefighters are well trained in multiple disciplines and supplied with the finest fire/rescue equipment. The crews use newer technology such as thermal imagers to “see through smoke” during searches while fighting fires. Fires are strategically attacked for rapid control saving lives and property. Other types of fire suppression include vehicle/transportation fires and wildland fires.
Emergency Medical Services	All Department firefighters are either paramedics or emergency medical technicians. They provide state-of-the-art pre-hospital emergency care and transport to local hospitals or specialty referral centers. Personnel are well trained in the stabilization, transportation, and advanced treatment of medical and traumatic emergencies.
Vehicle / Machinery Rescue (VMR)	Firefighters certified as VMR technicians provide safe extrication and disentanglement operations at the scene of incidents including vehicle accidents and entanglements in machinery. The latest VMR equipment includes multiple types of specialty hand tools, hydraulic tools, and lift bags.
High Angle Rescue	Select personnel are trained to the (advanced) technician level of high angle/rope rescue. The Department is well equipped with the best rope, rescue harnesses, descent equipment and other devices. The location of potential rescue sites in the City includes radio/cell towers, high-rise buildings and possibly sinkholes.
Confined Space Rescue	Many firefighters are confined space rescue technicians and use specialized air monitoring meters, communication devices, and breathing apparatus to provide rescues in underground vaults, storage tanks, sewers or other confined space locations that may have poor air quality.
Public Education	City of Kissimmee Firefighters, the Department’s Training Bureau, and the fire prevention team of the City’s Development Services Department provide the fire and life safety program. This includes apparatus displays and public education covering numerous lifesaving topics. The Department offers education in schools and during community events.
Fire Prevention	The fire prevention team provides new occupancy fire inspections and numerous other types of fire inspections for commercial buildings in the City. They also perform code enforcement and fire-related plan reviews for all new occupancies.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Incident Responses: 2021 - 2019

2021 Total Responses	2020 Total Responses	2019 Total Responses
14,583	12,135	13,816

Incidents by Call Type



Other: Public service, lift assists, animal rescue, unauthorized burns, elevator emergencies, canceled in route, etc.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Department Fire/Rescue Apparatus



Tower Trucks: 1 Frontline, 1 Reserve



Engines: 3 Frontline, 2 Reserve



Rescues: 5 Frontline, 2 Reserves



Squads: 1 Frontline



Brush Trucks: 1 Frontline



Special Operations Trailers: 1



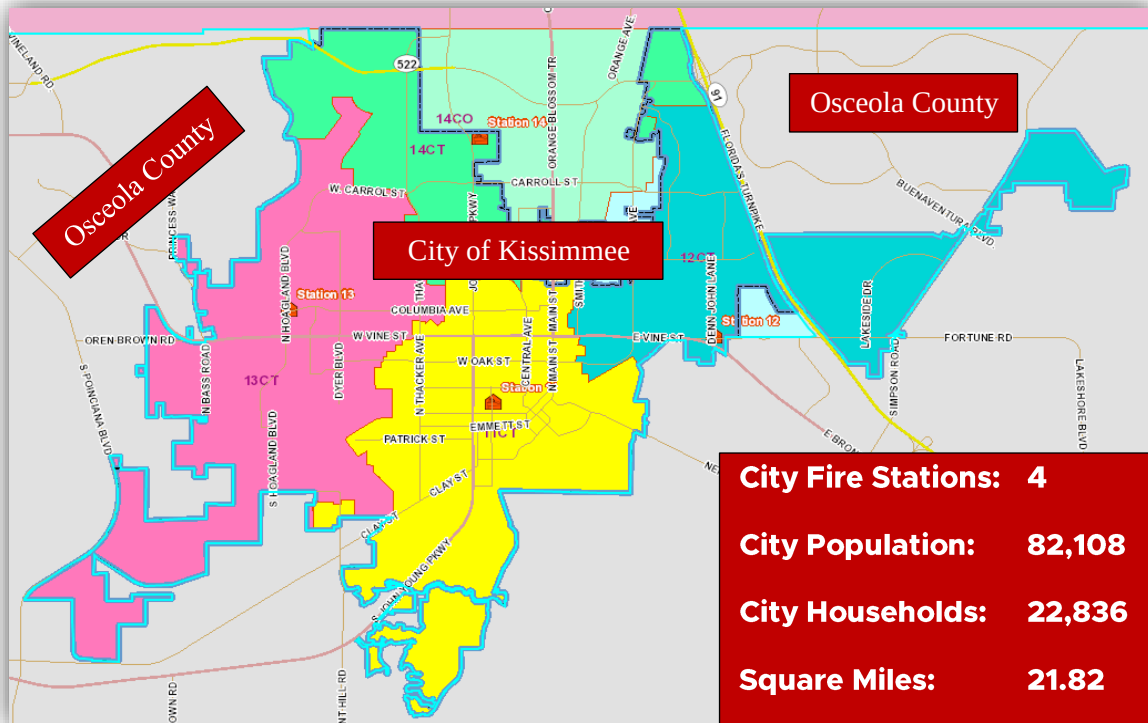
Rescue Fleet



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Fire Station Locations

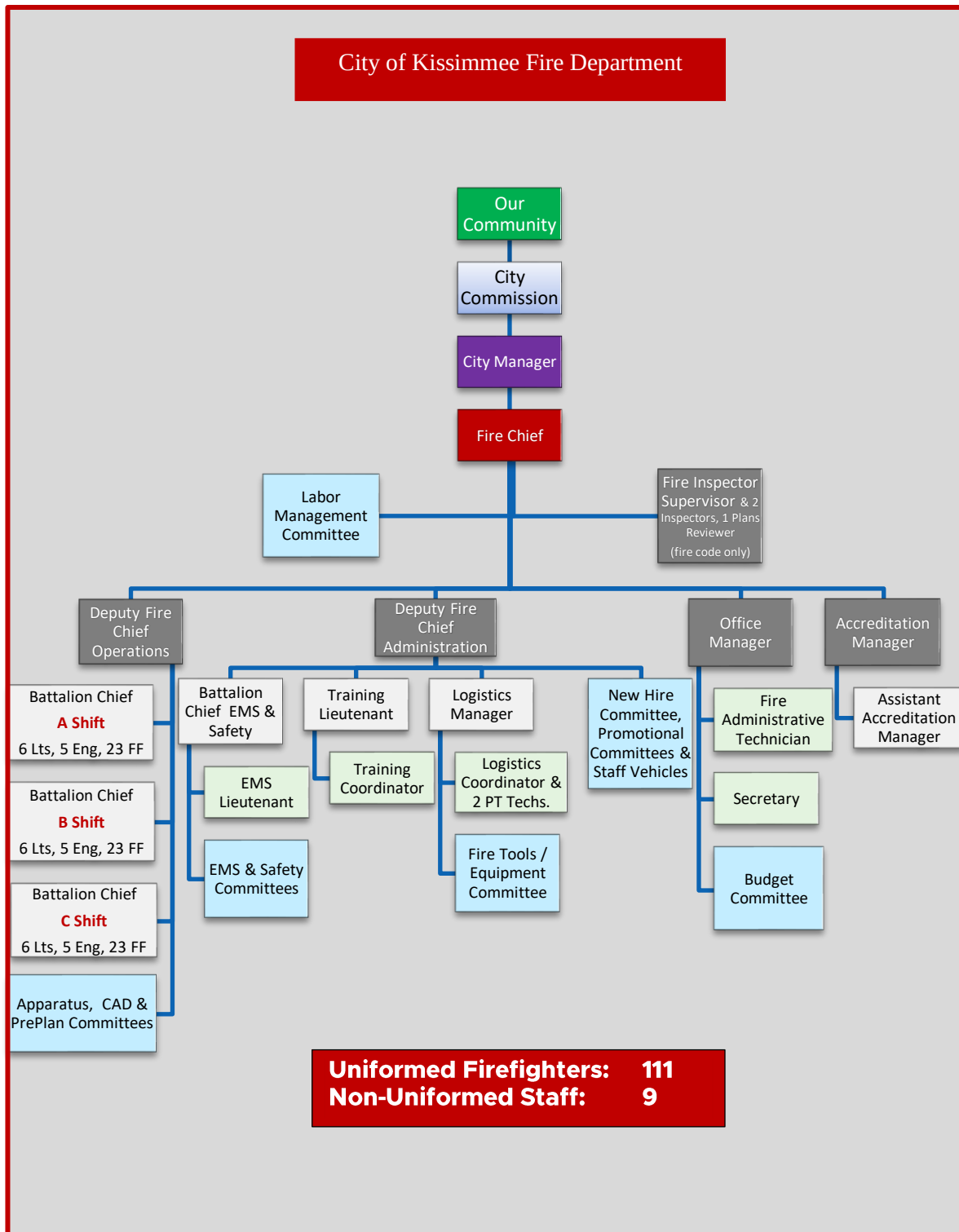




City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Organization Chart





City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Strategic Planning

Valuable external stakeholder input was gathered from residents, business owners, and civic organizations. In addition, beneficial internal stakeholder input was gathered from fire department staff, officers, and firefighters. This strategic planning process aims to unify the internal and external stakeholders through a shared vision and a common understanding. It will help determine where the Department is going in the next three to five years. The plan will also be a tool to help measure progression and successes along the way.



Department Stakeholders



An Officer Development Day (ODD) was held with the Department's stakeholders and a SWOT analysis was conducted. Through a consensus process, the Strengths and Weaknesses of the Department, the Opportunities for the Department, and the Threats to the Department were identified.

The Department's Mission, Core Values, and Motto were also reviewed at the ODD. Additional meetings were held with the crews to obtain more feedback on these topics. The stakeholders and crews recommended a shorter Mission statement, revised Core Values, and a newly created Vision for the Department. Many goals and objectives were developed because of the feedback from these meetings.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



City of Kissimmee Fire Department Internal Stakeholders Officer Development Day June 2022

Lt. Ryan Appleman	Lt. Jeff Booher	Lt. Ken Boro	Lt. David Boykin
Lt. Thomas Carruth	BC Jeremy Christ	BC Eric Gentry	DFC Jeremy Donovan
Lt. Dane Farmer	Lt. Tony Isenberg	Lt. Dwight Johnson	Lt. Justin Kennard
Lt. Chad Lawson	DFC Joe Leone	Lt. Kenny Love	Lt. Geoff Miller
BC John McCommon	Log. Mgr. Amy Meers	Lt. Ben O'Neal	Acc. Mgr. John Rooney
Lt. Royce Schoby	Lt. Glory Seley	Lt. Jason Stewart	Lt. Tyler Vanek
Fire Chief Jim Walls		Chaplain Peter Zieg	

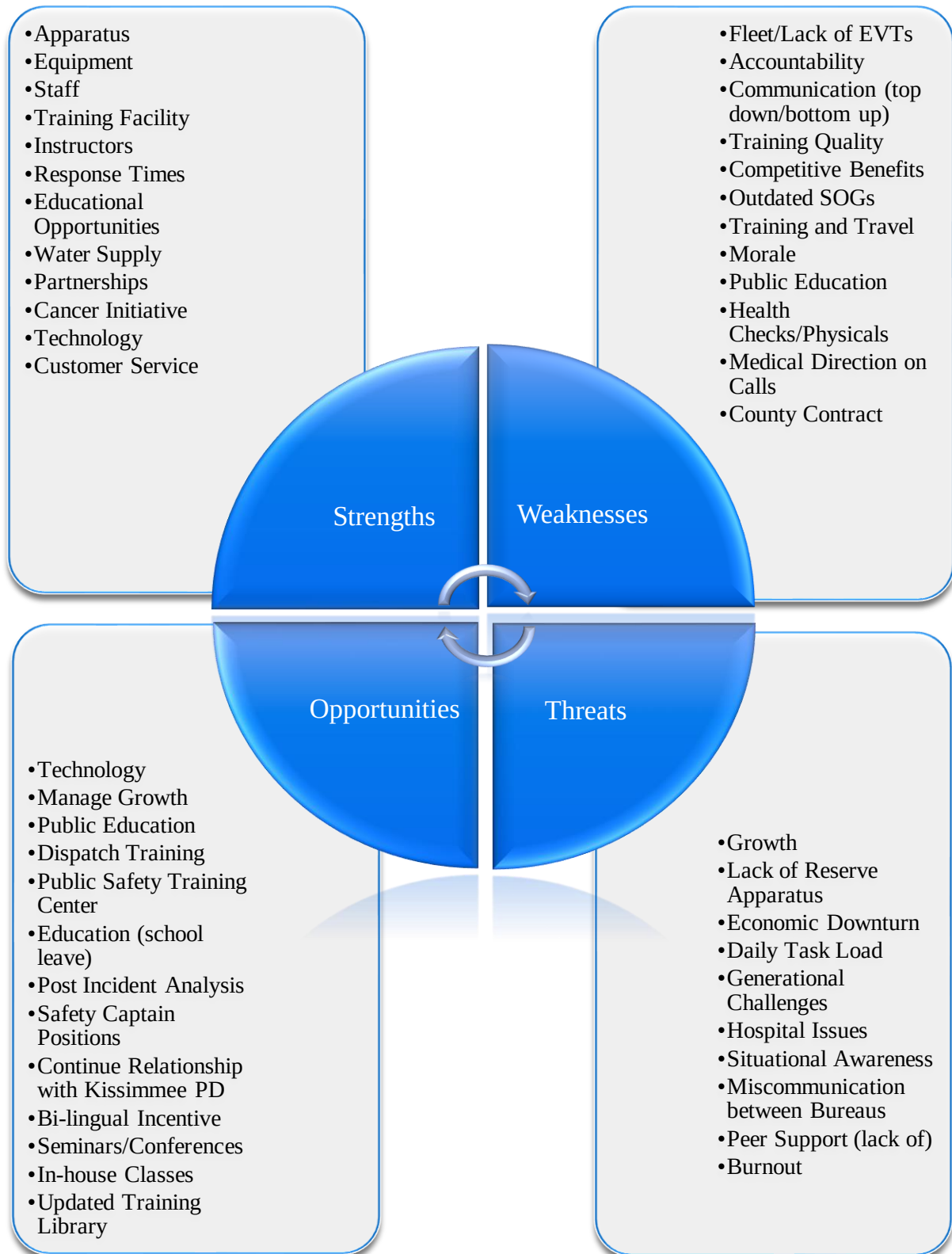




City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Results from SWOT Analysis





City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Vision, Mission, Core Values, Motto



VISION

**To save lives and build
a safer community through
exceptional service**



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



MISSION

To protect life and property
with a well equipped
and highly trained team

CORE VALUES

Kindness: Treating others, as we would want to be treated

Inclusion: Making others feel safe, accepted, and respected

Success: Enjoying the fruits of hard work

Skillfulness: Mastering our craft

Improvement: Always working to get better

Motivation: Driving to meet our goals

Mindfulness: Understanding where we came from and where we are heading

Ethics: Always doing what is right

Enthusiasm: Passion for our profession



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



MOTTO

***“In the Finest Tradition – Courage,
Compassion, and Community.”***

Courage

To always perform one's duty when called upon in times of danger and chaos. To rise above when one's values, honesty, and ethics are challenged and have the ability and determination to do what is right; all the time; in every situation.

Compassion

Understand that many of our duties will cause us to see humanity at their very worst. During such times it is our responsibility, in fact our duty, to provide the very best service and comfort possible through those difficult and life changing situations.

Community

The local fire department has traditionally been one of the main focal points of pride, friendship, honesty, integrity, and representation of communities throughout the United States of America. Members of the City of Kissimmee Fire Department are to remember always that we are first a public servant, here to serve the residents and visitors of the City of Kissimmee. We shall always act and conduct ourselves as an Ambassador of the City who is highly trained in Fire, Rescue, EMS, and Fire Prevention service delivery.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



External Stakeholders

A survey was distributed to over 400 members of the community seeking critical feedback, including program priorities and expectations of the Department. Numerous members of the community responded to the survey. Many community members from this group and other guests attended a strategic planning workshop held at the City of Kissimmee City Hall.



Over 50 City residents, business owners, and community organizations attended this workshop. An overview of the fire department, strategic planning, and the accreditation process was presented to the participants. The attendees were given an exercise and asked to rank the top responses from the survey including community expectations and public education programs. The ratings and additional information from this exercise are listed in the below charts. Much of the input from the survey and community meeting was included in the Department's goals and objectives. These will be used to improve the programs and services of the Department.





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



City of Kissimmee Fire Department Stakeholders Community Strategic Planning Workshop August 2022

Alcides Marrero City of Kissimmee	Alexcis Morales City of Kissimmee/Resident	Anthony Perez Positively Osceola	Barbara Dolphus Women Encouraging Women
Brianna Joseph City of Kissimmee/Resident	Carol Kearns First Baptist Church of Kissimmee	Chris Rodriquez City of Kissimmee/Resident	Craig Holland City of Kissimmee/Resident
Darlene Marcusson Salvation Army	Diana Couch Resident	Djeny Charles City of Kissimmee/Resident	Edwin Chavarria City of Kissimmee/Resident
Emerson Koehler City of Kissimmee/Resident	Esther Vargas UCF Kissimmee Business Incubator	James Lietz City of Kissimmee/Resident	Jeanette Flaherty City of Kissimmee/Resident
Jennifer Rodriquez Main Street High School	Jesus Cornier City of Kissimmee/Resident	John Hambley City of Kissimmee	John Newstreet Osceola Chamber of Commerce
Jose Nieves First Kissimmee United Methodist Church	Julio Colon City of Kissimmee/Resident	Justin Hetu City of Kissimmee/Resident	Karen Johnson American Legion Auxiliary/Resident
Ken Jackson Osceola News Gazette	Lance Spencer Kissimmee Christian Church	Rev. Luis Salazar Holy Redeemer Catholic Church	Maria Damas City of Kissimmee/Resident
Michelle Rud HCA Healthcare Osceola	Migdalia Cornier City of Kissimmee/Resident	Moe Dellofano City of Kissimmee	Monica Gavilanes City of Kissimmee
Moses Quiles City of Kissimmee/Resident	Nancy Adkins Kissimmee Florist/Resident	Nora Ghazi City of Kissimmee/Resident	Nyteea Greenhill City of Kissimmee/Resident
Pat Fisher City of Kissimmee Ret./Resident	Paul Deleski City of Kissimmee/Resident	Paul McCrimon City of Kissimmee	Chaplain Peter Zieg Kissimmee Fire Department Chaplain
Robert Jeck Kissimmee Fire Department Ret.	Ronnie Lagana Kissimmee Fire Department/Resident	Sandra Santiago City of Kissimmee	Sherry Clay Marcoe Goodwin Realty/Resident
Sheryl Dolphus Women Encouraging Women	Stacy Stoddard City of Kissimmee/Resident	Sylvester Edwards Holy Redeemer Catholic Church	Tom Franklin KPM Franklin
Victor Daboin City of Kissimmee/Resident	Wilda Belisle Osceola Council on Aging	William Johnson American Legion/Resident	Wilmarie Hernandez Pagan City of Kissimmee/Resident



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Workshop and Survey Results – Community Priorities

Programs	Ranking	Score (low score is the best)	No. of Times 1, 2, or 3
Emergency Medical Service	1	169	53
Fire Prevention	2	208	49
Fire Suppression	3	228	55
Technical Rescue	4	326	28
Public Safety Education	5	355	19
Domestic Preparedness/Emergency Management	6	262	15



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Ranking of Community Expectations

Community Expectations	Ranking	Score (low score is the best)	No. of Times 1, 2, or 3
Well Educated	1	42	13
Fast Response	2	49	20
Up-to-date Equipment	3	71	9
Professional Team	4	74	13
Research Better Ways to Serve the Community	5	92	5
Other:	More apparatus and personnel are needed due to the rising population. Quarter mile markers and preplanning are needed on the City trails. Staffing levels should be brought up to NFPA standards.		

Ranking of Public Education Programs

Public Education Programs	Ranking	Score (low score is the best)	No. of Times 1, 2, or 3
CPR Training	1	57	17
Smoke Detector Installations	2	62	13
Fire Prevention in the Schools	3	66	16
Hurricane Safety	4	83	12
Social Media Campaign	5	93	7
Other:	Fire and hurricane safety for seniors is needed. Increase social media usage on all social media platforms. Consider safety-related advertisements around town. All safety-related materials should be in English and Spanish.		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Areas for Improvement Discussed

Many areas for improvement that were noted on the survey were discussed in detail at the strategic planning workshop and included the following:

1. Do we currently have an adequate budget?

The short answer is yes, the Department does have an adequate budget. However, the Department could always use additional funds to increase the support of its many programs.



2. Why is there more than one emergency vehicle needed for one patient?

On critical care calls, more than the two personnel on a Rescue are needed to provide the many interventions required for these patients. In addition, fire apparatus may be closer to an incident and often arrives prior to a Rescue and can start to provide patient care. All fire and rescue apparatus in the Department carry the equipment needed to provide advanced life support.

3. Is another fire station needed because of all the City's growth?

A fifth City of Kissimmee fire station is in the advanced planning stages and should be open at the end of 2023 or early 2024. The new fire station will be located at the Kissimmee-Gateway Airport since an aircraft rescue and fire fighting (ARFF) truck is planned to be placed in service there. In addition to the ARFF truck, a fifth Engine/Squad will also be located at the airport station to provide additional fire suppression, rescue, and EMS to the area north of the airport and surrounding communities. Due to the rising number of calls, a sixth Rescue will be placed in service in the fall of 2022 and will be placed at Station 14. Additional research is currently being performed to determine if additional apparatus and stations are needed.





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



4. Do your response times meet your expectations?

Our response times are currently being evaluated as part of the accreditation process and will be part of the Community Risk Assessment Standard of Cover (CRA-SOC) document.



5. Why do we occasionally hire from the outside for senior positions?

The Department strives to promote qualified internal personnel. Two years ago, the Department hired a deputy chief from another fire department since it did not have qualified personnel at the time. The Department's leadership development and succession planning has greatly improved, so the Department is hopeful that future promotions will only be from the ranks of the Department.

6. Are pay and benefits competitive with other departments?

Over the past several years, the City commission has made a commitment to improve the pay and benefits of City employees. More importantly, the City started to compare pay and benefits to local cities and counties, not just the departments of similar size. Comparing the entire salary range (minimum, mid range, and maximum) of all firefighter ranks with local fire departments, the pay ranges for all of them are in the acceptable range except the starting pay for firefighters and the top out pay for Lieutenants. The Department will be working with the City to review these issues.





City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Critical Issues, Service Gaps & Strategic Initiatives

A detailed review by staff of the SWOT analysis and the community's survey and workshop established some areas for needed improvement. These common themes (listed below) were used when developing the Department's strategic goals. A group of stakeholders discussed the critical issues and service gaps in detail, and by consensus, the following strategic initiatives will be the foundation for the Department's goals and objectives.





City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Identified Service Gaps and Initiatives

Critical Issues and Service Gaps		Initiatives
Department Identified (SWOT)	Community Identified	
Health checks • Morale • Sleep deprivation	Be physically prepared	Firefighter Wellness
New fire station • New station alerting	Consider a new fire station	Facilities
EVT staffing • Medical directions from the field • PSAP training • PIAs Officership program • Decrease daily task load • Lack of reserve apparatus • Accreditation	Quick reliable service • Good tools and equipment • Increase staffing to 4 on Engines/Tower • Safety	Service Delivery
Quality training • Improved training & travel • Issues with FF avoiding training • PSTC • School leave • Seminars • In-house classes • Training library • Lack of peer support	Increased safety training • Educated & professionally trained firefighters • Good tactics • Technology	Training
Accountability • Communication • Outdated SOGs • County contract • Improved benefits • EMS captains • More technology • Data-friendly reports • Bi-lingual incentive	Community involvement • Reduce traffic issues to improve response • Improve accessibility to nursing homes/ALFs • No budget cuts • Curb use on brick roads	Administration
Quality public education	CPR/first aid training • Improve connection with community • Explain need for multiple resources on calls	Public Education
Keep up with Growth	Fire inspections and code enforcement	Fire Prevention





City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Goals, Objectives, Critical Tasks and Timelines

Realistic goals and objectives were developed based on the strategic initiatives from stakeholder input. Currently, the City does not have a community master plan, but the City's policies were reviewed to ensure that the Department's planning does not interfere with any of the City's policies. The goals and objectives will provide clear direction for the Department while maintaining its strengths and improving its weaknesses. A completion timeline, including critical tasks needed to maintain the project schedule, and the staff member responsible, are vital parts of each objective. The Department will conduct a formal, annual review of its goals and objectives. Annual progress updates will be made available to the members of the Department and community members.



Strategy 1 / Goal 1 - EMS and Safety			
Enhance the safety, health, and wellness of Department personnel and maintain a strong EMS program.			
Objective 1.1	Perform firefighter medical physicals in partnership with Human Resources, IAFF Local 4208, and third-party entities.		
Timeframe:	12 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	- Meet with Human Resources, Local 4208, and Premise Health for on-duty requests - Complete policy - Establish schedule		
Funding Notes:	HR will cover the cost of Premise Health physicals		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 1.2	Implement a wellness-fitness program in accordance with the IAFF/IAFC Wellness-Fitness Initiative (WFI) to help secure the highest possible level of health for Department personnel.		
Timeframe:	24 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Initiate an annual firefighter fitness evaluation • Meet with Human Resources and Local 4208 • Develop program • Write SOG • Train peer-fitness trainers		
Funding Notes:	Partner with Local 4208		
Objective 1.3	Continue to embrace the Firefighter Cancer Support Network initiatives and recommendations to protect against occupational cancer.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Review and update all initiatives and recommendations • Schedule periodic and annual training to review safe practices • Partner with Local 4208 on new initiatives • Review all SOGs related to cancer prevention • Ensure post-fire interventions are being completed • Ensure new fire station designs incorporate best practices		
Funding Notes:	Operating budget for post-fire decontamination supplies		
Objective 1.4	Research the latest trends in EMS equipment and perform trials on equipment or procedures as determined by needs assessments.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Ensure a clear system to receive recommendations from Operations personnel for new EMS treatment modalities. • Review with EMS Committee • Review current EMS trends through networking and research • Discuss new trends with the Operations personnel and the medical directors • Implement trials as needed		
Funding Notes:	Capital and operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 1.5	Analyze the current EMS billing system for deficiencies.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Meet with the billing company, collection agency and Finance • Review any concerns from the community • Make recommendations for improvements		
Funding Notes:	Operating budget		
Objective 1.6	Continue to improve the Tele911 program.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Review incidents that were referred to Tele911 • Research incidents that could have been referred • Obtain feedback from Operations • Evaluate/update program as needed		
Funding Notes:	No funding required		
Objective 1.7	Maintain and follow replacement schedules for EMS-related tools and equipment.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Compile list of all EMS tools and equipment (operating and capital items) • Research normal replacement dates for similar types of equipment • Complete the schedule with replacement dates • Consider service plans for some equipment		
Funding Notes:	Operating and capital budget		
Objective 1.8	Research accreditation from the Commission on Accreditation of Ambulance Services (CAAS).		
Timeframe:	36 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Research requirements for CAAS accreditation • Complete application • Perform the required self-assessment • Prepare for on-site evaluation		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 1.9	Reinstitute patient surveys.		
Timeframe:	24 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Research options for surveys • Develop survey • Start with 10% – 20% of transports		
Funding Notes:	Operating budget		
Objective 1.10	Consider the use of private ambulances to augment the Department's EMS program.		
Timeframe:	36 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Research legality of using private ambulances • Obtain approval from medical director(s) and Legal • Meet with ambulance companies • Establish protocols and agreements		
Funding Notes:	No funding needed		
Objective 1.11	Institute CPR and Stop-the-Bleed training.		
Timeframe:	24 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Work with Department public education personnel • Plan the events and reserve a location • Meet with Public Affairs for advertising needs • Schedule staff as needed		
Funding Notes:	Limited overtime		
Objective 1.12	Maintain adequate supply levels in all stations of expendable EMS supplies and equipment.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Maintain current list and required quantities of all expendable items • Maintain restock system • Order supplies as needed		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 1.13	Submit adequate operating and capital budget to fund the EMS program.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Work with vendors for pricing • Consider future growth and expansion of the fleet • Research data from current and historical use • EMS grants for additional funding		
Funding Notes:	Capital budget		
Objective 1.14	Maintain an effective quality assurance/improvement program.		
Timeframe:	On-going	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Purchase software to assist with Quality Assurance/Quality Improvement (QA/QI) • Hire QA/QI staff • Ensure QA documentation is performed by Operations • Complete medical QA on EMS calls • Develop needed training for crews • Continue communication and training with the PSAP • Continue to update the PRO-QA system and response postures • Correct deficiencies as needed		
Funding Notes:	Capital budget		
Objective 1.15	Mobile Integrated Healthcare.		
Timeframe:	24 months	Assigned to:	EMS and Safety Bureau
Critical Tasks:	• Establish inter-local agreement between the three Osceola County fire agencies • Partner with local hospital systems • Hire community paramedics • Purchase transport unit • Apply for state and federal grants		
Funding Notes:	Capital budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Strategy/Goal 2 – Logistics			
Distribute/maintain tools and equipment, personal protective equipment (PPE), and uniforms. Continue to improve all fire facilities.			
Objective 2.1	Assist with the Station 15 construction project for emergency response capabilities for both airport and community coverage.		
Timeframe:	12 months	Assigned to:	Logistics Bureau
Critical Tasks:	• Provide input through the fire station committee • Recommendations: ○ Provide storage and work areas for Logistics and EMS ○ Keep shower and sleeping area separate ○ Allow for future expansion of station		
Funding Notes:	Capital budget and grant		
Objective 2.2	Continue to work with the Facilities Maintenance Division to identify future remodel/repair needs for each of the fire stations, Public Safety Training Center, and other properties for inclusion in the budgetary process.		
Timeframe:	36-60 months	Assigned to:	Logistics Bureau
Critical Tasks:	• If possible, install security fencing to the rear of Station 11 to enhance the safety of the public and staff (dependent on nearby construction). • Provide better security for the safety office at Station 11 • Maintain a 20-year paint and remodel list • Additional remodel needs may be required for additional personnel • Remodel kitchen at Station 12 • Evaluate the bay floors at Stations 12 and 14 for paint needs • Address safety, livability, and environmental needs • Install a state-of-the-art station alerting system (*FD FY26)		
Funding Notes:	Public Works budget/*FD Capital budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 2.3	Update and maintain a 10-year furniture, fixtures, and equipment (FF&E) replacement schedule for the stations.		
Timeframe:	On-going	Assigned to:	Logistics Bureau
Critical Tasks:	• Update schedule to include all FF&E • Research replacement schedules/time frame for furniture, appliances, and equipment • Maintain schedule annually		
Funding Notes:	Operating budget		
Objective 2.4	Update and maintain a 10-year tools and equipment replacement schedule for apparatus. Purchase tools and equipment per this schedule.		
Timeframe:	On-going	Assigned to:	Logistics Bureau
Critical Tasks:	• Update schedule to include all tools and equipment • Research replacement schedules/time frame for all tools and equipment • Obtain quotes as needed • Use as a budget reference • Include equipment for new apparatus • Stream-line cleaning supplies to eliminate any unneeded products • Purchase an additional slide-out tray for Logistics 2 vehicle • Replace major hydraulic tools on Squad/Tower every three years • Research additional high-water equipment: PFDs, helmets, additional throw bags, high water vehicle and boat • Research grants for high-water equipment • Update schedule annually		
Funding Notes:	Operating budget		
Objective 2.5	Look to expand Fire Logistics to accommodate growth for EMS supplies, fire equipment, station supplies, and spare vehicles.		
Timeframe:	36 months	Assigned to:	Logistics Bureau
Critical Tasks:	• Research larger facilities for logistics and EMS supplies • Obtain quotes • Meet with staff for discussion		
Funding Notes:	Capital budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 2.6	Provide an effective tools and equipment maintenance program.		
Timeframe:	On-going	Assigned to:	Logistics Bureau
Critical Tasks:	• Identify which tools and equipment are repaired in-house or by vendors • Identify which tools can be repaired by Operations • Maintain required repair equipment and a supply of repair parts • Provide training to crews/staff as needed • Maintain an annual service schedule for all tools and equipment • Develop an SOG and/or maintenance plan/schedule to include all tools and equipment (hand tools, hose appliances, electronics, etc.)		
Funding Notes:	Operating budget		
Objective 2.7	Replace all self-contained breathing apparatus and fill/cascade systems (FY28).		
Timeframe:	60 Months	Assigned to:	Logistics Bureau
Critical Tasks:	• Evaluate all SCBA manufacturers (Scott, MSA, etc.) (FY27) • Evaluate 5500 psi SCBAs (FY27) • Replace the SCBA fill stations at fire stations 11 and 14 (FY24 & 25)		
Funding Notes:	Capital budget		
Objective 2.8	Provide an effective SCBA maintenance program.		
Timeframe:	12 months	Assigned to:	Logistics Bureau/SCBA Shop
Critical Tasks:	• Maintain six SCBA Techs with current certifications • Maintain shop supplies and warranty plan • Perform PosiChek annual calibration (one unit every 6 months) • Keep up with NFPA standards, recalls and safety alerts • Ensure that the universal air connections and buddy breathing systems on all SCBAs currently in service are interchangeable • Ensure that all SCBAs currently in service meet the 2018 NFPA 1981 Standard		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 2.9	Research the latest trends in fire and rescue equipment, and perform trials as determined by needs assessments conducted by the Operations Division.		
Timeframe:	On-going	Assigned to:	Logistics Bureau
Critical Tasks:	• Send equipment survey to all personnel • Meet with Equipment Committee • Meet with vendors to demo new equipment • Purchase approved equipment		
Funding Notes:	Operating budget		
Objective 2.10	Purchase/maintain uniforms and PPE.		
Timeframe:	On-going	Assigned to:	Logistics Bureau
Critical Tasks:	• Maintain uniform allowances and web-based uniform platform • Establish a PPE purchasing schedule to ensure all PPE remains current and all personnel have two structural and one technical rescue set. • Research the possibility of a 2nd helmet for all personnel • Maintain PPE software program		
Funding Notes:	Operating budget		

Strategy/Goal 3 – Operations			
Improve emergency response operations while maintaining the Department’s ISO Class 1 status through a highly skilled workforce that is continuously training for high-risk/low-frequency events.			
Objective 3.1	Formalize top-down communication process that encourages continuity between shifts, stations, and personnel.		
Timeframe:	24 months	Assigned to:	Operations Division
Critical Tasks:	• Hold monthly meetings with senior staff and one Local 4208 member • Continue daily battalion chief meetings with their officers • Request input from staff for all operational meetings • Fire chief and deputy fire chiefs to visit stations on a regular basis • Battalion chiefs to visit each station daily		
Funding Notes:	Limited overtime		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 3.2	Identify areas for improvement to address deficiencies or opportunities for improved service delivery.		
Timeframe:	12 months	Assigned to:	Operations Division
Critical Tasks:	- Review turnout time benchmarks - Provide turnout time data/feedback to the battalion chiefs - Provide feedback to officers about their crew's turnout times - Analyze reasons for positive and negative turnout times - Provide a user-friendly electronic form for apparatus checks and a better follow-up system - Request the City provide quarter mile markers on all City trails to improve response times to those areas		
Funding Notes:	No funding needed		
Objective 3.3	Update the special operations program/plan.		
Timeframe:	12-48 months	Assigned to:	BC Christ
Critical Tasks:	- Add a watercraft program - Research grants for water rescue equipment - Purchase personnel flotation devices - Research the need for additional special operations capabilities - Ensure that the Training Bureau tracks all certifications and recertification for technical rescue		
Funding Notes:	Capital and operating budget		
Objective 3.4	Continue to improve fire, rescue, and EMS response capability.		
Timeframe:	On-going	Assigned to:	Operations Division
Critical Tasks:	- Lease/purchase fifth frontline Engine - Purchase sixth frontline Rescue - Purchase cargo trailer with SCBA compressor - Evaluate the need for additional fire stations and apparatus including a seventh frontline Rescue and a second frontline Tower - Research grants for additional facilities		
Funding Notes:	Capital budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 3.5	Formalize a culture that ensures accountability and follow-through at all levels of the department.		
Timeframe:	On-going	Assigned to:	Operations Division
Critical Tasks:	- Educate Department personnel on the importance of follow-through - Lead by example		
Funding Notes:	No funding needed		
Objective 3.6	Improve the health and safety of the stations and apparatus.		
Timeframe:	On-going	Assigned to:	DFC Leone/Safety officers
Critical Tasks:	- Continue with monthly safety audits of each station - Continue with monthly safety audits of all fire and EMS vehicles - Follow up on safety audits each month		
Funding Notes:	No funding needed		
Objective 3.7	Research the ArcGIS QuickCapture application (app) for use with windshield surveys during hurricanes/disasters.		
Timeframe:	24-36 months	Assigned to:	Operations Division
Critical Tasks:	- Discuss pros and cons of app with FEMA - Perform simulated trial of app - Discuss findings with staff		
Funding Notes:	Operating budget		
Objective 3.8	Work with fleet to maintain an efficient and quality apparatus maintenance program		
Timeframe:	On-going	Assigned to:	Operations Division
Critical Tasks:	- Request weekly updates from fleet on status of units - Conduct quarterly meetings with fleet to discuss all apparatus - Provide fleet access to our database to ensure repair of all issues with vehicles - Provide a third-party monthly safety inspection of all operations vehicles		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Objective 3.9	Continue to follow and update, the fleet leasing schedule, the fleet replacement schedule, and the ten-year ambulance re-chassis/purchase plan as needed.		
Timeframe:	On-going	Assigned to:	Operations Division
Critical Tasks:	• Refurbish the 1923 American La France antique fire truck and research a secure display location • Purchase an ambulance as an additional reserve unit • Lease four replacement Engines and one Squad to modernize fleet • Purchase or lease a Ladder Truck • Create a reserve apparatus purchase/lease plan • Consider increasing mileage on leased apparatus based on data		
Funding Notes:	Capital budget		

Strategy/Goal 4 – Administration			
Increase organizational effectiveness, accountability, and communications while maintaining fiscal responsibility.			
Objective 4.1	Submit an effective budget while maintaining fiscal responsibility.		
Timeframe:	On-going	Assigned to:	Administration Division
Critical Tasks:	• Continue the review of budget lines and capital projects • Distribute account balance reports to senior staff • Review programs and reallocate existing funding as needed • Increase the frequency of staff meetings during budget season • Approve all emergent and non-emergent programs in the annual budget • Continue the study of impact fees • Ensure adequate funding to accomplish Department goals and objectives • Monitor available grants for additional funding source • Ensure Department plans do not interfere with City plans		
Funding Notes:	No funding needed		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Objective 4.2	Continue to ensure effective communication is being maintained throughout all levels and functions of the Department.		
Timeframe:	On-going	Assigned to:	Administration Division
Critical Tasks:	- Identify internal/external information sharing methods - Establish monthly staff meetings; disseminate minutes Department-wide - Reestablish quarterly newsletter - Produce and disseminate quarterly and annual reports to stakeholders		
Funding Notes:	Operating budget		
Objective 4.3	Maintain ISO Class 1 Status.		
Timeframe:	On-going	Assigned to:	Administration Division
Critical Tasks:	- Through an annual audit process, ensure compliance with ISO benchmarks - Develop an ISO improvement plan to rectify deficiencies and increase current score to ensure the Department maintains ISO 1 - Continue to develop the preplan program - Periodically assess existing fire station placement through GIS tools as well as reality-based analysis		
Funding Notes:	No funding needed		
Objective 4.4	Evaluate the Department's awards program and SOG.		
Timeframe:	24 months	Assigned to:	Fire chief
Critical Tasks:	- Review SOG and past practice - Meet with Logistics and the Local 4208 - Determine future of program		
Funding Notes:	Operating budget		





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 4.5	Through a sound facilities management program, ensure the Department is planning for future space needs while properly maintaining current facilities.		
Timeframe:	36-60 months	Assigned to:	Administration Division
Critical Tasks:	• Complete the design and construction of Fire Station 15. • In anticipation of City Hall's expansion, develop a plan for fire administration's space needs on the second floor. • Evaluate short and long-term facility maintenance needs. • Annually review and modify FF&E replacement cycles.		
Funding Notes:	Capital budget		
Objective 4.6	Develop standardization reference guides/manuals for recurring administrative functions.		
Timeframe:	24 months	Assigned to:	Office Manager
Critical Tasks:	• Develop list of needed manuals/job tasks • Develop reference guides for each area • Assign required guide and due date to appropriate personnel • Update reference guides annually		
Funding Notes:	Operating budget		
Objective 4.7	Constantly improve effectiveness and productivity through researching, development, and purchasing of the best information technology available to the fire service.		
Timeframe:	On-going	Assigned to:	Administration Division
Critical Tasks:	• Constant research of the latest information technology (IT) to improve the efficiency of the Department • Reform existing systems to improve workflow and enhance data collection • Develop and deploy GIS based 'dashboards' to monitor workload and response effectiveness • Develop automated daily, weekly, monthly, and annual response time reports		
Funding Notes:	Capital and operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 4.8	Through an aggressive human capital management program, develop an ongoing process of anticipating the needs of the Department as it pertains to personnel development and growth to ensure effective and efficient operations at all levels.		
Timeframe:	On-going	Assigned to:	Administration Division
Critical Tasks:	• Evaluate and improve the firefighter recruitment program • Evaluate existing professional development plan for operations positions • Develop a professional development plan for administrative team members • Continue to conduct promotional processes for engineer and lieutenant • Create an EMS Secretary position within the EMS Bureau • Hire the approved personnel for Rescue 16 • Hire the approved personnel for Engine 15 • Hire three (3) fire engineers for the airport suppression unit (4/24) • Perform Department exit interviews • Review external agency agreements every three years and revise as necessary to meet objectives • Evaluate external agency performance (mutual aid, City, etc.) annually to ensure that external agencies are capable and effective in supporting the agency's goals and objectives • Perform a staffing study to determine proper levels of staffing • Ensure travel times meet acceptable benchmarks • Consider rezoning station's response districts		
Funding Notes:	Capital and operating budget		
Objective 4.9	Review forms, guiding documents, and other organizational documents and manuals at least every three years and update as needed.		
Timeframe:	On-going	Assigned to:	Office Manager
Critical Tasks:	• Work toward form fillable/electronic forms • Establish tracking methods for the review process • Review documents by assigned cycle • Assign forms and documents to senior staff for review • Send out revised forms to the Department		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Strategy 5 / Goal 5 – Training

Provide an effective Department-wide training program. Recruit and promote the best possible candidates.

Objective 5.1	Develop succession strategies to prepare personnel for professional growth and promotional opportunities.		
Timeframe:	On-going	Assigned to:	Training Bureau
Critical Tasks:	- Continue to review/update SOG 100.31 Organizational Development & Promotional Development - Gather and evaluate feedback from personnel - Based on feedback and as directed, adjust the plan, and implement changes as needed - Continuously provide and encourage participation in continuing education - Consider a mentorship program for new firefighters - Consider a mentorship program for those aspiring to leadership roles - Encourage credentialing of officers through the Center for Public Safety Excellence (CPSE)		
Funding Notes:	Operating budget		
Objective 5.2	Implement an officer academy for both lieutenants and battalion chiefs with training and completion of job specific task books for each position.		
Timeframe:	36 months	Assigned to:	Training Bureau
Critical Tasks:	- Assess the needs and/or deficiencies noted by current company officers - Reach out to current company officers and battalion chiefs for their feedback on what they would like to see - Gather and evaluate information - Determine desired curriculum - schedule and develop task books - Implement an in-house ride-up program as part of the academy - Launch and implement program		
Funding Notes:	Instructor overtime and printing cost		





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 5.3	Change the culture of training to make it more inclusive		
Timeframe:	On-going	Assigned to:	Training Bureau
Critical Tasks:	• Improve safety standards at scheduled training • Conduct annual refresher training for instructors to review safety procedures, instruction methods, etc. • Emphasize proper techniques and use of tools, PPE, and body mechanics to reduce injuries • Focus on quality of training vs. speed • Allow for anonymous critiques of all training		
Funding Notes:	Operating budget		
Objective 5.4	Expand the amount of department NFPA 1403 and adjunct instructors.		
Timeframe:	36 months	Assigned to:	Training Bureau
Critical Tasks:	• Assess the need for 1403 instructors and adjunct instructors • Promote incentives for training • Cultivate in-house LFTI II instructor (burn master) • Provide in-house 1403 training in compliance with State utilizing LFTI II instructor		
Funding Notes:	Limited overtime		
Objective 5.5	Integrate new fire suppression practices into scheduled training.		
Timeframe:	24 months	Assigned to:	Training Bureau
Critical Tasks:	• Attend conventions, expos, and conferences • Gather and evaluate information on new techniques and practices being utilized elsewhere • Obtain feedback from staff and approval for implementation • Send personnel for train the trainer programs • Train personnel and update appropriate SOGs • On-going evaluation and periodic review of effectiveness and personnel 'buy-in'		
Funding Notes:	Instructor overtime		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 5.6	Install a training pavilion at the Public Safety Training Center (PSTC).		
Timeframe:	12 months	Assigned to:	Training Bureau
Critical Tasks:	• Develop Architectural Design Committee • Setup contractor bids and approval • Commence buildout		
Funding Notes:	Capital budget and State grant		
Objective 5.7	Continue to partner with KPD over future projects/expansion at the Public Safety Training Facility (PSTC).		
Timeframe:	On-going	Assigned to:	Training Bureau
Critical Tasks:	• Meet periodically with KPD PSTC staff to evaluate needs • Gather, evaluate, and implement ideas and changes as needed • Continue collaborative sharing of facilities • Implement agreements with outside agencies and organizations for the use of facilities		
Objective 5.8	Research online textbook subscriptions for firefighter use.		
Timeframe:	12 Months	Assigned to:	Training Bureau
Critical Tasks:	• Research available options • Determine associated costs • Submit budget request for approval • Disseminate information to personnel		
Funding Notes:	Operating budget		
Objective 5.9	Ensure that an after-action reviews/post incident analysis (PIA) occurs following all significant incidents.		
Timeframe:	12 months	Assigned to:	Training Bureau
Critical Tasks:	• Develop a consistent format and usable form • Evaluate the need for an SOG or inclusion into an existing SOG • Work with the battalion chiefs for scheduling PIAs • Invite outside agencies if needed • Distribute findings from all PIAs Department-wide		
Funding Notes:	No funding needed		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 5.10	Work with the Administration and Operations Divisions to develop data driven training.		
Timeframe:	12 Months	Assigned to:	Training Bureau
Critical Tasks:	• Improve training data collection • Review training recommendations from critiques • Conduct survey for training suggestions • Meet with Department officers for training needs • Develop annual training schedule to include monthly, quarterly, and annual special operations training.		
Funding Notes:	Operating budget		

Strategy 6 / Goal 6 - Public Education

Expand the Department's public outreach and education program.

Objective 6.1	Request through the budgetary process a part-time public education coordinator.		
Timeframe:	36 months	Assigned to:	DFC Leone
Critical Tasks:	• Fund public education coordinator • Work with HR to develop job description • Research grants to fund position • Document the critical need through the budget process		
Funding Notes:	Capital budget		
Objective 6.2	Develop data driven loss reduction program.		
Timeframe:	On-going	Assigned to:	DFC Leone
Critical Tasks:	• Analyze data from fire, rescue, and EMS reports to drive public education planning and events • Review stakeholder survey results for public education suggestions • Canvas neighborhoods after fires to educate the public • Review the IAFC <i>Vision 2020</i> program		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 6.3	Educate operations personnel of current practices and age-appropriate public education programs		
Timeframe:	12-24 months	Assigned to:	DFC Leone
Critical Tasks:	- Educate all Department personnel on the importance of public education - Educate officers and fire fighters on public speaking - Provide training on age-appropriate communication and programs to the crews - Provide lesson plans/scripts for firefighters to use when providing public education		
Funding Notes:	Operating budget		
Objective 6.4	Become proactive in public education.		
Timeframe:	12 – 36 months	Assigned to:	DFC Leone
Critical Tasks:	- Provide a presence at schools with grades K - 12 - Expand participation in community events - Develop an after-the-fire program/kit - Work with KPD to develop joint programs - Explore ways to promote public education (advertisements, electronic marquis, etc.) - Work with the EMS and Safety Bureau to provide CPR/first aid training to the community - Research the possibility of starting a local <i>Juvenile Firesetter's Intervention Program</i> - Research the possibility of starting a <i>Fire Explorer</i> program - Expand the <i>Fire Pals</i> program - Research the best public education material and provide an adequate quantity. Include the needs of senior citizens and the business community - Research the <i>Every 15 Minute</i> program for high schools - Expand participation in the ARC's Sound the Alarm Program - Institute an idea folder for public education topics/events - Consider adding select public education handouts and community resource lists on apparatus (shelters, food banks, free clinics)		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Objective 6.5	Work with the PIOs and Access Osceola to develop appropriate community risk reduction media information.		
Timeframe:	On-going	Assigned to:	DFC Leone
Critical Tasks:	• Become more active with our social media (drowning prevention, texting and driving, illegal drugs, unattended cooking fires, smoke alarms, exit drills, hurricane preparedness, etc.) • PIOs should notify the public early in the Department's response to incidents to increase community awareness • Media blitz after serious call – positive prevention tips related to the incident • Use public service announcements to educate and inform citizens of hazards or issues in the community • Develop a program to increase awareness of allowing emergency vehicles to move through traffic		
Funding Notes:	No funding required		



**Flooding from Hurricane Ian
September 29, 2022**



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Strategy 7 / Goal 7 – Accreditation			
Achieve and maintain international accreditation through the Center for Public Safety Excellence (CPSE).			
Objective 7.1	Continue to increase employee buy-in of the accreditation process		
Timeframe:	12 months	Assigned to:	Accreditation Team
Critical Tasks:	- Continue to meet with crews - Develop accreditation-related policies - Get input from internal stakeholders - Establish training as needed		
Funding Notes:	No funding required		
Objective 7.2	Complete the Community Driven Strategic Plan, the CRA SOC and the Self-Assessment Manual (SAM).		
Timeframe:	12 months	Assigned to:	Accreditation Team
Critical Tasks:	- Obtain commission approval for Strategic Plan - Continue to collect data for CRA SOC - Obtain commission approval for CRA SOC - Complete SAM		
Funding Notes:	No funding needed		
Objective 7.3	Resolve areas of needed improvement based on gaps discovered during the accreditation process.		
Timeframe:	36 months	Assigned to:	Accreditation Team
Critical Tasks:	- Meet with the staff and Local 4208 to discuss initiatives - Develop policies as needed - Establish training as needed		
Funding Notes:	Funding determined by discovered gaps		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 7.4	Continue to analyze the Department response times.		
Timeframe:	12 - 60 months	Assigned to:	Accreditation Team
Critical Tasks:	• Produce daily/monthly/quarterly reports • Meet with officers • Establish training		
Funding Notes:	No funding needed		
Objective 7.5	Develop initiatives to improve incident dispatch to enroute times.		
Timeframe:	12 – 60 months	Assigned to:	Accreditation Team
Critical Tasks:	• Meet with CAD Committee • Meet with PSAP supervisor • Establish policies as needed		
Funding Notes:	No funding needed		
Objective 7.6	Update the community risk assessment (CRA) for all new occupancies.		
Timeframe:	12 -60 months	Assigned to:	Accreditation Team
Critical Tasks:	• Perform quarterly checks for new occupancies in the City and Osceola County contract area (citizen’s self-service portal and county I.T.) • Perform windshield survey(s) • Update CRA spreadsheet and CRA SOC		
Funding Notes:	No funding needed		
Objective 7.7	Become a CPSE applicant agency.		
Timeframe:	Five months	Assigned to:	Accreditation Team
Critical Tasks:	• Complete the required documents • Submit application		
Funding Notes:	Operations budget		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Objective 7.8	Perform a new community risk assessment every three years.		
Timeframe:	On-going	Assigned to:	Accreditation Team
Critical Tasks:	• Update the methodology as needed • Improve the risk analysis based on fire protection systems • Perform the CRA		
Funding Notes:	Limited overtime		
Objective 7.9	Ensure that the department focuses on continuous improvement.		
Timeframe:	On-going	Assigned to:	Accreditation Team
Critical Tasks:	• Produce monthly/quarterly/annual reports • Meet with staff provide deadlines for required documents		
Funding Notes:	No funding needed		
Objective 7.10	Submit the required annual reviews to CPSE.		
Timeframe:	On-going	Assigned to:	Accreditation Team and all Divisions/Bureaus
Critical Tasks:	• Finalize SOG and form • Meet with bureau/divisions • Review form with staff		
Funding Notes:	No funding needed		
Objective 7.11	Review and update the Community Driven Strategic Plan and the CRA SOC.		
Timeframe:	On-going	Assigned to:	Accreditation Team
Critical Tasks:	• Meet with staff • Update as needed • Re-publish on website		
Funding Notes:	No funding needed		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 7.12	Ensure all requirements are met for future accreditations.		
Timeframe:	On-going	Assigned to:	Accreditation Team
Critical Tasks:	- Review requirements - Review goals and objectives - Meet with staff - Re-apply for accreditation - Plan for future Accreditation Managers		
Funding Notes:	Operating or capital budget		

Strategy 8 / Goal 8 Fire Prevention			
Develop a comprehensive fire prevention bureau that encompasses fire safety inspections and public education to ensure customer safety.			
Objective 8.1	Assess current fire prevention program to determine any relative gaps.		
Timeframe:	12 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	- Conduct needs assessment - Create list of needed tasks after reviewing gaps - Prepare report with data analysis on findings to improve gaps - Enhance fire inspection program using data from gap analysis - Consider creating fire marshal position under fire department - Explore need for additional personnel		
Funding Notes:	Capital budget		
Objective 8.2	Re-assess fire prevention program to ensure goal compliance.		
Timeframe:	12 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	- Analyze current delivery and proposed outcomes to determine gaps - Develop adjustments to program to overcome gaps - Create policy to govern annual assessment		
Funding Notes:	No funding needed		



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Objective 8.3	Improve fire and life safety inspection frequency based on national standards, industry standards, and best practices.		
Timeframe:	12 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Evaluate available data to determine number of businesses in the City • Create master list of mandated inspections to help determine program model • Improve efficiency of enforcement operations • Create policy to govern inspection frequency of occupancies • Create master calendar to maintain inspection frequency and compliance		
Funding Notes:	Capital budget		
Objective 8.4	Implement improved computer hardware and software program in accordance with industry standards and best practices for the fire prevention program.		
Timeframe:	12-24 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Compare hardware/software with other fire departments • Evaluate current logging of inspection programs and processes. (Fire-related software would better meet the needs of the bureau.) • Evaluate current and future software needs to streamline inspections • Consider alternate industry electronic programs to increase staff efficiency		
Funding Notes:	Capital and operating budget		
Objective 8.5	Review/update the City of Kissimmee Title VI and other City Ordinances.		
Timeframe:	12 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Review current Land Development Code and Title VI • Evaluate and update current Title VI using Florida Fire Prevention Code and City Ordinances (Fire Prevention Bureau reports to the fire chief for fire code issues. The fire chief is the AHJ.) • Improve efficiency of enforcement operations (Fire Department personnel can advise of violations during EMS/fire calls.) • Create policy governing assessment of Title VI		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Objective 8.6	Assist in developing fire prevention budget.		
Timeframe:	On-going	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Identify current budget • Compare cost of needs to current and future budgets • Explore revenue potential (enforcement fines, permitting, etc.) • Determine all possible funding sources (grants, enforcement fines, etc.)		
Funding Notes:	No funding needed		
Objective 8.7	Research appropriate fire prevention staffing and develop succession strategies to prepare fire prevention personnel for professional growth and promotional opportunities.		
Timeframe:	24 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Develop staffing model that includes fire marshal, multiple inspectors that are dually certified in fire prevention education and inspection • Following national standards, develop a training plan for all new and current inspectors, which includes CEUs. • Explore training opportunities with local agencies • Develop pathway to fire marshal management position • Create policy to govern training programs and credentialing		
Funding Notes:	Operating budget		
Objective 8.8	Assume the primary role for the Public Education Program.		
Timeframe:	36 months	Assigned to:	Fire Prevention Bureau
Critical Tasks:	• Work with fire operations to develop a data driven loss reduction program and create a comprehensive public education SOG • Assist in identifying target areas • Assist in prioritizing programs based on evaluation results • Assist in developing fire educational programs		
Funding Notes:	Operating budget		



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Success of the Plan

After much planning and input from internal stakeholders and the community, this plan has been prudently developed. The success of this Community Driven Strategic Plan will depend on the successful and timely completion of the objectives for the identified strategic goals. Some of the objectives will be an on-going journey but success will be measured by the completion of the many related critical tasks. The success of all the goals and objectives also depends on the support from City officials, members of the Department and the community. The Department has always enjoyed an outstanding connection with these parties, and it looks forward to the continuance of these great relationships. To provide the best possible organizational direction, the vision, mission, core values and motto must always be kept in sight while completing, updating, and creating new goals and objectives.





City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Appendix 1

Glossary of Acronyms

ALS	Advanced life support
CAAS	Commission on Accreditation of Ambulance Services
CFAI	Commission on Fire Accreditation International
CPSE	Center for Public Safety Excellence
EMS	Emergency medical services
EVT	Emergency vehicle technician
IAFC	International Association of Fire Chiefs
IAFF	International Association of Firefighters
ISO	Insurance Services Office
KPD	Kissimmee Police Department
NFPA	National Fire Protection Association
ODD	Officer Development Day
PIA	Post incident analysis
PSAP	Public safety answering point
PSTC	Public Safety Training Center
QA/QI	Quality assurance/quality improvement
SOG	Standard operating guideline
SWOT	Strengths, Weaknesses, Opportunities, Threats
VMR	Vehicle machinery rescue



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



Appendix 2

Community Survey Results

1. What do you expect from your fire department?

1. Be prepared to and perform fire related activities, nothing more, nothing less.
2. Immediate response
3. To be at the scene of an emergency quickly, and eliminate the risks involved.
4. Putting out fires, medical safety response, professionalism, keeping themselves safe while saving us from our own mistakes
5. Fast response times
6. To be professional
7. Put fires out and save lives
8. Remain reliable
9. To arrive in a timely manner.
10. Keep up the good work
11. Quick response to arrive onsite after 911
12. Knowing how to shut off the water, gas, or electricity to the premises of incidents.
12. Professional timely response.
13. Timely arrival to cease domestic fires and attend to emergency medical events
14. Fast response
15. Good service
16. To be as quickly and prompt to each incident
17. I expect a quick response by professionally trained fire and EMS persons. A fire prevention division that inspects and enforces violations.
18. Prompt responses, up-to-date and well-maintained equipment, and personnel
19. Able to assist in saving lives and property during an emergency
20. Quick response and professional firefighters who are well trained for all types of calls.
21. Protection from fire and threats to my property
22. To be more accessible to all the entities that need you like Alf's
23. Response when necessary
24. Excellent work from everyone!
25. Quality and quick service in an emergency. Well educated and trained firefighters, EMT and medics
26. Quick response and knowledge
27. Fire protection and emergency medical service
28. No response
29. Professionalism, honesty, integrity, preparedness.
30. Prompt Response time. We have never had an issue with this.
31. Fast response, full on team effort
32. Fire suppression, fire prevention, community engagement, education.
33. When called to rush to help who is needed



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



34. Quick reliable service
35. Protect us when an emergency arises! Having the right tools to do the job!
36. Fast Response Time for medical and/or fire emergency. Education to keep safety best practices top of mind.
37. To continue the outstanding job, they are already doing.
38. Punctuality and good service (Puntualidad y buen servicio)
39. To address safety concerns
40. To be there on time
41. Quick emergency response and preparedness
42. Be equipped to do their job
43. Fast response time from trained personnel. With the best equipment
44. I was an explorer for the department when I was younger and getting the community involved can reduce the number of first responders to hold a sense until professional arrive
45. To be on time 🖐
46. Education for preventing fire disaster
47. Communication on procedures and needs to help them improve their ability to serve.
48. Speedy response time.
49. Good service and speed as always (Buen servicio y rapidez como siempre)
50. Fast Service
51. Getting to my house quickly. Knowledge in reading smoke, fire tactics, and medical.
52. On Time in case of Emergency
53. Like most people I truly expect the fire dept. to be there is my home or business needs to have a fire put out. that is the single most important job they do
54. No response
55. To be prepared for all emergencies.
56. We need to keep finding ways to better serve our growing community.

2. List areas of concern about your fire department.

1. Driving the big trucks down the old brick roads in historic downtown on non-urgent calls.
2. Excessive pay and benefits
3. None for me, however, I would like to be sure they have what they need to be safe.
4. Controlled fires get out of hand.
5. Keep up the good work
6. Response time
7. Currently none
8. No response
9. I think there should be stiffer fine for not getting out of the way when driving on the roads.
10. number of personnel



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



11. As a fast-growing City. I wonder if another station is needed and if they are prepared for commercial fires.
12. Budget cuts preventing training and equipment upgrades; lack of personnel and equipment (and locations of firehouses) for growing population
13. Fire chief
14. I have no concerns
15. Pay and benefits may not be competitive with other jurisdictions. Safety on calls.
16. That they will not be able to get where they need to go when needed due to traffic concerns and lack of needs
17. The only thing that I can really think of is that there sometimes seems to be a bit of a waste of resources. For example, I've seen instances where 911 was called for a single person falling and being injured in their home, and multiple EMT units and multiple fire crews turned up (in this instance, I think it was 2 ambulance and 3 fire crews).
18. None, they appear to be an excellent department, I have had several occasions to interact with them
19. I do not have any. KFD is engaged and does an amazing job for our City!
20. I hope they have all the up-to-date equipment to help medical or fire
21. None. Great leadership and operations.
22. N/A They are always there
23. Response time not quick enough in emergencies
24. Fully equipped
25. Bad traffic conditions slowing response time.
26. So far none. I love the department
27. Roads should be well shouldered so fire truck can pass more conveniently
28. Not enough fire houses
29. May GOD protect you in this risky business. (Que DIOS LOS PROTEJA EN ESTA RIESGOZA LA OR)
30. Funding for payroll and equipment. Need four FFs on Engines and Trucks for safety.
31. Enough Equipment and trained Staff.
32. I really think they are doing a fine job. I have not heard any concerns in the community or in our personal experience with them



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



3. Provide positive feedback about your fire department.

1. Always quick and display professional and caring attitudes during multiple emergency medical responses over the last few years for my elderly mother.
2. They are true heroes!
3. Uses current technology to communicate with the community! When they used to take the Chimney Swifts to "back to nature "that was very helpful (pre-pandemic) Also thanks for keeping your numbers up because that keeps our insurance rates down.
4. Appear to be well qualified and professional
5. Professional, responsive
6. They truly are professional heroes.
7. They arrive in a timely manner and are always pleasant.
8. Haven't interacted
9. Thanks to you constant training and being prepared.
10. They have always responded fast they saved my life when I had my heart attack a week after my husband passed away the doctors told me I had a widow maker.
11. good response times
12. They have always responded very promptly.
13. I give credit as a 48-year resident to the department keeping up with the growth of our City.
14. Never heard a neighbor complain when they've called for assistance (and there have been quite a few)
15. Always polite and helpful.
16. I have never needed their services, thank God.
17. They are very professional and help our community a lot.
18. Very well run
19. From the chief on down, they do a phenomenal job!
20. Equipment is always top notch. Great organization.
21. I have not personally heard any concerns locally. So, my areas of concern may be minimal, but I feel that they always do the best they can and if we can get more local people involved it will help spread the word.
22. Promptness
23. They are great! Keep up the good work!
24. I cannot provide any personal feedback, as I have been fortunate enough to never need the service.
25. We have never had an issue as a business in Kissimmee. Always prompt and courteous.
26. They have been professional and courteous in their delivery of services
27. Kissimmee Fire Dept. under the direction of Chief Walls is always available. They are engaged and work hard to educate the community.
28. Good neighbor
29. I believe you have the most amazing group of staff! Learning how you deal with each situation that arises was so overwhelming and makes you feel totally in awe! To know that you count with the most innovative and best equipment that I have seen makes me



City of Kissimmee Fire Department

Community-Driven Strategic Plan 2022-2027



- feel totally at ease and happy to live in your jurisdiction! The friendliness, customer service, camaraderie and knowledge displayed by all the staff makes you trust you completely with our care!
30. Great leadership and operations.
 31. I strongly feel with their great leadership, the Kissimmee Fire Department as a whole display's great workmanship and professionalism and demonstrate excellent teamwork.
 32. They have always been punctual, and their help is 100%, they give us a good service. (Siempre han estado puntual y su ayuda es de 100%, nos dan un buen servicio.)
 33. Again, first response
 34. Well equipped
 35. I have an autism child with seizure many times if it was not for the fire department my child would not be a live now.
 36. True professionals.
 37. Always there, I have them see how they work and very happy the way they work
 38. Hard working prompt and capable of working in high pressure
 39. Friendly and willing to assist
 40. 100% help and responsibility (100% ayuda y responsabilidad)
 41. They came to me quickly, rendered medical aid, and got me to the hospital quickly for treatment.
 42. Dependable Service
 43. As I have said they have done a great job in my personal experience, and I hear nothing bad when I talk to other people or business in the community
 44. Good hard-working men and women.
 45. Very happy and appreciative of the men and women who bravely serve our community. Keep up the great work.

4. Please provide any additional comments you would like to share about your fire department.

1. Kissimmee Fire is awesome. I fully support this accreditation.
2. First, thank you for being the FIRST City of Kissimmee agency to reach out via modern communication techniques such as email & survey monkey. This is far superior to the traditional "printing in the papers no one receives" that the Planning and Zoning department does. There would be much better community representation in planning projects if they followed your lead. Great job!
3. I participated although our services are provided by Osceola County here in the Oaks
4. Keep making us proud
5. I want to thank them for their courageous service.
6. It would be awesome if they offered CPR & first aid classes to the community
7. Everyone should learn to appreciate and be thankful for all those who work for fire and police departments.
8. Everyone we have had contact with have good attitudes and are friendly. Their equipment has improved over the years with more reliable equipment.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



9. They are great! Thank God, we have them
10. I believe we have a top-notch department of sterling quality. The trucks and equipment are the best. I am very impressed with the new training facility.
11. Do not cut their budget.
12. I like seeing those who have served well to be recognized and promoted within the ranks. We should not have to depend on outsiders when we have plenty of qualified members here already.
13. Thank you for what you do for our community!
14. Firefighters can complain a lot and do not understand that other City staff cannot fix their problems. They need to work with their chain of command.
15. I wish there was a way to get all emergency services more connected with the community. Kissimmee is probably the least I see out and about, but I am newer in the Kissimmee area, so I will see as time goes.
16. We love and support our fire department.
17. Thank you KFD!
18. I really hope funding is given to you so you can get more of the medical equipment needed to save lives! You have some of the best that I have seen! However, it may not be enough! To visit your location and see every part of your operation makes you comprehend the very different components that makes your staff work as well as they do! I am totally impressed with the organization, methods, and practices! You have everything that makes a Fire Department and Rescue Team be the best; an amazing and caring CHIEF, kindness, very committed to the community you serve and very clear in your goals and practices!
19. Proud of Chief Walls getting highest credential for fire executive officers.
20. Keep up the good work.
21. Whenever I have needed them, they have done an excellent job. (Siempre que los he necesitado han hecho un trabajo excelente.)
22. Why they charge if they are for the people, community
23. I will continue to keep them in prayers, I am asking the government to keep them fully funding, equipped to do the job they were called to do.
24. All emergency responders should be highly respected. They are risking their lives to save strangers. Noble job
25. Please communicate to the community what your needs are. Perhaps we can assist by reaching out to our local government, as we understand there is unprecedented growth in our county.
26. No, me va puedo quejar
27. Electronic alert to neighborhood about an emergency (Similar to "Amber Alert")
28. I think at this current time, there is this belief or feeling that we need to expect a lot from our first responders that may be away from their primary function. I believe that you should stay focused on the task of putting out fires and being there when EMS need you and if and only if you can do more than do it.
29. Salaries should be increased because of the degree of stress put on the men and woman.



City of Kissimmee Fire Department Community-Driven Strategic Plan 2022-2027



Sources

1. Historical accounts of the Department's history were taken from printed materials from Mr. Sam L. Lupfer (deceased).
2. *Quality Improvement for the Fire and Emergency Services* (10th Edition)
3. *Interpretation Guide for the Commission on Fire Accreditation International* (2021)
4. City of Kissimmee Fire Department Standard Operating Guidelines
5. [Annual Budget Documents | City of Kissimmee, FL](#)
6. [Everyone Goes Home - Firefighter Life Safety Initiatives](#)
7. [City of Kissimmee, FL | Home](#)



ITEM 7.C

Approval of the 2023 Event and Festival Series Calendar

Request

City Commission approval of the 2023 Event and Festival Calendar Series.

Explanation

The 2023 Event & Festival Calendar represents a vibrant and diverse series of cultural and historical celebrations held at the Kissimmee Lakefront Park, Kissimmee Civic Center and Downtown Kissimmee. The series is comprised of:

- Seven (7) Festivals provided by the Parks and Recreation Events & Venues Division, including: Martin Luther King Unity Festival, Kowtown, Pridefest Kissimmee, Juneteenth, Monumental Fourth of July, Fandom and Festival of Lights.
- Four (4) events produced by third party organizations that have qualified as Signature Events including: Carribean Fusion, Viva Osceola, Boo on Broadway and Kissimmee/Orlando Japan Festival.
- Two (2) additional festivals which were selected through the annual Request for Information News Release: Cuban Sandwich Festival and Puerto Rican Parade.
- In addition to the Festival of Lights Parade and the Puerto Rican Parade, the bi-annual Veteran's Day Parade will also be held in Kissimmee in 2023.

The complete Event and Festival Series Calendar, with a brief description of each, is found in the attachment. Also attached is the City News Release announcing the third party festival opportunity.

Recommendation

City Commission to approve the 2023 Event and Festival Series Calendar.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Parks & Recreation

Presenter:

Attachment(s):

1. COK Festival Calendar - ALL
2. 2023 Event News Release



2023 Festival & Event Series

Dr. Martin Luther King Jr. Unity Festival

January 14, 2023

Kissimmee Lakefront Park – Festival Lawn

The Dr. Martin Luther King Jr. Unity Festival is the City of Kissimmee's annual celebration honoring his legacy and the ideals of unity, diversity, and goodwill. Live gospel music, stage performances and the new Unity Garden will highlight the continued influence of Dr. King's ideals through original works of art.

Kowtown Festival

March 18, 2023

Kissimmee Lakefront Park – Festival Lawn

The City of Kissimmee is turning 140 years old we want to celebrate with you, our community! Kowtown Festival is our annual birthday party filled with live music from your favorite local artists, vendors, and food trucks. Bring your whole family out to enjoy the KUA Kid's Power Zone, birthday cake, and more.

Caribbean Fusion

April 23, 2023

Kissimmee Lakefront Park – Festival Lawn

This is a highly anticipated Caribbean Festival, produced by the Caribbean and Floridian Association, Inc., features an abundance of music, art, and Caribbean food. The festival also features an assortment of multicultural entertainment center stage at the Caribbean Fusion Festival at Kissimmee Lakefront Park.

Cuban Sandwich Festival

May 7, 2023

Kissimmee Lakefront Park – Festival Lawn

HRFCC, Inc. brings you The Cuban Sandwich Festival! This exciting festival and contest to find the best Traditional and non-traditional Cuban Sandwiches in the Central Florida! A true cultural festival featuring Food, Art & Cultural Exhibitors.

PrideFest Kissimmee

June 3, 2023

Kissimmee Civic Center

PrideFest Kissimmee is a celebration grounded in fostering awareness and acknowledging the impactful contributions of our local LGBTQ community. This event is packed with live performances, activities, and vendors.



Juneteenth Festival

June 17, 2023

Kissimmee Lakefront Park – Festival Lawn

The Kissimmee Juneteenth Festival is a celebration of community and culture that is perfect for the entire family. Juneteenth is an annual commemoration of the end to slavery in the United States and a community celebration of African American culture, including live music, delicious food, KUA Kids Power Zone and craft vendors.

Monumental Fourth of July

July 4, 2023

Kissimmee Lakefront Park – Festival, Lighthouse, and Veterans Lawn

The annual Monumental July 4th Celebration features a live concert on the Festival Lawn, KUA Kids Power Zone and activities on the Veterans Lawn, food trucks along Lakeview Drive, and the Monumental Fireworks display over Lake Tohopekaliga to close out the night!

Puerto Rican Parade

September 9, 2023

Kissimmee Lakefront Park

The Kissimmee Puerto Rican Parade, brought to you by Desfile Puertorriqueño de Osceola, is a celebration of Puerto Rican culture through streets neighboring Kissimmee Lakefront Park! Join locals as they honor heritage with festive floats, walking groups, and more!

Fandom

September 16, 2023

Kissimmee Civic Center

Fandom Kissimmee incorporates and displays various fandoms we have come to know and love. From TV, comics, film, sci-fi, anime and more. The convention will host vendors, voice and onscreen talent, local artist and authors.

Viva Osceola

October 14, 2023

Kissimmee Lakefront Park – Veterans Lawn

Osceola County's premier Latin festival featuring entertainment, food, fun, and games for the whole family! Produced by The Osceola Chamber this event showcases local businesses and provides a platform for non-profits to connect with thousands of locals.



Boo On Broadway

October 27, 2023

Historic Downtown Kissimmee

Boo! On Broadway is a family friendly event that is fun for all ages! Boo! brings safe, community trick or treating for all to enjoy along with music, performances and surprises. Brought to you by Mainstreet Kissimmee Boo! On Broadway provides a platform for residents to celebrate and engage with local businesses and vendors.

Orlando Japan Festival

November 5, 2023

Kissimmee Lakefront Park – Festival Lawn

This festival showcases a wide variety of Japanese performing arts, attractions, and vendor booths and has grown to be one of the largest Asian cultural events in the area produced by the Japan Association of Orlando. The proceeds from the Festival help support local organizations and individuals in their endeavors to further the excellence of Japanese visual and performing arts, culture, and education.

Veterans Day Parade

November 11, 2023

Historic Downtown Kissimmee

The Biannual parade “Remembering All Who Served”, brought to you by the Osceola County Veteran's Council, returns to Downtown Kissimmee in 2023! Celebrate and honor our Veterans with other community, businesses and service clubs.

Festival of Lights

December 9, 2023

Historic Downtown Kissimmee and Lakefront Park – Veterans Lawn

City’s annual parade and holiday festival celebrating the winter holiday season featuring community, business and youth group illuminated floats in downtown Kissimmee. Other activities include the Holiday Festival with free crafts, snacks, and a meet and greet with Santa, Mrs. Claus, and their elves.



CITY OF KISSIMMEE NEWS RELEASE

FOR IMMEDIATE RELEASE

Release Date: August 26, 2022

Release Number: 22-xxx

Media Contact: Melissa Zayas-Moreno (news@kissimmee.gov) // 407.518.2314

City in Search of Promoters to Host Events at Kissimmee Lakefront Park in 2023

KISSIMMEE, Fla. – The City of Kissimmee is in search of promoters to host cultural, educational, music, and art festivals at the Kissimmee Lakefront Park for the calendar year 2023.

The following months are open for potential festivals; February, May, August, September, and December 2023. This Request for Information process will be conducted annually, and selected promoters/organizations will be placed on the Lakefront Park Events & Festivals Annual calendar (January-December).

The proposal requirements and selection process are attached. Please submit your proposal to Matt Libby at the following address or email by 5:00 p.m. on Friday, September 30, 2022.

Matt Libby, Assistant Director
Parks & Recreation Department
101 Church St. Suite 330
Kissimmee, FL 34741
matt.libby@kissimmee.gov

The City of Kissimmee Parks & Recreation Department shall evaluate and score each proposal that includes the attached criteria. The method of scoring is listed below. The Parks & Recreation Director or designee shall determine which promoter/company/organization will be awarded the special event license agreement for the available open time frame.

For more information about the City of Kissimmee, visit www.kissimmee.gov, or follow us on social media @CityofKissimmee.

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**Ciudad en Busca de Promotores para Organizar Eventos en
el Kissimmee Lakefront Park en el 2023**



CITY OF KISSIMMEE NEWS RELEASE

KISSIMMEE, Fla. – La Ciudad de Kissimmee está en busca de promotores para acoger festivales culturales, educativos, musicales y artísticos en el Kissimmee Lakefront Park para el año 2023.

Los siguientes meses están abiertos para posibles festivales: febrero, mayo, agosto, septiembre y diciembre de 2023. Este proceso de solicitud de información se llevará a cabo anualmente, y los promotores/organizaciones seleccionadas se incluirán en el calendario anual de eventos y festivales del parque Lakefront (enero-diciembre).

Los requisitos de la propuesta y el proceso de selección se encuentran adjuntos a este comunicado. Por favor, envíe su propuesta a Matt Libby a la siguiente dirección o correo electrónico antes de las 5:00 p.m. del viernes, 30 de septiembre de 2022.

Matt Libby, subdirector
Departamento de Parques y Recreación
101 Church St. Suite 330
Kissimmee, FL 34741
matt.libby@kissimmee.gov

El Departamento de Parques y Recreación de la Ciudad de Kissimmee evaluará y calificará cada propuesta que incluya los criterios adjuntos. El método de puntuación se indica a continuación. El director de Parques y Recreación o su designado determinará a qué promotor/empresa/organización se le otorgará el acuerdo de licencia para eventos especiales para el marco de tiempo disponible.

Para más información sobre la Ciudad de Kissimmee, visite www.kissimmee.gov, o siganos en las redes sociales @CityofKissimmee.

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ITEM 7.D

Agreement for Traffic Control Jurisdiction between the Stonefield Homeowners Association and the City of Kissimmee

Request

The Police Department requests approval of the Agreement for Traffic Control Jurisdiction between the Stonefield Homeowners Association and the City of Kissimmee and for the Mayor to sign the agreement accordingly.

Explanation

The proposed agreement implements the Stonefield Homeowners Association's desire to grant Traffic Control Jurisdiction to the City of Kissimmee. Stonefield, a gated community, has requested that the Kissimmee Police Department exercise traffic control jurisdiction on private roads within the neighborhood. Florida Statute section 316.006(2)(b) allows the Police Department to exercise such jurisdiction upon written agreement approved by the Commission.

Recommendation

Staff recommends that the Mayor sign the Traffic Control Jurisdiction between the Stonefield Homeowners Association and the City of Kissimmee

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Police

Presenter:

Attachment(s):

1. (S) Agreement for Traffic Control Jurisdiction

AGREEMENT FOR TRAFFIC CONTROL JURISDICTION

This Traffic Control Agreement made and entered into this ____ day of _____, 2022, by and between the Stonefield Homeowners Association, Inc., a non-profit corporation, authorized to do business in the State of Florida (hereinafter "Owner") and the City of Kissimmee, a municipal corporation of the State of Florida (hereinafter "City").

WITNESSETH:

WHEREAS, Owner currently holds legal title to that parcel of real property which is the subject of this Agreement as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "Property" or "Common Areas"); and

WHEREAS, the City, its duly appointed officers, employees, and agents recognizes that it has full power and jurisdiction to enforce all laws of the Nation, State, County, and City, duly enacted, excluding those of traffic control and enforcement of same on the private property of Owner; and

WHEREAS, Owner wishes to specifically grant the City the power and authority to enforce traffic control on the Property and to grant an easement for ingress and egress for said purpose; and

WHEREAS, pursuant to Section 316.006(2)(b), Florida Statutes, Owner wishes to have City exercise jurisdiction for traffic regulation over a private or limited access road or roads (the "Roads"), owned or maintained by Owner upon the property; and

WHEREAS, the Board of Directors for the Owner, in accordance with Owner's bylaws approved this agreement by a majority vote, to have state traffic laws enforced by the Kissimmee Police Department on its private roads that are controlled by the association and a copy of the Board's Resolution/Minutes are hereby attached to this agreement as Exhibit "B";

NOW, THEREFORE, for and in consideration of the mutual covenants and undertakings of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. This agreement shall commence on the date executed by the City and shall expire on the 6th day of December, 2027. Upon expiration of the initial term, this Agreement shall be renewed for one (1) additional five (5) year term.
3. Such exercise of traffic control jurisdiction shall be in addition to jurisdictional authority presently exercised by the City under law. The Owner agrees that City shall have jurisdiction to enforce State, County, and City traffic regulations over any roads within

the private property and nothing in this paragraph and Agreement shall be construed to limit or remove any such jurisdictional authority.

4. The City hereby agrees to exercise jurisdiction for traffic control purposes over any roads within the private property. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.
5. Owner hereby agrees to abide by the specifications and standards of the Florida Department of Transportation related to road signage. The City shall only enforce the signage that complies with these specifications and standards.
6. If the City recommends that multiparty stop signs should be installed within the Property or Common Areas in order to enhance traffic safety and Owner agrees to install such signs, then such installation shall be completed by Owner under the direction of City. Said signs must conform to the manual and specifications of the Florida Department of Transportation, however, minimum traffic volumes may not be required for the installation of such signage. Owner shall bear the cost for such signage. Any enforcement for the signs shall be as provided in Section 316.123, Florida Statutes.
7. Either party may terminate this Agreement, without cause, upon thirty (30) days prior written notice to the other party.
8. That Owner, in further consideration for the above stated commitments of City, does hereby declare, establish, provide, give, and grant to the City, its successors, administrators, and assigns, a non-exclusive easement for ingress and egress over the private property for the purpose of providing traffic control.
9. To the fullest extent permitted by law, the Owner agrees to indemnify and hold the City, its officials, employees, assigns and agents, harmless from and against any and all claims or causes of action resulting from personal injury or damage to property caused by or arising from any lawful action(s) or omission(s) effectuated by members of the City, its officials, or employees arising out of or occurring by virtue of this Agreement. Nothing in this Agreement shall be construed to affect in any way the City's rights, privileges and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes.
10. Any notices required under this Agreement shall be deemed to have been duly given on the date said notice was mailed by United States Certified Mail, Return Receipt Requested, postage prepaid, and addressed as follows (or to such other address as any party may specify by notice to all other parties as aforesaid):

City of Kissimmee Attn. Chief of Police 8 N. Stewart Avenue Kissimmee, Florida 34741	City of Kissimmee Attn. City Attorney 101 Church Street Kissimmee, Florida 34741
Stonefield HOA Attn: President 3401 Stonefield Parkway Kissimmee, Florida 34741	Law Offices of John L. Di Masi, P.A. 801 N. Orange Avenue Suite 500 Orlando, Florida, 32801

11. No change or modification of this Agreement shall be valid unless it is in writing and signed by all parties hereto.
12. The Owner expressly understands and agrees that nothing contained herein is intended or should be construed as creating or establishing a duty or obligation of the City to provide traffic jurisdiction to the private property. The City's presence on, or use of the premises, does not in any way create or establish in favor of owner a level of prevention or the enforcement of traffic laws greater than the City owes to the general public.
13. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in Osceola County, Florida. Each Party shall bear its own attorney's fees and in order to expedite the conclusion of any action, waive their right to a jury trial.
14. The parties agree to comply with the Florida Public Records Act (Chapter 119, Florida Statutes) to the fullest extent applicable, and shall, if this engagement is one for which services are provided. IF OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OWNER'S DUTY TO PROVIDE PUBLIC RECORD RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF RECORDS AT: (407) 518-2313, LINDA HANSELL.

IN WITNESS OF THE FOREGOING, the parties have made and executed this Agreement on the respective dates under each signature: Stonefield Homeowner's Association, Inc. by and through its President, authorized to execute same on Nov. 21, 2022, and the KISSIMMEE CITY COMMISSION, signing by and through its Mayor, authorized to execute same on _____, 2022.

**CITY OF KISSIMMEE, Municipal
Corporation of the State of Florida**

ATTEST:

By: _____
Olga Gonzalez, Mayor-Commissioner

Linda Hansell, City Clerk

Approved as to Form & Legality

Olga Sanchez de Fuentes, City Attorney

AS TO THE STONEFIELD HOA:



WITNESS



WITNESS

BY:


James C. Cox, President
Stonefield HOA

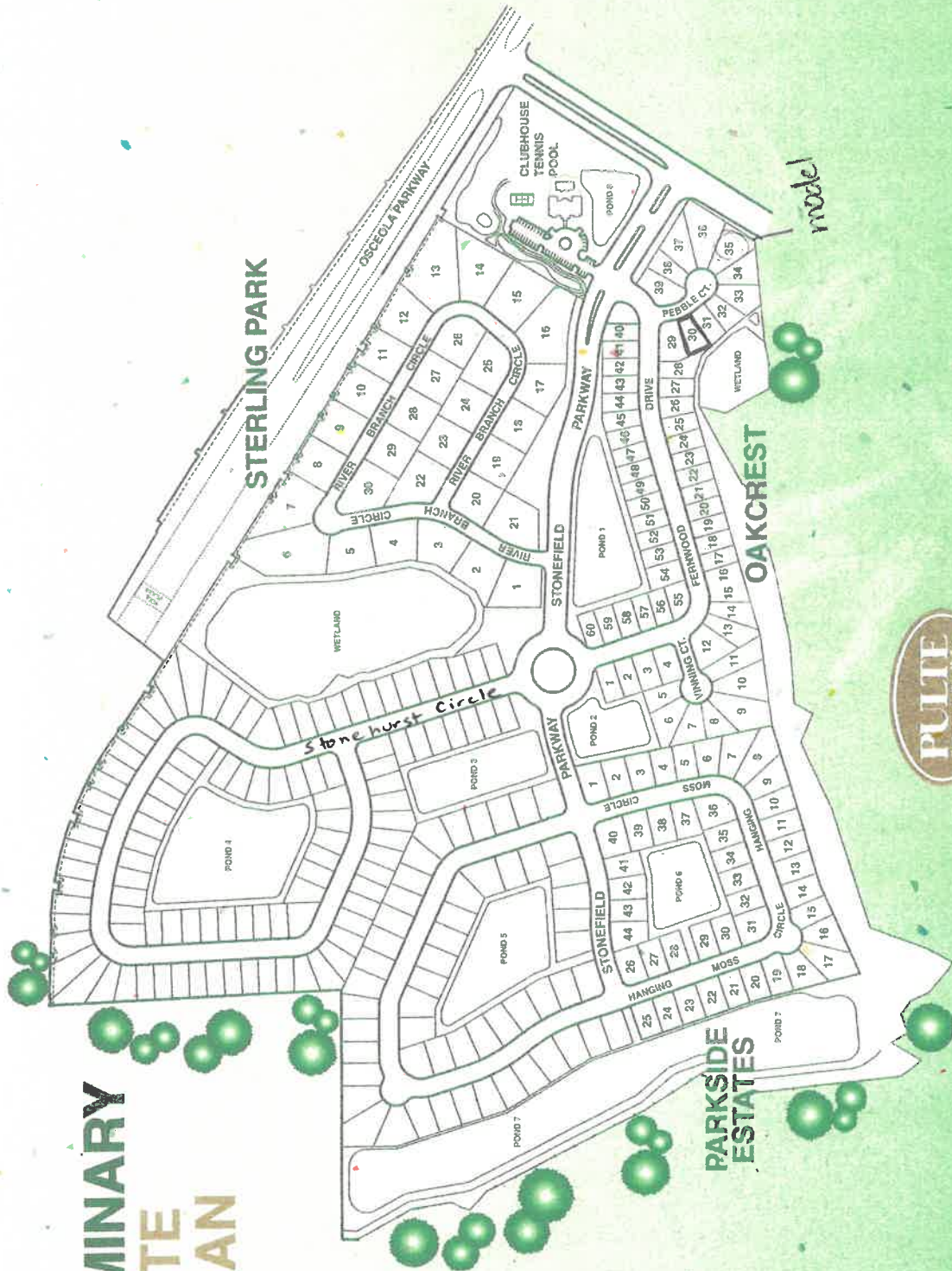
if Corporation:

Attest: Corporate Secretary
(Affix Corporate Seal)

EXHIBIT "A"
MAP OF PROPERTY AND COMMON AREAS FOR TRAFFIC CONTROL
JURISDICTION (ATTACHED HERETO)

STONEFIELD

PRELIMINARY SITE PLAN



555 Winderly Place • Suite 420 • Maitland, Florida 32751 • Phone (407) 875-1001 • Fax (407) 875-2612

EXHIBIT "B"
RESIDENCES AT STONEFIELD NEIGHBORHOOD HOA
BOARD RESOLUTION
ATTACHED HERETO

STONEFIELD HOMEOWNERS ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
MONDAY, AUGUST 22, 2022

STONEFIELD CLUBHOUSE - 6:30 PM

MEETING MINUTES

Call to Order – The meeting was called to order by James Cox at 6:36 pm.

Certification of Quorum – Quorum was established. Present was James Cox, Tim Bland, Bill Dupre, and Bill Templeton. Christie Prince, LCAM of Leland Management was also present. Absent was Cliff Tamplin.

Proof of Notice – Notice of the meeting was posted on the parkway message board within the Florida statutory requirement of 48 hours.

Approval of Minutes of Previous Meeting – A motion to approve the meeting minutes from July 25, 2022 was made by Tim with a grammatical correction, seconded by Bill T., all were in favor, motion carried.

Treasurer's Report – The Treasurer's report was read by Tim Bland. The current budget -\$4,600 due to utilities. Tim estimates the funds to be -\$30,000 by the end of the year. The last finance committee meeting was last week. The 2023 budget is looking to be at an approximately 15% increase. The next and final finance committee meeting to discuss the 2023 budget will be 9/21 at 12 pm last budget finance meeting. The CD transfer previously approved has taken place.

Manager's Report – Christie Prince she is performing regular inspections and will be on property later this week. Leland offices will be closed Labor day and Christie has requested a vacation day for the Friday prior.

Open Forum: Only on agenda items –

OLD BUSINESS

- **Clubhouse Exterior Painting Approved** – James reported the clubhouse exterior paint has been completed by AAA All Star Painting.
- **Clubhouse Restroom Upgrade Approved** – James reported the approved seat covers have been ordered and installed.
- **Clubhouse Gym A/C Condensate Pump Upgrade Approved** – James reported the previously approved condensate pump was installed.

NEW BUSINESS

- **Pine Tree Removal Proposal** – James reported he received a proposal from Pessmeg Enterprises for \$12,600.00 for the removal of 21 dead or dying pine trees. James made a motion to approve the Pessmeg Enterprises proposal in the amount of \$12,600.00, Tim seconded the motion, all were in favor, motion carried.
- **Pool Deck Painting Proposal** – James reported he received a proposal from AAA All Star Painting for the paint of the pool deck for \$1,885.00. James made a motion to approve the deck painting proposal for the work to be completed in the fall, Tim seconded the motion, all were in favor, motion carried.
- **Clubhouse Cleaning Proposal** – James reported he received a proposal from ECR Crafts for 4 day a week cleaning of the clubhouse for \$1,250.00 and a proposal from Bright &

Clean for 4 day a week cleaning for \$1,400.00 including pet waste stations cleaning. James reported that he has discovered Exclusive Landscaping provides pet waste station cleaning at no extra charge. Exclusive can also clean the tennis courts, clean around the ponds and blowing of the pool deck. Bill D. made a motion to have the clubhouse committee review the two proposals and get their recommendation back to the board prior to their next meeting and confirming it would be good for 18-month contracts. Bill T. seconded the motion, all were in favor, motion carried.

- **MOU KPD Traffic Agreement** – James reported the board has a written agreement for traffic control jurisdiction between the Kissimmee Police Department and the Stonefield HOA. The association attorney reviewed the agreement and requested it be revised to extend an additional 5 years after the initial 5-year term, which was completed. This agreement will allow the Kissimmee Police Department to issue citations in the community. There was some discussion among the board regarding the agreement. Bill T. made a motion to approve the agreement, Bill D. asked to amend the motion to send a notice as soon as possible to specify it is not for emergency use but for the non-emergency number, Tim seconded the motion, all were in favor, motion carried.
- **Security “if you SEE something SAY something” per FDLE** – James reported there was a person acting strange at the exit of the Stonefield community and he reported it to KPD who responded right away. For situations such as this, he suggests communicating to the community “if you see something, say something” by calling KPD. James will provide information regarding this for the September newsletter.
- **Gate Repair** – James reported the board has received a proposal from Millennium Fire & Security for the repair of the gate card reader for \$702.35. Bill D. made a motion to approve, Tim seconded the motion, all were in favor, motion carried.

COMMITTEE REPORTS

- **Activities Committee** – The Activity Committee report was read by Stephanie. She reported that the committee met today, August 22. The committee discussed upcoming fall activities and the results of the survey previously sent to the community. Bingo will be held on September and another SunRail trip will be on September 27. Another trip to Winter Park closer to the holidays. Food truck night is scheduled for Thursday, September 29. National night out will be on October 4 with KPD. The next association garage sale is scheduled for October 15 8-2 pm. The children’s Halloween party is scheduled for October 29 in the clubhouse.
- **Architectural Review Committee** – The Architectural Review Committee report was given by Bill D. He reported during their last meeting they reviewed applications and only one was denied.
- **Clubhouse Committee** – There was no Clubhouse Committee report.
- **Finance Committee** – Tim reported the next finance committee meeting will be 9/21 to review the budget to present to the board.
- **Landscape Committee** – The Landscape Committee report was given by James. He reported Exclusive is still acclimating to the property with only minor issues. Bill D. asked about the way to communicate issues for homeowners. James reported that the electronic work order system is still waiting to be rolled out, but issues can still be communicated to the office as before.

OPEN FORUM

– A homeowner reported the previous landscape company only cut half of the vines along the wall on Osceola Parkway and the new company has been using the large machines in back yards which causes ruts. A homeowner mentioned the site manager attended the landscape committee meeting and thanked Tim for attending the meetings and assisting with the budget. - A homeowner asked if there is an emergency number to call for emergencies other than 911, the number for non-emergency is 407-846-3333.

Adjournment: James made a motion to adjourn the meeting at 7:40 pm, Bill D. seconded the motion, all were in favor, meeting adjourned.

DATE OF NEXT BOARD MEETING: Monday, September 26, 2022 at 6:30PM

ITEM 7.E

Award of Continuing Services Contract Bid RFP2023-001 for Water Quality Analysis and Testing Services

Request

Approval to award the Bid RFP2023-001 for Water Quality Analysis and Testing Services contract to Advanced Environmental Laboratories, Inc. and Eurofins Environment Testing America.

Explanation

The City has seventeen (17) stormwater monitoring stations located throughout six (6) watershed basins. Monthly water analysis samples are needed to comply with the Nutrient Reduction Plan (NRP) and the Basin Management Action Plan (BMAP) requirements. The current water quality analysis and testing services contract has expired and a new contract will be awarded.

The Streets & Stormwater division advertised the Request for Proposals (RFP) on October 16, 2022 with the Orlando Sentinel, Demand Star, and Vendor Link. Demand Star notified 205 vendors of which 9 vendors downloaded the bid package. Vendor Link notified 449 vendors of which 24 vendors downloaded the package. All bid package submittals were due to the City by November 8, 2022 at 2:30pm. The Streets & Stormwater division received three (3) laboratory vendors:

1. Advanced Environmental Laboratories, Inc.
2. Eurofins Environment Testing America
3. M&D Industrial Services, LLC.

The review of all bids was conducted and finalized on November 15, 2022. Based on the bid package price quote, staff recommends the top two labs for award of a continuing services contract with the City. The continuing services contract will be for an initial period of three (3) years with two (2) optional one-year extensions.

Each task assigned shall be prepared as a work order and submitted for approval as required.

Recommendation

Staff recommends City Commission approval to award the Bid RFP2023-001 for Water Quality Analysis and Testing Services contract to Advanced Environmental Laboratories, Inc. and Eurofins Environment Testing America.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Advanced Environmental Laboratories, Inc.- WQ Analysis & Testing Services Contract
2. (S) Eurofins Environment Testing America- WQ Analysis & Testing Services Contract

**AGREEMENT between CITY OF KISSIMMEE
and Advanced Environmental Laboratories, Inc.**

THIS AGREEMENT is made this _____ day of _____, 2022 by and between the **CITY OF KISSIMMEE**, a municipal corporation of the State of Florida, whose address is 101 Church Street, Kissimmee, Florida 34741 (hereinafter "CITY") and **Advanced Environmental Laboratories, Inc.**, whose business address is 6681 Southpoint Parkway, Jacksonville, FL 32216, hereinafter referred to as "CONTRACTOR" and each represents as follows:

WITNESSETH

WHEREAS, City has seventeen (17) stormwater monitoring stations located throughout the watershed basin of the City to analyze the water for compliance with the Nutrient Reduction Plan (NRP) and the Basin Management Action Plan (BMAP) requirements; and

WHEREAS, City advertised a Request for Proposals Number **RFP2023-001** for water sample testing on the monitoring station; and

WHEREAS, City desires to award Bid Number **RFP2023-001** to Contractor, as a responsive bidder consistent with the terms, conditions and requirements of the bid specifications; and

WHEREAS, Contractor agrees to provide services as further enumerated herein in the furtherance of the City's stormwater monitoring program.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and value considerations, the receipt and sufficiency of which are hereby acknowledged, each Party hereby promises to the other as follows:

1. **RECITALS.** The foregoing recitals are true and correct and specifically incorporated herein.
2. **TERM.** The initial contract period will be for three (3) years with two (2) optional one (1) year extensions.
3. **SERVICES.** Contractor agrees to provide analytical and testing services to the City as necessary to identify and quantify toxic substances, hazardous constituents, or hazardous characteristics of soil or aqueous samples as specified in the Scope of Services attached hereto and incorporated as "Exhibit A" -- Analytical Services.
 - A. Contractor shall provide all materials and supplies necessary to City staff for proper sample collection, pick-up/shipping of samples, and testing of samples. All provided containers and bottles shall be clean and conform to the Environmental Protection Agency (EPA) quality control requirements and procedures.
 - B. Contractor shall perform analytical services for the City on an as needed basis. Contractor will begin work promptly after receipt of each Sample Chain of Custody as a work order,

which shall constitute written notice to proceed.

- C. Contractor shall perform all analyses requested by the City. If Contractor's laboratory sample capacity precludes Contractor from analyzing the requested samples within hold times, Contractor may subcontract the samples to another accredited laboratory at no additional cost to the City. A valid copy of the appropriate NELAC and DHRS certificates will be required of awarded lab and any subcontracted lab.
- D. Contractor shall pick up samples at the Street and Stormwater Division Facility, 2213 Mabbette Street, Kissimmee, FL 34741 upon request by the City. Contractor shall conduct timely pick-ups as to comply with the holding time listed in the latest approved edition of standard methods. Express mail carrier service for sample pick up may be used; however, Contractor must provide all shipping containers and assume responsibility for all mailing costs. Sample transport shall be in iced containers and follow all EPA protocols for sample transport and chain of custody.
- E. Contractor shall perform all analytical services per the DEP Quality Assurance/Quality Control (QA/QC) measures and protocol.
- F. Contractor shall provide City with a complete written report of each if the Chain of Custody it analyses performed. All analytical reports shall be formatted in accordance with National Environmental Laboratory Accreditation Conference (NELAC) standards and in addition to the results of the analyses, shall include test methods, detection limits, dates analyses performed, and analyst initials. Written analytical reports including an Excel spreadsheet shall be prepared by the Contractor within 3 working days after completion of the sample analyses.
- G. Contractor shall make available QA/QC data at the request of the City. This information must be retrievable from the Contractor's Laboratory Information Management System for a period not less than five (5) years and be available for inspection at any time by the City. Contractor shall be subject to any State Quality Assurance/Quality Control audits and inspections by the City.
- H. Contractor shall provide occasional consultation on collection methods and interpretation of reports at no additional cost to the City. This consultation shall include occasional testimony at proceedings related to pending litigation, if necessary.
- I. Contractor shall, at the request of the City, check and (if needed) re-analyze the sample(s) at no additional cost to the City, for any reported results in which the City questions the accuracy of same.
- J. On occasion, City may require additional analyses for constituents or methods not listed in "Exhibit A- Analytical Services". Upon request, Contractor may be asked to provide these analyses at a quoted cost.
- K. Contractor shall perform emergency or priority analyses on certain samples, as

determined by City; verbal reports shall be required in less than 3 working days of receipt of such samples along with a written report.

4. **LICENSES and ACCREDITATION.** Contractor shall secure and maintain all licenses and accreditation necessary for initiation and completion of the services contained herein, and shall be responsible for the payment of license and accreditation fees.
5. **PAYMENT.** Invoices shall provide details of all project expenses permitted in this Agreement. Upon review and approval of Contractor's invoice and verification that services have been rendered in conformity with this Agreement, the City, through payment issued by the Public Works & Engineering Department, shall pay Contractor in accordance with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Contractor shall not apply any late charges, interest or penalties to any invoice or charges for services until 30 days from the City's receipt of the invoice. If this Agreement is terminated for convenience for any reason, then Contractor shall be paid pro rata for all services performed, materials purchased, and administrative costs incurred, including lost profit, to the effective date of termination.
6. **SAMPLES.** City may, at its discretion, require submission of samples for inspection and testing. When specifications require such submissions, all costs for such samples, including postage, will be the responsibility of Contractor. Samples not consumed in the evaluation process or determined necessary for comparison with future deliveries may be returned at Contractor's request and expense. City will not be held liable for any sample provided.
7. **INSURANCE.** Contractor during the term of the Agreement, shall, at its sole cost and expense, maintain insurance coverage as follows:
 - A. **Workers Compensation:** Contractor will provide Worker's Compensation coverage for all employees at the site location. The limits will be statutory for Worker's Compensation and \$300,000.00 for Employers' Liability.
 - B. **Comprehensive General Liability:** Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - C. **Comprehensive Automobile Liability:** Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - D. **Umbrella Insurance:** Contractor will provide an umbrella in excess to the coverage in paragraphs B), and C) of not less than \$1,000,000.00.
8. **DAMAGE TO PREMISES.** Contractor is responsible for all damage to City property and private property resulting from Contractor's actions on or near the work sites. Contractor will be responsible for restoring, replacing, or repairing any damage, which occurs during the performance of work pursuant to this Agreement.

9. **TERMINATION FOR CAUSE.**

A. City may terminate this Agreement based on any of the following:

1. If Contractor's quality of the services performed is not in conformance with Quality Assurance/Quality Control (QA/QC) measures as per the requested method and per the EPA-approved methods which meet FL DEP protocol in effect as of the date of this Agreement, or;

2. If Contractor or subcontractor(s) Florida Department of Public Health Environmental Laboratory Accreditation is revoked or expires, Contractor must notify City of same within two (2) business days. City may, at the City's sole discretion, provide Contractor thirty (30) days to acquire its re-certification, or;

3. In the event of any breach by Contractor of the conditions set forth in this Agreement, including any non-performance of duties, the City's Designated Representative may send a certified letter to the Contractor requesting that the Contractor show cause why the Agreement should not be terminated. If adequate assurances or acceptable reasons are not given to the City within fifteen (15) days of the receipt by Contractor of said show cause notice, City may consider the Contractor to be in default, and may immediately terminate this Agreement.

4. In the event of termination for cause, City may adjust any payment to take into account any additional costs to be incurred by the City due to such default.

B. Contractor may terminate this Agreement for cause if City fails to pay the Contractor as provided herein. Contractor shall notify City of its intention to terminate with thirty (30) days notice provided by certified letter to the City Representative. If adequate assurances are not given to Contractor within fifteen (15) days of the receipt by the City of said show cause notice, then Contractor may consider the City to be in default, and may immediately terminate this Agreement.

10. **TERMINATION FOR CONVENIENCE.** City reserves the right to terminate this Agreement in whole or in part, including termination specific to location, by giving Contractor written notice at least thirty (30) days prior to the effective date of termination. Upon receipt of termination from City, Contractor shall only provide those services specifically approved or directed by the City. All other rights and duties of the Parties under this Agreement shall continue during such notice period, and the City shall continue to be responsible to the Contractor for payment of any obligation to the extent such responsibility has not been excused by breach or default of the Contractor.

Upon termination, Contractor shall invoice the City for all amounts not previously billed and due to the Contractor at that time. Contractor shall not be entitled to any additional fees or expenses for any work commenced, or expenses incurred after the notice of termination was received by

the Contractor, unless specifically approved or requested by the City. No amount shall be allowed for anticipated profit on unperformed services or other work. Contractor shall, however, be entitled to payment for services commenced and approved by the City prior to receipt of notice, or with the expressed written consent of City, prior to the effective date of termination.

11. **INDEMNIFICATION.** To the extent permitted by law, Contractor hereby releases and waives all claims against City, its officers, employees, agents, independent contractors for any injury or damaged to the person, property, or business of Contractor agents, employees, subcontractors, or other persons, for which injury or damaged results from any act, neglect, occurrence, or condition in or about any City properties whether such damage is caused by City or any other person. Nothing in the agreement shall be construed as a waiver of City's statutory sovereign immunity pursuant to Section 768.28, Florida Statutes.

Contractor agrees to indemnify and hold harmless the City, its agents, officers, employees against any and all claims, demand, cost, and expenses of every kind and nature, including reasonable attorney fees for the enforcement, defense, or appeals thereof arise from Contractor performance of the Agreement or any breach or default of Contractor.

12. **NON - DISCRIMINATION.** Contractor agrees not to discriminate against any citizen, employee or employment applicant on the basis of race, color, religion, national origin, ancestry, sex, marital status or age in the performance of the obligations of this Agreement. Violation of this provision shall be treated as a breach of this Agreement.
13. **NON-ASSIGNMENT.** Contractor shall not, without prior consent of the City, assign this Agreement or any portion hereof. Any unauthorized assignment shall be void, and shall terminate the Agreement at the City's option. Contractor's interest in this Agreement is not assignable by operation of law.
14. **PUBLIC RECORDS.** Contractor specifically acknowledges the City's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, the Contractor shall keep and maintain public records required by the City and to comply with §119.071, F.S., shall:

a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services required under this Agreement;

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 Chapter 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; and

d) Meet all requirements for retaining public records and transfer, at no cost to the City, all public records in possession of Contractor 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 system of the City.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to Contractor's duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.org, and 101 Church Street, Kissimmee, Florida 34741.

15. **DISPUTES.** Any claims, disputes, and/or matters in question between the Parties arising out of or relating to this Agreement, including claims for extra compensation, shall be filed in writing by the aggrieved Party to the other Party within forty-five (45) days of its occurrence. Should such claims not be formally submitted within said forty-five (45) day period, the aggrieved Party agrees to not make such claim against the other party at any time in the future. Should any claim or dispute not be mutually resolved between the parties within sixty (60) days thereafter, the aggrieved Party may then seek to resolve the matter through remedies at law.
16. **APPLICABLE LAWS.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida.
17. **JURY TRIAL WAIVER/VENUE/WAIVER OF ATTORNEY FEES.** It is mutually agreed by the Parties that each do hereby waive the right to a jury trial in any action, proceeding, claim or counterclaim which may be brought by either of the Parties hereto against the other on any matter concerning or arising out of this Agreement. Venue shall be Osceola County, Florida. Each Party waives the right to attorney fees in any action to enforce this Agreement.
18. **WAIVER.** No failure of City to insist upon strict performance in any one or more terms of this Agreement, nor any failure of City to exercise any right or remedy under this Agreement shall constitute a waiver of any such term, right or remedy the City may have, or future rights to enforce compliance.
19. **NOTICES.** City designates the Stormwater Manager of the Public Works & Engineering Department as the City Representative for all matters pertaining to and arising from the work and performance of this Agreement. Notice under this Agreement shall be deemed effective when mailed, certified mail return receipt requested or when delivered personally at the parties address below:

Notice to City:

Ms. Nagel Altrui
Street & Stormwater Manager
Department of Public Works & Engineering
City of Kissimmee
2213 Mabbette Street
Kissimmee, Florida 34741

Notice to Contractor:

Mr. Charles Ged
President
Advanced Environmental Laboratories, Inc.
380 Northlake Blvd., Suite 1048
Jacksonville, FL 32216

20. **ENTIRETY OF AGREEMENT.** This Agreement shall constitute the entire Agreement of the Parties. Any prior understanding or representations of any kind preceding the date of this Agreement shall not be binding on either Party except as incorporated herein.
21. **MODIFICATIONS.** Any modifications or additional obligations assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing and signed by each Party or an authorized representative of each Party.
22. **BINDING.** This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns as permitted by this Agreement.
23. **SEVERABILITY.** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.
24. **E-VERIFY.** In compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
 - a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
 - b. The City, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

c. The City, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this Agreement by the City for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that City is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section.

Signature page to follow

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

CONTRACTOR Advanced Environmental
Laboratories, Inc.

By: [Signature]

By: CHARLES GED

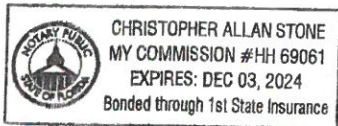
Date: 11/18/22

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 18th day of November, 2022,
by _____, as _____ of _____, Inc. a Florida
corporation, who is personally known to me or has produced identification.

Notary Seal:



Notary: [Signature]

Print Name: Christopher Stone

My Commission Expires: 12/3/2024

CITY OF KISSIMMEE

By: _____
Olga Gonzalez, Mayor- Commissioner

Date: _____

ATTEST:

Linda Hansel, City Clerk

Approved as to form and legal sufficiency:

City Attorney

EXHIBIT "A"
ANALYTICAL SERVICES

All the parameters must be analyzed using only certified methods for non-portable water, and complying with the holding times listed in the latest approved edition of standard methods. The only exception is 17 to be analyzed in drinking water.

[illegible]

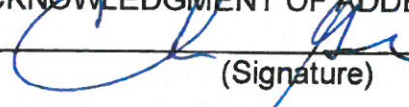
I/we, the undersigned, hereby declare that I/we have reviewed the proposal documents and with full knowledge and understanding of all specifications and conditions contained therein do submit, (in duplicate), our proposal as follows with full understanding that the proposal package in its entirety is made a part of any agreement, contract or order between the City of Kissimmee and the successful proposer.

All the parameters must be analyzed using only certified methods for non-portable water, and complying with the holding times listed in the latest approved edition of standard methods. The only exception is 17 to be analyzed in drinking water.

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>TOTAL COST</u>
1	Total Phosphorous (TP)	\$15.00
2	Orthophosphate (OP)	\$11.00
3	Nitrate-Nitrite as N (NO _x)	\$15.00
4	Total Kjeldahl Nitrogen (TKN)	\$18.00
5	Total Nitrogen (TN) calculated	\$0.00
6	Corrected Chlorophyll a (Pheophytin)	\$45.00
7	Chloride	\$11.00
8	Alkalinity	\$12.00
9	Total Suspended Solids (TSS)	\$10.00
10	Total Organic Carbon (TOC)	\$25.00
11	Biological Oxygen Demand (BOD-5)	\$19.00
12	Chemical Oxygen Demand (COD)	\$15.00
13	Ammonia as N	\$15.00
14	pH (Lab)	\$9.00
15	Total Coliforms	\$15.00
16	Fecal Coliforms	\$15.00
17	Fecal as E. Coli	\$15.00
18	Additional Costs for Priority Analysis	50% Markup for 3 Day Emergency or Priority

Advanced Environmental Laboratories, Inc.
380 Northlake Blvd., Suite 1048
Altamonte Springs, FL 32701
Phone: 407-937-1594

19 Specify below any costs not included in 1-17 above
\$30 - Courier Fee for Sample Pickup Only

DELIVERY TIME (F.O.B. DESTINATION) 14 Days
ACKNOWLEDGMENT OF ADDENDA NO.(S) 1,2 (IF APPLICABLE)

(Signature)

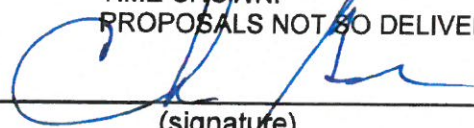
ALL PRICES QUOTED ARE GOOD FOR A PERIOD OF 90 DAYS.

CG We do not take exception to Specifications.
(initial)

 We take exception to Specifications as follows:
(initial)

COMPANY NAME Advanced Environmental Laboratories, Inc. (attach additional sheets, if necessary)
COMPANY ADDRESS 6681 Southpoint Parkway
Jacksonville, FL 32216

NOTE: OFFERS NOT RECEIVED IN DUPLICATE MAY BE REJECTED.
VENDORS ARE RESPONSIBLE FOR DELIVERY OF THEIR PROPOSALS TO THE
ADDRESS INDICATED ON THE PROPOSAL COVER SHEET PRIOR TO THE DATE AND
TIME SHOWN.
PROPOSALS NOT SO DELIVERED MAY BE REJECTED.

BY: 
(signature) DATE: 10/28/2022
Charles Ged, President EMAIL: cged@aellab.com
(typed name/title of signer)

TELEPHONE NO.: 904 363-9350 FAX NO.: 904 363-9354

**AGREEMENT between CITY OF KISSIMMEE
and Eurofins Environment Testing Southeast, LLC.**

THIS AGREEMENT is made this _____ day of _____, 2022 by and between the **CITY OF KISSIMMEE**, a municipal corporation of the State of Florida, whose address is 101 Church Street, Kissimmee, Florida 34741 (hereinafter "CITY") and **Eurofins Environment Testing Southeast, LLC.**, whose business address is 481 Newburyport Ave, Altamonte Spring, FL 32701, hereinafter referred to as "CONTRACTOR" and each represents as follows:

WITNESSETH

WHEREAS, City has seventeen (17) stormwater monitoring stations located throughout the watershed basin of the City to analyze the water for compliance with the Nutrient Reduction Plan (NRP) and the Basin Management Action Plan (BMAP) requirements; and

WHEREAS, City advertised a Request for Proposals Number **RFP2023-001** for water sample testing on the monitoring station; and

WHEREAS, City desires to award Bid Number **RFP2023-001** to Contractor, as a responsive bidder consistent with the terms, conditions and requirements of the bid specifications; and

WHEREAS, Contractor agrees to provide services as further enumerated herein in the furtherance of the City's stormwater monitoring program.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and value considerations, the receipt and sufficiency of which are hereby acknowledged, each Party hereby promises to the other as follows:

1. **RECITALS.** The foregoing recitals are true and correct and specifically incorporated herein.
2. **TERM.** The initial contract period will be for three (3) years with two (2) optional one (1) year extensions.
3. **SERVICES.** Contractor agrees to provide analytical and testing services to the City as necessary to identify and quantify toxic substances, hazardous constituents, or hazardous characteristics of soil or aqueous samples as specified in the Scope of Services attached hereto and incorporated as "Exhibit A" -- Analytical Services.
 - A. Contractor shall provide all materials and supplies necessary to City staff for proper sample collection, pick-up/shipping of samples, and testing of samples. All provided containers and bottles shall be clean and conform to the Environmental Protection Agency (EPA) quality control requirements and procedures.
 - B. Contractor shall perform analytical services for the City on an as needed basis. Contractor will begin work promptly after receipt of each Sample Chain of Custody as a work order,

which shall constitute written notice to proceed.

- C. Contractor shall perform all analyses requested by the City. If Contractor's laboratory sample capacity precludes Contractor from analyzing the requested samples within hold times, Contractor may subcontract the samples to another accredited laboratory at no additional cost to the City. A valid copy of the appropriate NELAC and DHRS certificates will be required of awarded lab and any subcontracted lab.
- D. Contractor shall pick up samples at the Street and Stormwater Division Facility, 2213 Mabbette Street, Kissimmee, FL 34741 upon request by the City. Contractor shall conduct timely pick-ups as to comply with the holding time listed in the latest approved edition of standard methods. Express mail carrier service for sample pick up may be used; however, Contractor must provide all shipping containers and assume responsibility for all mailing costs. Sample transport shall be in iced containers and follow all EPA protocols for sample transport and chain of custody.
- E. Contractor shall perform all analytical services per the DEP Quality Assurance/Quality Control (QA/QC) measures and protocol.
- F. Contractor shall provide City with a complete written report of each if the Chain of Custody it analyses performed. All analytical reports shall be formatted in accordance with National Environmental Laboratory Accreditation Conference (NELAC) standards and in addition to the results of the analyses, shall include test methods, detection limits, dates analyses performed, and analyst initials. Written analytical reports including an Excel spreadsheet shall be prepared by the Contractor within 3 working days after completion of the sample analyses.
- G. Contractor shall make available QA/QC data at the request of the City. This information must be retrievable from the Contractor's Laboratory Information Management System for a period not less than five (5) years and be available for inspection at any time by the City. Contractor shall be subject to any State Quality Assurance/Quality Control audits and inspections by the City.
- H. Contractor shall provide occasional consultation on collection methods and interpretation of reports at no additional cost to the City. This consultation shall include occasional testimony at proceedings related to pending litigation, if necessary.
- I. Contractor shall, at the request of the City, check and (if needed) re-analyze the sample(s) at no additional cost to the City, for any reported results in which the City questions the accuracy of same.
- J. On occasion, City may require additional analyses for constituents or methods not listed in "Exhibit A- Analytical Services". Upon request, Contractor may be asked to provide these analyses at a quoted cost.
- K. Contractor shall perform emergency or priority analyses on certain samples, as

determined by City; verbal reports shall be required in less than 3 working days of receipt of such samples along with a written report.

4. **LICENSES and ACCREDITATION.** Contractor shall secure and maintain all licenses and accreditation necessary for initiation and completion of the services contained herein, and shall be responsible for the payment of license and accreditation fees.
5. **PAYMENT.** Invoices shall provide details of all project expenses permitted in this Agreement. Upon review and approval of Contractor's invoice and verification that services have been rendered in conformity with this Agreement, the City, through payment issued by the Public Works & Engineering Department, shall pay Contractor in accordance with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Contractor shall not apply any late charges, interest or penalties to any invoice or charges for services until 30 days from the City's receipt of the invoice. If this Agreement is terminated for convenience for any reason, then Contractor shall be paid pro rata for all services performed, materials purchased, and administrative costs incurred, including lost profit, to the effective date of termination.
6. **SAMPLES.** City may, at its discretion, require submission of samples for inspection and testing. When specifications require such submissions, all costs for such samples, including postage, will be the responsibility of Contractor. Samples not consumed in the evaluation process or determined necessary for comparison with future deliveries may be returned at Contractor's request and expense. City will not be held liable for any sample provided.
7. **INSURANCE.** Contractor during the term of the Agreement, shall, at its sole cost and expense, maintain insurance coverage as follows:
 - A. **Workers Compensation:** Contractor will provide Worker's Compensation coverage for all employees at the site location. The limits will be statutory for Worker's Compensation and \$300,000.00 for Employers' Liability.
 - B. **Comprehensive General Liability:** Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - C. **Comprehensive Automobile Liability:** Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - D. **Umbrella Insurance:** Contractor will provide an umbrella in excess to the coverage in paragraphs B), and C) of not less than \$1,000,000.00.
8. **DAMAGE TO PREMISES.** Contractor is responsible for all damage to City property and private property resulting from Contractor's actions on or near the work sites. Contractor will be responsible for restoring, replacing, or repairing any damage, which occurs during the performance of work pursuant to this Agreement.

9. **TERMINATION FOR CAUSE.**

A. City may terminate this Agreement based on any of the following:

1. If Contractor's quality of the services performed is not in conformance with Quality Assurance/Quality Control (QA/QC) measures as per the requested method and per the EPA-approved methods which meet FL DEP protocol in effect as of the date of this Agreement, or;
2. If Contractor or subcontractor(s) Florida Department of Public Health Environmental Laboratory Accreditation is revoked or expires, Contractor must notify City of same within two (2) business days. City may, at the City's sole discretion, provide Contractor thirty (30) days to acquire its re-certification, or;
3. In the event of any breach by Contractor of the conditions set forth in this Agreement, including any non-performance of duties, the City's Designated Representative may send a certified letter to the Contractor requesting that the Contractor show cause why the Agreement should not be terminated. If adequate assurances or acceptable reasons are not given to the City within fifteen (15) days of the receipt by Contractor of said show cause notice, City may consider the Contractor to be in default, and may immediately terminate this Agreement.
4. In the event of termination for cause, City may adjust any payment to take into account any additional costs to be incurred by the City due to such default.

B. Contractor may terminate this Agreement for cause if City fails to pay the Contractor as provided herein. Contractor shall notify City of its intention to terminate with thirty (30) days notice provided by certified letter to the City Representative. If adequate assurances are not given to Contractor within fifteen (15) days of the receipt by the City of said show cause notice, then Contractor may consider the City to be in default, and may immediately terminate this Agreement.

10. **TERMINATION FOR CONVENIENCE.** City reserves the right to terminate this Agreement in whole or in part, including termination specific to location, by giving Contractor written notice at least thirty (30) days prior to the effective date of termination. Upon receipt of termination from City, Contractor shall only provide those services specifically approved or directed by the City. All other rights and duties of the Parties under this Agreement shall continue during such notice period, and the City shall continue to be responsible to the Contractor for payment of any obligation to the extent such responsibility has not been excused by breach or default of the Contractor.

Upon termination, Contractor shall invoice the City for all amounts not previously billed and due to the Contractor at that time. Contractor shall not be entitled to any additional fees or expenses for any work commenced, or expenses incurred after the notice of termination was received by

the Contractor, unless specifically approved or requested by the City. No amount shall be allowed for anticipated profit on unperformed services or other work. Contractor shall, however, be entitled to payment for services commenced and approved by the City prior to receipt of notice, or with the expressed written consent of City, prior to the effective date of termination.

11. **INDEMNIFICATION.** To the extent permitted by law, Contractor hereby releases and waives all claims against City, its officers, employees, agents, independent contractors for any injury or damaged to the person, property, or business of Contractor agents, employees, subcontractors, or other persons, for which injury or damaged results from any act, neglect, occurrence, or condition in or about any City properties whether such damage is caused by City or any other person. Nothing in the agreement shall be construed as a waiver of City's statutory sovereign immunity pursuant to Section 768.28, Florida Statutes.

Contractor agrees to indemnify and hold harmless the City, its agents, officers, employees against any and all claims, demand, cost, and expenses of every kind and nature, including reasonable attorney fees for the enforcement, defense, or appeals thereof arise from Contractor performance of the Agreement or any breach or default of Contractor.
12. **NON - DISCRIMINATION.** Contractor agrees not to discriminate against any citizen, employee or employment applicant on the basis of race, color, religion, national origin, ancestry, sex, marital status or age in the performance of the obligations of this Agreement. Violation of this provision shall be treated as a breach of this Agreement.
13. **NON-ASSIGNMENT.** Contractor shall not, without prior consent of the City, assign this Agreement or any portion hereof. Any unauthorized assignment shall be void, and shall terminate the Agreement at the City's option. Contractor's interest in this Agreement is not assignable by operation of law.
14. **PUBLIC RECORDS.** Contractor specifically acknowledges the City's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, the Contractor shall keep and maintain public records required by the City and to comply with §119.071, F.S., shall:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services required under this Agreement;
- 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 Chapter 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; and

d) Meet all requirements for retaining public records and transfer, at no cost to the City, all public records in possession of Contractor 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 system of the City.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to Contractor's duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.org, and 101 Church Street, Kissimmee, Florida 34741.

15. **DISPUTES.** Any claims, disputes, and/or matters in question between the Parties arising out of or relating to this Agreement, including claims for extra compensation, shall be filed in writing by the aggrieved Party to the other Party within forty-five (45) days of its occurrence. Should such claims not be formally submitted within said forty-five (45) day period, the aggrieved Party agrees to not make such claim against the other party at any time in the future. Should any claim or dispute not be mutually resolved between the parties within sixty (60) days thereafter, the aggrieved Party may then seek to resolve the matter through remedies at law.
16. **APPLICABLE LAWS.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida.
17. **JURY TRIAL WAIVER/VENUE/WAIVER OF ATTORNEY FEES.** It is mutually agreed by the Parties that each do hereby waive the right to a jury trial in any action, proceeding, claim or counterclaim which may be brought by either of the Parties hereto against the other on any matter concerning or arising out of this Agreement. Venue shall be Osceola County, Florida. Each Party waives the right to attorney fees in any action to enforce this Agreement.
18. **WAIVER.** No failure of City to insist upon strict performance in any one or more terms of this Agreement, nor any failure of City to exercise any right or remedy under this Agreement shall constitute a waiver of any such term, right or remedy the City may have, or future rights to enforce compliance.
19. **NOTICES.** City designates the Stormwater Manager of the Public Works & Engineering Department as the City Representative for all matters pertaining to and arising from the work and performance of this Agreement. Notice under this Agreement shall be deemed effective when mailed, certified mail return receipt requested or when delivered personally at the parties address below:

Notice to City:

Ms. Nagel Altrui
Street & Stormwater Manager
Department of Public Works & Engineering
City of Kissimmee
2213 Mabbette Street
Kissimmee, Florida 34741

Notice to Contractor:

Mr. Scott Martin
Sales Director
Eurofins Environment Testing Southeast, LLC.
481 Newburyport Ave
Altamonte Spring, Fl. 32701

20. **ENTIRETY OF AGREEMENT.** This Agreement shall constitute the entire Agreement of the Parties. Any prior understanding or representations of any kind preceding the date of this Agreement shall not be binding on either Party except as incorporated herein.
21. **MODIFICATIONS.** Any modifications or additional obligations assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing and signed by each Party or an authorized representative of each Party.
22. **BINDING.** This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns as permitted by this Agreement.
23. **SEVERABILITY.** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.
24. **E-VERIFY.** In compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
 - a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
 - b. The City, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

c. The City, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this Agreement by the City for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that City is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section.

Signature page to follow

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

CONTRACTOR Eurofins Environment Testing
Southeast, LLC.

By: Alex M.

By: Alex Montoya, President

Date: 11.22.2022

STATE OF FLORIDA

COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 22 day of November, 2022,
by Alex Montoya, as President of Eurofins Env., Inc. a Florida
corporation, who is personally known to me or has produced identification.

Notary Seal:



Notary: Samantha Cochran

Print Name: Samantha Cochran

My Commission Expires: 5/16/2025

CITY OF KISSIMMEE

By: _____
Olga Gonzalez, Mayor- Commissioner

Date: _____

ATTEST:

Linda Hansel, City Clerk

Approved as to form and legal sufficiency:

City Attorney

EXHIBIT "A"
ANALYTICAL SERVICES

All the parameters must be analyzed using only certified methods for non-portable water, and complying with the holding times listed in the latest approved edition of standard methods. The only exception is 17 to be analyzed in drinking water.

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>TOTAL COST</u>
1	Total Phosphorous (TP)	
2	Orthophosphate (OP)	
3	Nitrate-Nitrite as N (NO _x)	
4	Total Kjeldahl Nitrogen (TKN)	
5	Total Nitrogen (TN) calculated	
6	Corrected Chlorophyll a (Pheophytin)	
7	Chloride	
8	Alkalinity	
9	Total Suspended Solids (TSS)	
10	Total Organic Carbon (TOC)	
11	Biological Oxygen Demand (BOD-5)	
12	Chemical Oxygen Demand (COD)	
13	Ammonia as N	
14	pH (Lab)	
15	Total Coliforms	
16	Fecal Coliforms	
17	Fecal as E. Coli	
18	Additional Costs for Priority Analysis	
19	Specify below any costs not included in 1-17 above	

I/we, the undersigned, hereby declare that I/we have reviewed the proposal documents and with full knowledge and understanding of all specifications and conditions contained therein do submit, (in duplicate), our proposal as follows with full understanding that the proposal package in its entirety is made a part of any agreement, contract or order between the City of Kissimmee and the successful proposer.

All the parameters must be analyzed using only certified methods for non-portable water, and complying with the holding times listed in the latest approved edition of standard methods. The only exception is 17 to be analyzed in drinking water.

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>TOTAL COST</u>
1	Total Phosphorous (TP)	<u>17.00</u>
2	Orthophosphate (OP)	<u>17.00</u>
3	Nitrate-Nitrite as N (NO _x)	<u>14.00</u>
4	Total Kjeldahl Nitrogen (TKN)	<u>25.00</u>
5	Total Nitrogen (TN) calculated	<u>0.00</u>
6	Corrected Chlorophyll a (Pheophytin)	<u>65.00</u>
7	Chloride	<u>13.00</u>
8	Alkalinity	<u>14.00</u>
9	Total Suspended Solids (TSS)	<u>15.00</u>
10	Total Organic Carbon (TOC)	30.00 <u> </u>
11	Biological Oxygen Demand (BOD-5)	<u>29.00</u>
12	Chemical Oxygen Demand (COD)	<u>24.00</u>
13	Ammonia as N	<u>17.00</u>
14	pH (Lab)	<u>10.00</u>
15	Total Coliforms	<u>25.00</u>
16	Fecal Coliforms	<u>25.00</u>
17	Fecal as E. Coli	<u>25.00</u>
18	Additional Costs for Priority Analysis	<u>Rush analyses : 24 hr</u> <u>100%; 48hr 75% 3 day</u> <u>50% 4day 25% 5 day</u> <u>0%</u>

19 Specify below any costs not included in 1-17 above

DELIVERY TIME (F.O.B. DESTINATION) _____
 ACKNOWLEDGMENT OF ADDENDA NO. (S) No.1, No.2 (IF APPLICABLE)
Scott Martin
 (Signature)

ALL PRICES QUOTED ARE GOOD FOR A PERIOD OF 90 DAYS.

SM We do not take exception to Specifications.
 (initial)

We take exception to Specifications as follows:
 (initial)

COMPANY NAME Eurofins Environment Testing America (attach additional sheets, if necessary)
 COMPANY ADDRESS 481 Newburyport Ave.
Altamonte Springs, FL 32701

NOTE: OFFERS NOT RECEIVED IN DUPLICATE MAY BE REJECTED.
 VENDORS ARE RESPONSIBLE FOR DELIVERY OF THEIR PROPOSALS TO THE
 ADDRESS INDICATED ON THE PROPOSAL COVER SHEET PRIOR TO THE DATE AND
 TIME SHOWN.
 PROPOSALS NOT SO DELIVERED MAY BE REJECTED.

BY: Scott Martin DATE: 10/27/22
 (signature)

Scott Martin / sales Director EMAIL: scott.martin@et.eurofinsus.com
 (typed name/title of signer)

TELEPHONE NO.: (813) 538-0393 FAX NO.: ()

ITEM 7.F**Magnolia Park Replat 2 Final Plat (DRC# SR-22-0007)****Request**

Approval of the final plat known as Magnolia Park Replat 2.

Explanation

The owners of the property, Cesar Enrique Romero Anciani and Duliana D. Paz Montiel, are requesting final plat approval without a guarantee, since no public improvements are required. This property is located south of Cherry Street, and east of North Palm Avenue.

This property is being platted into two lots for development purposes.

Recommendation

Staff recommends City Commission approval of the final plat known as Magnolia Park Replat 2.

REQUESTED CITY COMMISSION ACTION:

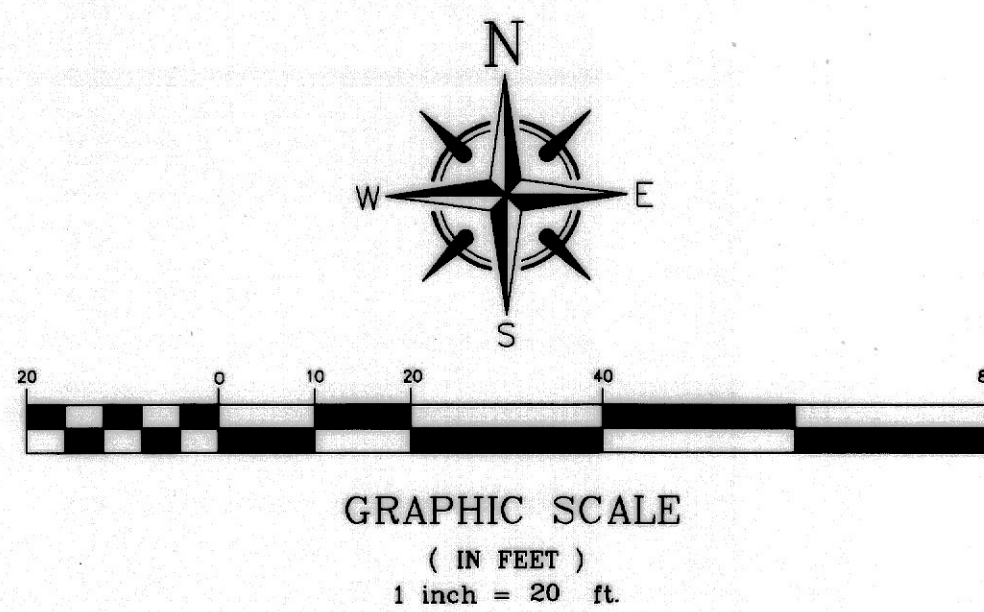
Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. Magnolia Park Replat 2 Plat
2. Vicinity Map



MAGNOLIA PARK REPLAT 2

A REPLAT OF LOTS 22, 23 AND 24, BLOCK 13
MAGNOLIA PARK, PLAT BOOK 1, PAGE 97
SECTION 21, TOWNSHIP 25 SOUTH, RANGE 29 EAST
CITY OF KISSIMMEE, OSCEOLA COUNTY, FLORIDA

SHEET 1 OF 1

PLAT
BOOK

PAGE

DEDICATION MAGNOLIA PARK REPLAT 2

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the owners in fee simple of the lands described in the foregoing caption to this plat, hereby dedicates Easements shown hereon to the perpetual use of the public and to the Tahoekaliga Water Authority and said lands and plat for the uses and purposes therein expressed.

IN WITNESS WHEREOF, CESAR ENRIQUE ROMERO ANCANI, has caused these presents to be signed and sealed by the person(s) named below on Nov. 14, 2022.

By: Cesar Enrique Romero Ancani

Print Name: Cesar Enrique Romero Ancani

Signed and sealed in the presence of:

Witness: Emily R. Turner Leslie A. Minshaw

Signature: Emily R. Turner Leslie A. Minshaw

Print Name: Emily R. Turner Leslie A. Minshaw

STATE OF FLORIDA COUNTY OF Osceola

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME,

BY MEANS OF ☒ PHYSICAL PRESENCE OR ☐ ONLINE

NOTARIZATION, THIS 14 DAY OF November 14,

2022, BY Cesar Enrique Romero Ancani, SUCH PERSON ☒

IS PERSONALLY KNOWN TO ME OR ☐ HAS PRODUCED

AS IDENTIFICATION.

Emily R. Turner

SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT

NOTARY PUBLIC

IN WITNESS WHEREOF, DULIANA D. PAZ MONTIEL,

these presents to be signed and sealed by the person

named below on Nov. 14, 2022.

By: Duliana D. Paz Montiel

Print Name: Duliana D. Paz Montiel

Signed and sealed in the presence of:

Witness: Emily R. Turner Leslie A. Minshaw

Signature: Emily R. Turner Leslie A. Minshaw

Print Name: Emily R. Turner Leslie A. Minshaw

STATE OF FLORIDA COUNTY OF Osceola

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME,

BY MEANS OF ☒ PHYSICAL PRESENCE OR ☐ ONLINE

NOTARIZATION, THIS 14 DAY OF November 14,

2022, BY Duliana D. Paz Montiel, SUCH PERSON ☒

IS PERSONALLY KNOWN TO ME OR ☐ HAS PRODUCED

AS IDENTIFICATION.

Emily R. Turner

SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT

NOTARY PUBLIC

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed and registered land surveyor, does hereby

certify that on 04/19/2022

he completed the survey of the lands as shown in the

fore-going plat or plan; and said survey was made under

his responsible direction and supervision and the survey data

complies with all of the requirements of Chapter 177, Florida

Statutes; that said plat is a true and correct representation

of the lands herein described and platted or subdivided; that

permanent reference monuments have been placed as shown

thereon as required by Chapter 177, Florida Statutes; and by

The Land Development Code of the City of Kissimmee, Florida

and that said land is located in Section 25, Township 25

South, Range 29 East

Osceola County, Florida.

Dated 11/14/22 Registration No. 11-4-2025

PROFESSIONAL SURVEYING CERTIFICATE OF AUTHORIZATION NO. L.B. 966

JOHNSTON'S SURVEYING INC. 900 Cross Prairie Parkway
Kissimmee, Florida 34744
Tel. (407) 847-2179 Fax (407) 847-6140

CERTIFICATE OF APPROVAL BY THE CITY SURVEYOR

THIS IS TO CERTIFY, That onthe
Florida Professional Surveyor and Mapper representing the City
Kissimmee reviewed this plat. This plat conforms to Florida
Statutes, Chapter 177.

..... P.S.M.

Dated Registration No.

CERTIFICATE OF APPROVAL BY MUNICIPALITY

THIS IS TO CERTIFY, That onthe
..... approved the foregoing plat

ATTEST: MAYOR

..... CITY CLERK

CERTIFICATE OF COUNTY CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat
and find that it complies in form with all the requirements of
Chapter 177, Florida Statutes and was filed for record on

..... at

..... Clerk of the Circuit Court

in and for Osceola County, Florida

BYD.C. File No.....

LEGAL DESCRIPTION:

Lot 22, 23, and 24, Block 13, Magnolia Park, according to the plat thereof
recorded in Plat Book 1, Page 97, of the Public Records of Osceola County,
Florida.

SURVEYORS NOTES

1. BEARINGS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE (NAD 83, 2007
ADJUSTMENT) WITH REFERENCE BEARING ALONG THE SOUTH RIGHT OF WAY LINE OF CHERRY STREET
BEING S89°52'14"E.
2. ALL PLATTED UTILITY EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION,
MAINTENANCE AND OPERATION OF CABLE TELEVISION SERVICES, PROVIDED HOWEVER, NO SUCH
CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF CABLE TELEVISION SERVICES SHALL
INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS TO OTHER PUBLIC
UTILITY. IN EVENT A CABLE TELEPHONE COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT
SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS SECTION SHALL NOT APPLY TO THOSE PRIVATE
EASEMENTS GRANTED TO OR OBTAINED BY A PARTICULAR ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC
UTILITY. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION SHALL COMPLY WITH THE
NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION PER F.S.
177.091(28).

LEGEND

P.B. PLAT BOOK	° DEGREES
P.C. PAGE	' MINUTES
SEC. SECTION	" SECONDS
TWP. TOWNSHIP	± MORE OR LESS
RNG. RANGE	L.B. LICENSED BUSINESS
COR. CORNER	L.S. LICENSED SURVEYOR
AC. ACRES	ID. IDENTIFICATION
P.S.M. PROFESSIONAL SURVEYOR	P.O.B. POINT OF BEGINNING
AND MAPPER	P.O.C. POINT OF COMMENCEMENT
R.L.S. REGISTERED LAND SURVEYOR	R/W RIGHT OF WAY
POP. PERMANENT CONTROL POINT	O.R.B. OFFICIAL RECORDS BOOK
PRM. PERMANENT REFERENCE MONUMENT	MON. MONUMENT
CL. CENTERLINE	CONC. CONCRETE

NOTICE: This plat, as recorded in its graphic form, is the official
depiction of the subdivided lands described herein and will
in no circumstances be supplanted in authority by any other
graphic or digital form of the plat. There may be additional
restrictions that are not recorded on this plat that may be
found in the public records of this County.

JOHNSTON'S
SURVEYING INC.
900 Cross Prairie Parkway, Kissimmee, Florida 34744
Tel. (407) 847-2179 Fax (407) 847-6140

PROFESSIONAL SURVEYING CERTIFICATE OF AUTHORIZATION NO. L.B. 966

JOB#22-171

DRC# SR-22-0007

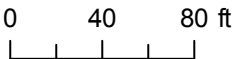


Osceola County, Florida; Eric Harris & Associates, Inc., Osceola County, Florida

SR-22-0007 Magnolia Park Replat 2

Final Plat

Date Generated: 11/14/2022



This map was prepared for the Osceola County Property Appraiser's Office. It is maintained for the function of this office only. It is not intended for conveyance, nor is it a survey.



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser

ITEM 7.G

Construction Manager at Risk Agreement between the City of Kissimmee and Balfour Beatty Construction, LLC. for the City Hall addition that will house the Building Division of the Development Services Department.

Request

Approval of the Construction Manager at Risk Agreement between the City of Kissimmee and Balfour Beatty Construction, LLC. for the City Hall addition that will house the Building Division of the Development Services Department.

Explanation

The City issued a Request for Proposals (RFP) 2022-008 for a Construction Manager at Risk Agreement with Balfour Beatty Construction LLC, for the addition to City Hall for the Building Division of the City's Development Services Department. The City received five submittals. The selection committee, made up of project related City staff, chose Balfour Beatty Construction LLC. of Orlando, Florida. Balfour Beatty has a long history of civic projects and an approach to projects that ensures the City's project will be successful and meet the budget.

Balfour Beatty will first provide pre-construction services for the project, including coordination of all architectural, landscaping and engineering design and other pre-construction services. Once the pre-construction services are complete, the City and Balfour Beatty will negotiate the Construction Manager's Guaranteed Maximum Price (GMP). The GMP will cover all construction and material costs associated with the construction of the addition, and will be brought back to the Commission for approval once negotiated.

The Development Review and the Building Permits have been reviewed, approved and ready to be issued.

The cost of said agreement is \$20,000, to be paid out of the current project budget for the City Hall Addition. The project was originally approved with the Fiscal Year 2021 budget by the City Commission and will be funded exclusively from the Building Fund.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10140106-506292	DS2109		\$1,918,142	\$20,000

Financial Summary:

This project is paid for completely by the Building Fund. No General Fund monies will be used for this project.

Recommendation

City of Kissimmee

Approval of the Construction Manager at Risk Agreement between the City of Kissimmee and Balfour Beatty Construction, LLC. for the City Hall addition that will house the Building Division of the Development Services Department.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services
Presenter:

Attachment(s):

1. (S) COK City Hall Addition Construction Manager at Risk Contract Executed
2. COK Precon Proposal Balfour Beatty - City Hall Expansion
3. Balfour Beatty RFP 2022 008 Construction Manager at Risk Kissimmee City Hall Addition

SAMPLE-CONSTRUCTION MANAGER AT RISK AGREEMENT BETWEEN CITY OF KISSIMMEE AND CONSTRUCTION MANAGER

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT ("Agreement") is entered into as of the Effective Date (hereinafter defined) by and between City of Kissimmee, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741 (hereinafter designated as the "City") and Balfour Beatty Construction, LLC , whose Federal Identification Number is: 75-1232928 (hereinafter designated as the "Construction Manager").

WITNESSETH:

WHEREAS, the City desires certain Construction Manager At Risk services to be performed in the City of Kissimmee; and

WHEREAS, the City solicited for these professional services via RFP2022-008, an advertised request for proposals, and received numerous responsive proposals thereto; and

WHEREAS, after review and consideration of all responsive proposals, the City intends to retain the Construction Manager identified above to provide such professional services under this Agreement; and

WHEREAS, the Construction Manager remains agreeable to providing the City the professional services and represents that it is capable and prepared to do so;

NOW, THEREFORE, in consideration of the promises contained herein, the City and the Construction Manager (collectively, the "Parties") hereby agree, as follows:

ARTICLE 1

THE CONSTRUCTION TEAM, EXTENT OF AGREEMENT AND DEFINITIONS

The Construction Manager accepts the relationship of trust and confidence established between him and the City by this Agreement. The Construction Manager covenants with the City to furnish his best skill and judgment in furthering the interest of the City. The Construction Manager agrees to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Services in the best way and the most expeditious and economical manner, consistent with the interests of the City, and the terms and conditions of the Contract Documents. Further, the Construction Manager acknowledges that (i) he/she has represented to the City that he/she possesses the expertise of a similarly experienced Contractor of similar size and complexity in the planning, reviewing, management, and construction of projects of similar size, cost, and complexity and (ii) that such representation is a material inducement to the City to enter into this Agreement.

1.1 The Construction Team:

The Construction Manager, the City, and the Architect/Engineer, collectively called the "Construction Team", shall work jointly during the Pre-Construction Phase and the Construction Phase. The Architect/Engineer and the Construction Manager shall communicate through the City's Representative, except as may otherwise be provided in this Agreement. The Construction Manager shall copy the City's Representative on all correspondence sent to or received from the Architect/Engineer or any of its consultants of which the City's Representative was not copied. The

specific representatives of the Construction Team shall be identified further in the Pre-Construction Addendum and the GMP Addendum.

1.2 Extent of Agreement:

This Agreement, between the City and the Construction Manager, supersedes any prior negotiations, representations or agreements. This Agreement shall not be superseded by any provisions/revisions of the Construction Documents and may be amended only by Change Order or through a duly executed amendment as authorized herein.

1.3 Definitions:

- 1.3.1 Project – the construction of the Kissimmee City Hall Addition for the City of Kissimmee, Florida, as further described in RFP, including all attachments and addenda, and this Agreement. Pre-Construction Services of the Project shall include coordination of all architectural, landscaping and engineering design and other pre-construction services, including, without limitation, the preparation of a proposed GMP, necessary to provide a complete and usable facility in accordance with this Agreement. Construction Phase of the Project shall include the construction of the facility, along with project management and coordination and quality assurance services necessary to complete the Project to the City's satisfaction.
- 1.3.2 Services – shall include: (1) all professional services described in the City of Kissimmee's Request for Proposals RFP #2022-008, including all attachments and addenda; (2) all services described in the Construction Manager's response thereto (collectively, "RFP2022-008" is attached hereto as a composite **Exhibit "A"** and made a part of this Agreement); (3) all services described in Article 2 herein (but as may be specifically excluded by the City in the Pre-Construction Addendum); and (4) all Pre-Construction Phase Services and Construction Phase Services (the Construction Phase Services may also be referred to herein as the "Work") as further set forth and described herein or in either the Pre-Construction Addendum, the GMP Addendum, or both.
- 1.3.3 Pre-Construction Services Addendum is attached hereto and incorporated herein as **Exhibit "B"**.
- 1.3.4 GMP Addendum is attached hereto and incorporated herein as **Exhibit "C"** and shall be completed and executed by the City and the Construction Manager following the completion of Pre-Construction Phase Services and determination of a mutually-acceptable Guaranteed Maximum Price ("GMP") and related terms.
- 1.3.5 Architect/Engineer –RS&H, Inc.
- 1.3.6 Contract Documents - The Contract Documents consist of this Agreement, the Exhibits hereto, and any duly executed amendments and/or addendums, including, without limitation, the Pre-Construction Addendum and the GMP Addendum, in addition to all plans and specifications for the construction of the Project ("Construction Documents") that have been completed by the Architect/Engineer and approved in writing by the City's Representative.
- 1.3.7 Punch List – A final list of items of Work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to Final Completion.
- 1.3.8 Schedule of Values - The schedule to be used as a basis for progress payments to be made to the Construction Manager by the City during performance of the Work, based

on the then current percentage of progress of construction of the Work, subject to the review of the Architect/Engineer and the City's Representative.

- 1.3.9 Subcontractor – A subcontractor is any person or entity performing, furnishing, supplying or providing any portion of the Work pursuant to a contract with the Construction Manager. Construction Manager shall be solely responsible for and have control over the subcontractors.
- 1.3.10 Substantial Completion Date – The date, certified by the Architect/Engineer, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and as further delineated in Article 2, Section 2.5.1 so that the City can reasonably occupy or utilize the Project, or a designated portion thereof, for its intended use.
- 1.3.11 General Conditions – Those items that are not specific to any trade and are required for the construction of the Project.
- 1.3.12 City's Construction Budget: The City's Construction Budget shall be set forth in the completed GMP Addendum and shall include an estimated total of all three segments of the budget, including all Construction Manager Fees, Costs of the Work and the City's Allowance, as defined in Article 6. This acknowledgment of the City's Construction Budget is not to be construed as the Construction Manager's Guaranteed Maximum Price ("GMP").
- 1.3.13 *Intentionally omitted.*
- 1.3.14 Term – The "Term" of this Agreement shall commence on the Effective Date and shall continue thereafter through the date of completion by Construction Manager of all its contractual obligations (with the exception of the Warranty period as set forth in Section 2.6.3 and any other provisions contained herein which are specifically stated to survive expiration or earlier termination of this Agreement), and the City has paid the final balance due Construction Manager, including any retainage, as noted in the Certificate for Final Completion.
- 1.3.15 Allowance – Funds and time appropriated by the City for additional work which is not included in the contract document yet may be necessary for the completion of the Work. Any unused allowance funds shall be returned to the City by Change Order at the completion of the Project.
- 1.3.16 Contingency – Those areas of work that are not at 100% design completion, at the time of GMP, for which additional monies will be allowed. A contingency dollar amount will be shown as a separate amount at the appropriate line item within the GMP and labeled as a contingency for that item of work. Any unused contingency funds shall be reassigned to the City's Buyout Allowance, as defined in Section 6.1.5.
- 1.3.17 Effective Date – shall be the date this Agreement is executed by the Mayor after approval by the City Commission.
- 1.3.18 The City's Representative(s) may be any or all of the following: City Manager, Deputy City Manager, and/or the Public Works and Engineering Director.

ARTICLE 2

CONSTRUCTION MANAGER'S SERVICES

The CITY does hereby retain the Construction Manager to furnish, provide and perform the Services (as defined in Section 1.3.2), as those Services may be further specifically designated and authorized by the CITY in writing, including, without limitation, those services as set forth in the Scope of Services of the Pre-Construction Services Addendum and in the GMP Addendum.

The Services shall include, without limitation, those described or specified in this Article 2. Such services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned. Additionally, some of the services described in this Article 2 may be specifically excluded by the City, as set forth in the completed Pre-Construction Services Addendum.

2.1 Project Management Information System (PMIS):

2.1.1 General:

2.1.1.1 Commencing immediately upon issuance by the City of a Notice To Proceed, the Construction Manager shall implement and shall utilize throughout the life of the particular Project all subsystems of the Project Management Information System hereinafter referred to as PMIS.

2.1.1.2 The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the Work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the City's Representative and the Architect/Engineer monthly.

2.1.1.3 If requested by the City's Representative, the Construction Manager shall conduct a comprehensive workshop for participants designated by the City's Representative and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the City's Representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect/Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the City's Representative and the Architect/Engineer, procedures for accomplishing the management control aspect of the Project.

2.1.1.4 The PMIS shall be described in terms of the following major subsystems:

2.1.1.4.1 Narrative Reporting, on a monthly basis, and

2.1.1.4.2 Schedule Control, on a monthly basis, and

2.1.1.4.3 Cost Control, and estimating, and

2.1.1.4.4 Project Accounting, and

2.1.1.4.5 Accounting and Payment, on a monthly basis, and

2.1.1.4.6 Action Reports.

2.1.2 Narrative Reporting Subsystem:

2.1.2.1 The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports

shall be in 8.5" X 11" format, unless directed otherwise by the City's Representative.

2.1.2.2 The Narrative Reporting Subsystem shall include the following reports:

2.1.2.2.1 A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including all violations and deficiencies found by the applicable permitting authorities.

2.1.2.2.2 A Monthly Cost Narrative describing the current cost status of the Project.

2.1.2.2.3 A Monthly Scheduling Narrative summarizing the current status of the Master Project Schedule. This report shall include an analysis of the various Project schedules, a description of the critical path, tracking of approved original baseline schedule versus the actual progress of the Work and other analyses as necessary.

2.1.2.2.4 A Monthly Accounting Narrative describing the current cost and payment status of the Project. This report shall relate current encumbrances and expenditures to the budget allocations.

2.1.2.2.5 A Monthly Progress Report, during the Construction Phase, summarizing the work of the various subcontractors and consultants. This report shall include information from the weekly job site meetings, as applicable, such as General Conditions, long lead supplies, current deliveries, safety and labor relations programs, permits, construction problems and recommendations, and plans for the succeeding month.

2.1.2.2.6 A Daily Construction Diary during the Construction Phase describing events and conditions on the site.

2.1.2.3 The reports outlined in subsection 2.1.2.2 shall be bound and submitted monthly during the Construction Phase and shall be current through the end of the preceding month. Copies shall be transmitted to the City's Representative and the Architect/Engineer and others as designated by the City's Representative with the monthly pay requisition. Additional copies of the Monthly Executive Summary, as outlined in subsection 2.1.2.2.1, shall be bound separately and distributed monthly, as directed by the City's Representative. The Daily Construction Diary, as outlined in subsection 2.1.2.2.6, shall be maintained at the Project Site Office Facility and be made available to the City's Representative and Architect/Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the City's Representative at the conclusion of the Project.

2.1.3 Scheduled Control Subsystem:

2.1.3.1 Master Project Schedule: Within 30 days following issuance of the Notice To Proceed, the Construction Manager shall submit, to the City's Representative for approval, a Master Project Schedule covering the Pre-Construction Phase and Construction Phase. The Master Project Schedule shall serve as the framework for the subsequent development of all detailed schedules. The Master Project

Schedule shall be produced and updated monthly throughout the Project. No revisions, activity additions, activity deletions, or logic changes to the Master Project Schedule or any other schedule previously approved by the City, shall be made without the City's approval. Minor or immaterial deviations that do not affect key milestone dates may be amended if approved by the City's Representative.

2.1.3.2 Construction Schedule: With the submission of the GMP Proposal, the Construction Manager shall submit to the City's Representative, for approval, a Critical Path Construction Schedule (hereinafter "Construction Schedule") in sufficient detail to graphically depict the activities contemplated to occur as a necessary incident to performance of the Work required to complete the Work, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity. The Construction Schedule shall be based on a "Network Analysis System" and shall be the latest version of Microsoft Schedule, Primavera P3, or equivalent, as determined by the City's Representative. The City's Representative shall determine whether the Construction Schedule developed and submitted by the Construction Manager meets the requirements stated above and such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the Agreement or to withhold any payment.

2.1.3.3 Updated Construction Schedule: Following development and submittal of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the Work, or at such earlier intervals as circumstances may require, update the Construction Schedule. The updated Construction Schedule will show the actual progress of the Work performed compared to the original baseline schedule, approved as set forth in Section 2.1.3.2, and all updates thereto as reflected in the updated Construction Schedule last submitted prior to submittal of each such monthly update. Each such update to the Construction Schedule shall be submitted to the City's Representative. Failure of the Construction Manager to update and submit the Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Agreement or to withhold payment to the Construction Manager, until a schedule or schedule update acceptable to the City's Representative is submitted.

2.1.3.4 When required by the City's Representative, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

2.1.3.4.1 Subcontractor Construction Schedules (Sub-networks) - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the Construction Schedule, taking into account the work schedule of the other subcontractors. The Construction Manager shall ensure each Subcontractor's Construction Schedule is incorporated into the Construction Manager's Construction Schedule, ensuring the necessary information is included to allow for construction planning and monitoring the performance of each subcontractor.

2.1.3.4.2 Final Completion Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative, a detailed plan, inclusive of Punch Lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Final Completion. The Final Completion Schedule shall be produced and updated monthly and may be part of the Construction Schedule.

2.1.3.4.3 Utility Relocation Schedule – The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative a detailed plan, for any and all utility relocations required for successful completion of the Work. The Utility Relocation Schedule shall be produced and updated monthly, and may be part of the Construction Schedule.

2.1.3.4.4 Recovery Schedule - If any portion of the Master Project Schedule or any current updates fail to reflect the actual plan or method of operation of the Work, or a contractual milestone date is more than 15 days behind, the City's Representative may require that a Recovery Schedule for completion of the remaining work be submitted. The Recovery Schedule must be submitted within 7 calendar days of the request by the City's Representative. The Recovery Schedule shall describe in detail the Construction Manager's plan to complete the remaining work by the required Agreement milestone date. The narrative submitted with the Recovery Schedule should describe in detail all changes that have been made to meet the Agreement milestone dates.

2.1.3.4.5 Change Orders - When a Change Order is proposed, the City's Representative may require the Construction Manager to identify all logic changes as a result of the Change Order. The Construction Manager shall include, as part of each Change Order proposal, a sketch showing all schedule logic revisions, duration changes, and the relationships to other activities in the Master Project Schedule. This sketch shall be known as the fragnet for the change. Upon acceptance of the fragnet, the Construction Manager will revise the Master Project Schedule. The logic changes required by the Change Order will be considered incidental to the Construction Manager's work. No separate payment will be made for the work required to identify all logic changes that result from the Change Order.

2.1.4 Budget Control Subsystem - The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and site elements, so that the Work will be completed at a cost which, together with all other Costs of the Work, will not exceed the City's Project Budget. Requirements of this subsystem may include the following submissions:

2.1.4.1 Estimate at the completion of schematic design; and

2.1.4.2 Estimate at the completion of 100% design development plans; and

2.1.4.3 Estimate at the submission of the GMP Proposal.

2.1.5 Project Accounting Subsystem - The operation of this subsystem shall enable the Construction Team to plan effectively and to enable the City's Representative to monitor and control the funds available for the Project, cash flow, costs, Change Orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable, and to plan effectively. This subsystem will be produced and updated monthly and includes the

following reports, which together will serve as a basic accounting tool and an audit trail. This report may be further defined by the City's Representative.

2.1.5.1 A Payment Status Report - showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.

2.1.5.2 Project Accounting Structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the Change Order history including Change Order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending Change Orders.

2.1.5.3 A Cash Flow Diagram - showing the projected accumulation of cash payments against the Project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments and may be requested at earlier or more frequent intervals by the City's Representative.

2.1.5.4 A Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The job ledger will be used to provide construction cost accountability for General Conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

2.2 Project Manual: Upon the execution of this Agreement, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Agreement. This shall provide a plan for the control, direction, coordination and evaluation of Work performed throughout the Project; the Project organization including identification of key personnel, responsibilities of Construction Manager, the City's Representative and Architect/Engineer; work flow diagrams; and strategy for bidding the Work. The Project Manual shall be completed and submitted to the Architect/Engineer and the City's Representative for their review of the format and content, and to the City's Representative for approval as a condition precedent to the first progress payment by City to Construction Manager for services provided in the Pre-Construction Phase. The Project Manual shall be updated as necessary, with the approval of City's Representative throughout the Pre-Construction and Construction Phases. A copy of the Project Manual, and any updates, shall be submitted separately to the City's Representative and Architect/Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the City's Representative and the Architect/Engineer. The Project Manual is merely an amplification and clarification of this Agreement. Any conflicts between the Project Manual and this Agreement shall be governed by the latter. The Project Manual shall describe in detail the procedures for executing the Work and the organizations participating. The Project Manual shall include as a minimum the following sections:

2.2.1 Project Definition - The known characteristics of the Project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the Project or sub-projects.

2.2.2 Project Goals - The schedule, budget, physical, technical and other objectives for the Project.

2.2.3 Project Strategy - A narrative description of the Project delivery methods shall be utilized to accomplish the Project goals.

- 2.2.4 Project Work Plan - A matrix display of the program of Work to be performed by the Construction Manager, the Architect/Engineer and the City's Representative during each phase of the Project.
 - 2.2.5 Project Organization - A summary organization chart showing the interrelationships between the City, the Construction Manager, the Architect/Engineer, and other supporting firms, organizations and permitting review agencies. Detailed charts, one each for the Construction Manager, the Architect/Engineer, and the City's Representative, showing organizational elements participating in the Project shall be included.
 - 2.2.6 Responsibility Performance Chart - A detailed matrix showing the specific responsibilities of the City, the Architect/Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the Project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the Project, and also for the personnel of the City and the Architect/Engineer from data supplied by each.
 - 2.2.7 Flow Diagrams - These charts shall display the flow of information and the decision process for the review and approval of shop drawings, submittals, and Change Orders.
 - 2.2.8 Written Procedures - The Construction Manager will provide written procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, and other necessary communications.
 - 2.2.9 Emergency Contact List: A complete list of the names, company affiliation and emergency contact phone numbers (both day and night) for all key Project personnel from City, Construction Manager and Architect/Engineer, as well as from all subcontractors, sub-consultants and suppliers of any of them. This list shall be continuously updated by the Construction Manager throughout the Project duration, with Construction Manager distributing a copy of all updates to City's Representative and Architect/Engineer.
- 2.3 Pre-Construction Phase Services: The services to be provided under this Section 2.3 constitute the Pre-Construction Phase Services. The parties acknowledge the Construction Phase may commence before the Pre-Construction Phase is completed, and to a certain extent both phases may proceed concurrently.
- 2.3.1 Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Project and the City's Project Budget requirements, each in terms of the other.
 - 2.3.2 Consultation - The Construction Manager will jointly schedule and attend regular meetings with the City's Representative and Architect/Engineer. The Construction Manager shall make recommendations with respect to the selection of systems and materials, and cost – reducing alternatives, including assistance to the Architect/Engineer and City's Representative, in evaluating alternative comparisons versus long term cost effects. The evaluation shall address the benefits of the speed of construction and early completion of the Project. The Construction Manager shall furnish pertinent information as to the availability of materials and labor that will be required, in addition to items such as the identification, if

necessary, of right-of-way to be acquired, outstanding permits and related issues and the status of utility relocations.

- 2.3.3 Right of Way Acquisition – When requested, Construction Manager shall assist the City's Representative, in conjunction with the City Attorney's Office, with right of way acquisition, including but not limited to, obtaining appraisals, and assisting with the negotiation of purchase agreements. Construction Manager shall coordinate and develop in the Construction Documents all applicable conditions negotiated through the right-of-way acquisition process, including but not limited to such items as driveway transitions and modifications, fence relocations and other related items.
- 2.3.4 Phased Construction - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect/Engineer and may make recommendations to the City's Representative with respect to dividing the Work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule, while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, maintenance of traffic and utility relocation issues, status of right of way acquisition and community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the City's Representative.
- 2.3.5 Review Reports - Within 30 days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Article 2, Section 2.3. Promptly after completion of the review, he shall submit to the Construction Team, with copies to the Architect/Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as he may deem appropriate, and all actions taken by the Architect/Engineer with respect to same, any comments he may deem to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2, Section 2.3. Construction Manager shall not assume in any way the responsibilities of the Architect/Engineer, in particular, the responsibility of assuring that the Construction Documents are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules, and Regulations. However, if the Construction Manager recognizes that portions of the Construction Documents are at variance therewith, the Construction Manager shall include notice of same in the written report. THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ENGINEERING RESPONSIBILITY AND SUBJECT TO ESTABLISHMENT OF A GMP, AND RIGHTS TO CLAIM INCREASES IN COST AND EXTENSIONS OF TIME HEREIN, THAT THE CONSTRUCTION DOCUMENTS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE CONSTRUCTION DOCUMENTS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.
- 2.3.6 Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items (machinery, equipment, materials and supplies). When each item is identified, the Construction Manager shall notify the subcontractors, the City's Representative and the Architect/Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction

Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise City's Representative and Architect/Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the City's Representative a schedule for procurement of the long-lead time items, which will constitute part of the Work as required to meet the Master Project Schedule. If such long-lead time items are procured by the City, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the City's acceptance of the Construction Manager's GMP proposal, all contracts for such items may be assigned by the City to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.

- 2.3.7 Project Site Office Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Team to perform their respective duties in the management, inspection, and supervision of construction. Tangible personal property, otherwise referred to as Project Site Office Facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such Project Site Office Facilities, which are planned to become the property of the City at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing, and then analyzing which is the most cost effective over the useful life of the item. The Construction Manager shall present his evaluation with recommendation to the City's Representative for approval. When the Construction Manager wishes to supply Project Site Office Facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed previously herein. If leasing is found to be the least expensive approach, then he may lease such Project Site Office Facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained. For all such facilities purchased, which are to become the property of the City at the conclusion of the Project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. At the conclusion of the Project, the Construction Manager shall provide the City's Representative with a complete inventory of equipment that has been purchased for the City. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the City or to his designee. The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the City, the City may refuse acceptance of the equipment if the City determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse City for the cost of such item.
- 2.3.8 Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of work areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the Work in periods when extreme weather conditions are likely to be experienced. He shall submit to the Construction Team his recommendations as to needed requirements of this nature and as to the contract, or contracts, in which they should be included. The Construction Manager is totally responsible for all weather protection necessary to insure that all new construction is adequately protected from the normal inclement elements.

2.3.9 Market Analysis and Stimulation of Bidder Interest - The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project. The Construction Manager shall submit to the City's Representative a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the City's Representative and the Architect/Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the City of Kissimmee market place and identify and encourage bidding competition. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the Work and of familiarizing those bidders with the requirements of this Project.

2.4 Construction Phase - After the Construction Documents have been sufficiently completed by Architect/Engineer and approved by City's Representative for all the Work (or such portions thereof as may be designated by City in writing) and City and Construction Manager have agreed in writing upon the GMP to be paid to Construction Manager and the Contract Time for the Work (or designated portions thereof) as hereafter provided, Construction Manager shall fully perform and complete in a good and workmanlike manner the construction of the Work (or designated portions thereof) in accordance with all the terms and conditions of the Contract Documents.

2.4.1 Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent, full time, staff at the Project Site, authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the subcontractors, and he shall provide no less than those personnel during the respective phases of construction that are set forth in Schedule 1 of the GMP Addendum. He shall not change any of those persons named in said Schedule unless mutually agreed to by the City's Representative and Construction Manager. In such case, the City's Representative shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.4.2 Lines of Authority - The Construction Manager shall establish and maintain lines of authority for his personnel, and shall provide this definition to the City's Representative and all other affected parties, such as the code inspectors of the permitting agencies, the subcontractors and the Architect/Engineer, to provide general direction of the Work and progress of the various phases and subcontractors. The City's Representative and Architect/Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontracts.

2.4.3 Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the City, its representatives and the Architect/Engineer with copies of the Project Manual (total number of copies not to exceed 10) developed and updated as required by Article 2, expanded for the Construction Phase employing their respective milestones, beginning and finishing dates, their respective responsibilities for performance and the relationships of their work with respect to subcontractors and suppliers. He shall also continue to provide current scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. He is also responsible for performance and the relationships of his work to the work of his subcontractors and suppliers, to enable them to perform their respective tasks, so that the development of construction

progresses in a smooth and efficient manner in conformance with the Master Project Schedule.

- 2.4.4 Solicitation of Bids Without assuming responsibilities of the Architect/Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposals when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and, if directed by the City, for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

2.4.4.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the Work. The Construction Manager shall strive to receive at least three competitive bids per trade package. Should the nature of the trade package prohibit three competitive bids, the Construction Manager shall notify the City's Representative in writing as to the reason and offer suggestions, if any, to create trade interest.

2.4.4.2 The Construction Manager shall be responsible for coordinating with the Architect/Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.

2.4.4.3 The Construction Manager and the City's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect/Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the City's Representative and the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

- 2.4.5 Subcontracts Subject to Article 6 and, in accordance with Article 2, Section 2.4.4, the Construction Manager shall award subcontracts to the qualified low bidder after the Construction Manager and the City have reviewed each proposal and are satisfied that the subcontractor/supplier is qualified to perform the work. Construction Manager shall make available to each proposed subcontractor, prior to the execution of the subcontract, complete copies of the Contract Documents to which the subcontractor will be bound by this Section 2.4.5 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such documents available to its sub-subcontractors.

2.4.5.1 All subcontracts shall: (1) require each subcontractor to be bound to Construction Manager to the same extent Construction Manager is bound to City by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor, (2) provide for the assignment of the subcontracts from Construction Manager to City at the election of City, upon termination of Construction Manager, (3) provide that City will be an additional indemnified party of the subcontract, (4) provide that City will be an additional insured on all insurance policies required to be provided by the subcontractor, except workman's compensation, (5) assign

all warranties directly to City, and (6) identify City as an intended third-party beneficiary of the subcontract.

2.4.5.2 Unless otherwise expressly agreed to by City in writing, all subcontracts shall provide: **LIMITATION OF REMEDIES – NO DAMAGES FOR DELAY**
The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the City or Architect/Engineer or attributable to the City or Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim. Each subcontract shall require that any claims by the subcontractor for delay must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the City, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

2.4.5.3 Subcontractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the City, under the agreement, by the parties to the extent of the work to be performed by the subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the City and Architect/Engineer under the Contract Documents, with respect to the Work to be performed by the subcontractor, so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each subcontractor to enter into similar agreements with its sub-subcontractor.

2.4.5.4 Insurance requirements for subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the City. The Construction Manager shall be responsible to the City for the acts and omissions of his employees, agents, subcontractors, their agents and employees, and all other persons performing any of the work or supplying materials under a contract to the Construction Manager.

2.4.5.5 If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP Addendum, the Construction Manager reserves the right to perform that portion of the Work, or negotiate for its performance for the specified line item lump sum amount or less.

2.4.6 A Public Construction Bond in the total amount of the GMP, along with all insurance certificates will be provided by the Construction Manager after approval of the GMP by the Board of City Commissioners, in the form attached hereto and incorporated herein as **Exhibit "M"**. No work shall be performed until these documents are provided and the certificates are current.

2.4.6.1 The Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.

2.4.6.2 All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, as amended by the audit Staff, Bureau of Government Financial Operations,

U.S. Treasury Department and A.M. Best rated A VIII or better.

2.4.6.3 If the surety on any Bond furnished by the Construction Manager is declared bankrupt, becomes insolvent, its right to do business is terminated in any state or it ceases to meet the requirements of Section 2.4.6.2, the Construction Manager shall within ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to the City.

2.4.6.4 All Bonds and insurance required by the Contract Documents to be purchased and maintained by the Construction Manager shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Florida to issue bonds or insurance policies for the limits and coverage so required. All bonds signed by an agent must be accompanied by a certified copy of authority to act.

2.4.7 Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the City's Representative and Architect/Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors, providing instructions to each when their work does not conform to the requirements of the Construction Documents, and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner, so as to not affect the efficient progress of the Work. Should disagreement occur between the Construction Manager and Architect/Engineer over acceptability of Work and conformance with the requirements of the Construction Documents, the City's Representative shall be the final judge of performance and acceptability, subject to the dispute provisions of this Agreement.

2.4.8 Submittals and Substitutions- Construction Manager shall carefully examine the Contract Documents for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Construction Manager shall submit all such materials in such form and manner as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. The Construction Manager shall also carefully review and certify for accuracy and completeness all shop drawings and other submittals and then forward the same to the Architect/Engineer for review and action. Within 14 days, the Architect/Engineer will transmit them back to the Construction Manager, who will then issue the submittals to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote the expeditious handling of shop drawings and all other submittals. The Construction Manager shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of it by the subcontractors. The Construction Manager shall advise the Architect/Engineer in writing which submittals or requests for clarification have the greatest urgency; the purpose being to enable the Architect/Engineer to prioritize requests coming from the Construction Manager. The Construction Manager shall advise the City's Representative and Architect/Engineer in writing when timely response is not occurring on any of the above.

2.4.8.1 If Construction Manager wishes to furnish or use a substitute item of material or equipment, Construction Manager shall make application to Architect/Engineer for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and at least of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed

substitute will not prejudice Construction Manager's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with City for the Project) to adapt the design to the proposed substitute, and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement services shall be indicated. The application also shall contain an itemized estimate of all costs or savings that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Architect/Engineer in evaluating the proposed substitute. Architect/Engineer may require Construction Manager to furnish, at Construction Manager's expense, additional data about the proposed substitute.

2.4.8.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Construction Manager may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to Architect/Engineer, if Construction Manager submits sufficient information to allow Architect/Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by Architect/Engineer shall be the same as those provided herein for substitute materials and equipment.

2.4.8.3 Architect/Engineer shall be allowed a reasonable time within which to evaluate each proposed substitute. Architect/Engineer and City's Representative shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without City's and Architect/Engineer's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. City may require Construction Manager to furnish, at Construction Manager's expense, a special performance guarantee or other surety with respect to any substitute. The cost of such guarantee may be reimbursable from the City's Owner Allowance or Buyout Allowance funds, provided that this cost is presented with the proposed substitute. If City rejects the proposed substitute, at City's direction, City may require Construction Manager to reimburse City for the charges of Engineer and Engineer's consultants for evaluating the proposed substitute.

2.4.9 Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the City and the City's Representative, including the Architect/Engineer.

2.4.10 Permits - The Construction Manager shall secure and pay for all permits and/or licenses which are customarily secured by a General Contractor. If Construction Manager performs any Work without obtaining, or contrary to, such permits or licenses secured prior to commencement of work, Construction Manager shall bear all costs arising therefrom. Costs related to post commencement permitting requirements that were unknown to Contractor at the time commencement shall be borne by the City. Cost for all re-inspections of Work found defective and subsequently repaired, shall be borne by the Construction Manager, unless such cost is not a result of negligence on the part of the Construction Manager.

2.4.11 Project Administration - The Construction Manager shall provide Project Administrative functions during construction to assure proper documentation, including, but not limited to, such things as the following:

2.4.11.1 Job Meetings – Hold weekly progress and coordination meetings, or more or less frequently, if required, to provide for the timely completion of the Work. In addition, a regular monthly Project status meeting will be held between the Architect/Engineer, City's Representative and Construction Manager. The meetings shall serve as a tool for planning of work and enforcing schedules and for establishing procedures and responsibilities.

2.4.11.2 Shop Drawing Submittals/Approvals – Check shop drawings and implement procedures to be approved by City's Representative for submittal and transmittal to the Architect/Engineer and City's Representative of such drawings for action, and closely monitor their submittal and approval process.

2.4.11.3 Material and Equipment Expediting – Closely monitor material and equipment deliveries, follow-up procedures on supplier commitments of all subcontractors, and maintain a material and equipment expediting log.

2.4.11.4 Payments to subcontractors - Develop and implement a procedure for review, processing, and payment of applications by subcontractors for progress and final payments.

2.4.11.5 Document Interpretation (RFI) - Refer all questions for interpretation of the Construction Documents to the Architect/Engineer with a copy to the City's Representative.

2.4.11.6 Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the City's Representative and the Architect/Engineer including information on the subcontractors' work, and the percentage of completion. Keep a daily log available to the City, the Engineer and the permitting authority's inspectors.

2.4.11.7 Subcontractors' Progress - Prepare periodic punch lists for the subcontractors' work, including unsatisfactory or incomplete items and schedules for their completion.

2.4.11.8 Start-Up - With the City's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.

2.4.11.9 Safety – Provide a safety program for the Project to meet OSHA requirements. Monitor for subcontractor compliance without relieving them of responsibilities to perform Work in accordance with the best acceptable practice.

2.4.11.10 Record Drawings - The Construction Manager shall monitor the progress of his own forces and his Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect/Engineer, who will prepare the final record drawings. The Construction Manager shall continuously review "As-Built" Drawings and marked up progress prints to provide as much accuracy as possible.

2.4.11.11 Systems Maintenance and Instruction - The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey those to the City in such a manner as to promote their usability. The Construction Manager shall provide City's operations and maintenance personnel with operations and maintenance training with respect to the equipment and systems being provided as part of the Work. This training shall be videotaped by Construction Manager for subsequent presentation to City's operations and maintenance personnel.

2.4.11.12 Administrative Records - Construction Manager shall maintain in a safe place at the Project Site Office Facility, one record copy and one permit set of the Contract Documents, including, but not limited to, all Construction Documents, addenda, amendments, Change Orders, Construction Change Directive and Field Orders, as well as all written interpretations and clarifications issued by Architect/Engineer, in good order and annotated to show all changes made during construction. The record Contract Documents shall be updated by Construction Manager throughout the prosecution of the Work to accurately reflect all field changes that have been made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directive and Field Orders, and all concealed and buried installations of piping, conduit and utility services. Construction Manager shall certify the accuracy of the updated record Contract Documents. As a condition precedent to City's obligation to make a monthly progress payment, Construction Manager shall provide evidence, satisfactory to City's Representative and Architect/Engineer, that Construction Manager is fulfilling its obligation to update the record Contract Documents. All buried and concealed items, within the Project site, shall be accurately located on the record Contract Documents as to depth and in relationship to not less than 2 permanent features. The record Contract Documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record Contract Documents, together with all approved samples and a counterpart of all approved shop drawings, shall be available to City's Representative and Architect/Engineer for reference. In addition, the Construction Manager shall be required to maintain at the Project Site Office Facility on a current basis, electronic and/or copies of files and records such as, but not limited to the following:

- Contracts [subcontracts]
- Purchase Orders
- Shop Drawing Submittal/Approval Logs
- Equipment Purchase/Delivery Logs
- Contract Drawings and Specifications with Addenda
- Warranties and Guarantees
- Cost Accounting Records
- Labor Costs
- Material Costs
- Equipment Costs
- Cost Proposal Requests
- Payment Request Records
- Meeting Minutes
- Cost Estimates
- Bulletin Quotations

Lab Test Reports
Insurance Certificates and Bonds
Contract Changes
Construction Change Directives
Permits
Purchase Orders
Material Purchase Delivery Logs
Technical Standards
Design Handbooks
"As-Built" Marked Prints
Operating & Maintenance Instruction
Daily Progress Reports
Monthly Progress Reports
Correspondence Files
Transmittal Records
Inspection Reports
Bid/Award Information
Bid Analysis and Negotiations
Punch Lists
PMIS Schedule and Updates
Suspense (Tickler) Files of Outstanding Requirements
Project Manual
Job Photographs

2.5 Final Completion:

2.5.1 Substantial Completion: When the entire Work (or any portion thereof designated in writing by City) is ready for its intended use, Construction Manager shall notify City's Representative and Architect/Engineer in writing that the entire Work (or such designated portion) is substantially complete and request that Architect/Engineer prepare a Certificate of Substantial Completion (or a Certificate of Partial Substantial Completion), a copy of which is attached as **Exhibit "D"**. Said written notice from Construction Manager shall include a proposed punch list of all items of Work to be completed or corrected by Construction Manager. Within a reasonable time thereafter, City's Representative, Construction Manager and Architect/Engineer shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If City's Representative and Architect/Engineer do not consider the Work (or designated portion) substantially complete, Architect/Engineer shall notify Construction Manager in writing giving the reasons therefore. If City and Architect/Engineer consider the Work (or designated portion) substantially complete, Architect/Engineer shall deliver to Construction Manager the Certificate of Substantial Completion (or Certificate of Partial Substantial Completion) which shall fix the date Substantial Completion for the entire Work (or designated portion thereof) is actually achieved by Construction Manager and include a final punch list of items to be completed or corrected by Construction Manager before final payment. Failure to include an item on the final Punch List does not waive City's right to demand completion of the item pursuant to the Contract Documents prior to or after final payment.

2.5.2 Final Acceptance: When Construction Manager believes it has fully performed all of the Services, including all punch list items, Construction Manager shall deliver to City's Representative all items listed on **Exhibit "G"**, which includes, but is not limited to, a written Release and Affidavit from Construction Manager certifying that all Work has been completed in accordance with the requirements of the Contract Documents. That written affidavit shall be in conformance with **Exhibit "E"** and

shall be delivered to City's Representative by Construction Manager at the same time it submits its final Application for Payment. After receipt of such affidavit, the final Application for Payment and all other documents required for Project close-out, Architect/Engineer and City's Representative shall promptly inspect the Work to determine if all of the Work has been completed and is ready for Final Acceptance by City. If City's Representative and Architect/Engineer determine Construction Manager has completed the entire Work and performed all of the Services, City's Representative shall promptly approve the Final Completion Certificate of the Project, stating that, to the best of its knowledge, information and belief, and on the basis of its observations and inspections: (i) all of the Services have been completed in accordance with the requirements of the Contract Documents; (ii) the final balance due Construction Manager, as noted in the final Certificate for Completion, is due and payable; and (iii) all conditions precedent to Construction Manager's entitlement to final payment has been satisfied. Neither the final payment nor any retainage shall become due and payable until Construction Manager submits: (1) the final Release and Affidavit in the form attached to the Agreement as **Exhibit "E"**, (2) consent of surety to final payment, and (3) other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by City. City reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though Architect/Engineer may have issued its recommendations. Until the Construction Manager completes all of its contractual obligations, with the exception of the Warranty period, neither the final payment nor any retainage shall become due and payable.

The City may occupy or take control of portions of the project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2, Sections 2.4.11.8, 2.4.11.10, 2.5.1 and 2.6 have been completed to the City's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Substantial Completion.

2.6 Warranty and Corrective Period

- 2.6.1 The Construction Manager shall warrant that all materials and equipment included in the Work will be new, except where indicated otherwise in Contract Documents, and that the Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Construction Documents. Contractor's warranty (i) excludes damage caused by misuse, failure to provide Contractor notice and an opportunity to cure alleged defects and (ii) is in lieu of all other warranties, express or implied.
- 2.6.2 The Construction Manager shall collect and deliver to the City's Representative any specific written warranties given by others as required by the Contract Documents. Also, the Construction Manager shall conduct, jointly with the City's Representative and the Architect/Engineer, a warranty inspection eleven (11) months after the date of Substantial Completion of the Project. Construction Manager shall obtain and assign to City all express warranties given to Construction Manager by any subcontractors or by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Construction Manager further warrants to City that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Further, any special warranty to be provided will be in such form as is acceptable to City and

shall not include any exclusions, exceptions or modifications except to the extent approved by City in its sole discretion.

- 2.6.3 In addition to the express warranties provided for in Sections 2.6.1 and 2.6.2, and all other rights and remedies available to City at law or in equity, including any implied warranties City may be entitled to as a matter of law, Construction Manager shall promptly correct, upon receipt of written notice from City's Representative, any portion of the Work which is found to be defective or otherwise not in conformance with the requirements of the Contract Documents. In the event that any defective or non-conforming work is deemed by City in its sole discretion to present an immediate threat to safety or security, City shall be entitled to correct and fix such defective or non-conforming portions of the Work, and Construction Manager shall reimburse City for all costs and expenses incurred by City in performing such Work. This obligation to correct defective or nonconforming Work shall run for a period of one year (or such longer period of time as may otherwise be specified in the Contract Documents) commencing from the date Substantial Completion is achieved.
- 2.6.4 With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. Construction Contingency Funds may be utilized to correct such damage provided that damage was not caused by negligence on the part of the Construction Manager. Construction Manager's warranty excludes remedy for damage or defect caused by City's abuse, modifications not performed by Construction Manager, improper or insufficient maintenance by City (unless such maintenance was performed in accordance with the directions from Construction Manager), improper operation by City (unless such operations were performed in accordance with the directions from Construction Manager), or normal wear and tear under normal usage.

ARTICLE 3

CITY'S RESPONSIBILITIES

3.1 City's Information:

The City shall provide full information regarding the requirements for the Project.

3.2 City's Representative:

The City shall designate in writing any additional representatives authorized to act on the City's behalf with respect to the Project, together with the scope of his/her respective authority. In no event, shall any delegation of authority be contrary to State or City laws or codes. Such designations as of the date hereof are set forth in Section 1.3.18. Functions that this Agreement provides, which will be performed by the City, can be delegated by written notice to the Construction Manager from the City. The designation(s) of City's Representative, as set forth in Section 1.3.18, may be amended from time to time by the City, pursuant to written notice to the Construction Manager of such amendment. The Construction Manager shall be entitled to rely on directions (and it shall be required to follow directions) from the City's Representative within the authority conferred by the Board of City Commissioners in this Agreement or any Amendment or Change Order to this Agreement. The City of Kissimmee Board of City Commissioners hereby authorizes the City's Representative to: (1) act as the Board's agent and execute documents associated with the Project. Examples of these documents are Notices of Commencement, Certificates of Substantial and Final Completion and permits from applicable agencies; (2) administer,

coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the City; and (4) issue a duly authorized memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by City's Representatives shall be binding on the City. The City's Representative does not have the authority to authorize work beyond the scope of the Contract Documents.

The City additionally authorizes the City Manager, or his designee, in conjunction with the City's Representative, to authorize individual changes in the Work up to \$100,000.00. Said changes shall be funded from the City's Allowance and shall not cause an increase to City's Project Budget.

3.3 Design Engineer and Engineer's Agreement:

The City shall retain an Architect/Engineer for design and to prepare Construction Documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Agreement between the City and the Architect/Engineer, a copy of which will be furnished to the Construction Manager.

3.4 Site Survey and Reports:

The City shall provide for the site of the Project all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations, and a legal description.

3.5 Approvals and Easements:

The City shall pay for necessary approvals, properties, easements, assessments and charges required for the construction, use or acceptance of permanent structures or for permanent changes in existing facilities.

3.6 Legal Services:

The City shall furnish such legal services as may be necessary for providing the items set forth in Article 3, Section 3.5, and such auditing services as it may require.

3.7 Construction Documents:

The Construction Manager will be furnished a reproducible set of all copies of the Construction Documents reasonably necessary and ready for printing.

3.8 Cost of Surveys & Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the City's expense. Construction Manager shall rely upon the accuracy and completeness thereof as noted in the various reports and surveys. Additional reports or surveys deemed to be necessary by the Construction Manager shall be obtained by the Construction Manager.

3.9 Project Fault Defects:

If the City becomes aware of any fault or defect in the Project or non-conformance with the Construction Documents, the City shall give prompt written notice thereof to the Construction Manager and Architect/Engineer.

3.10 Funding:

The City shall furnish, in accordance with the established Master Program Schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence performance of any Services, unless authorized in writing by the City.

3.11 Permitting & Code Inspections:

The City and Construction Manager shall coordinate with the appropriate permitting authorities.

ARTICLE 4

CONTRACT TIME

- 4.1 The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Final Completion of the Work is referred to hereafter as the "Contract Time". With respect to the Construction Phase Services, the "Construction Phase Commencement Date" shall be established in the GMP Addendum. No portion of the Work, with respect to the Construction Phase Services, shall be performed prior to the Construction Phase Commencement Date, unless expressly approved in advance by the City in writing. The GMP Addendum shall also include the date that portion of the Work associated with the Construction Phase Services must be substantially completed by Construction Manager. The "Substantial Completion" date shall be established in terms of calendar days after the Construction Phase Commencement Date. Unless noted otherwise, the Final Completion Date is 45 (forty-five) days after Substantial Completion. In the event Construction Manager and City fail to reach an agreement on the Contract Time, City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre Construction Phase Services earned to the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by City; but Construction Manager shall not be entitled to any further or additional compensation from City, including, but not limited to, damages or lost profits on portions of the Work not performed.
- 4.2 Liquidated Damages. City and Construction Manager recognize that, since time is of the essence for this Agreement, City will suffer financial loss if the Work associated with the Construction Phase is not substantially completed within the time specified in the GMP Addendum, as said time may be adjusted as provided for herein. In such event, the total amount of City's damages, will be difficult, if not impossible, to definitively ascertain and quantify, because this is a public construction project that will, when completed, benefit the public in the City of Kissimmee, Florida. It is hereby agreed that it is appropriate and fair that the City receive liquidated damages from Construction Manager, if Construction Manager fails to achieve Substantial Completion of the Work within the required Contract Time. Should the Contractor not meet the Substantial Completion Date as set forth herein as adjusted by approved Change Order, plus 30 days "Grace Period", liquidated damages will be assessed at a daily rate of \$1500 for each calendar day thereafter until Substantial Completion is achieved.. Construction Manager hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represent a fair and reasonable estimate of City's actual

damages at the time of contracting if Construction Manager fails to substantially complete the Work in a timely manner.

Liquidated Damages shall be capped at a maximum value not to exceed two times Contractor's fee, and except as expressly provided in the Contract Documents, the ultimate amount so determined shall be the sole and exclusive monetary remedy for delays whether at law or in equity recoverable against Contractor by the Owner for all monetary damages relating solely to delays in Substantial Completion. The parties reserve all other rights available to each of them under this Agreement with respect to delays in Substantial Completion.

4.3

ARTICLE 5

CONTRACT TIME EXTENSIONS

- 5.1 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not restricted to acts of God or the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, utility work being performed within the Project limits, or by unusually severe weather conditions by comparison with the ten year Osceola City, Florida average not reasonably anticipatable, Construction Manager shall notify City's Representative and Architect/Engineer, in writing within seven (7) calendar days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a Contract Time Extension. Contract Time Extension requests shall be evaluated through the Change Order process.
- 5.2 If Construction Manager encounters on the Project site any materials reasonably believed by Construction Manager to be petroleum, or petroleum related products, or other hazardous or toxic substances which have not been rendered harmless, Construction Manager immediately shall: (i) stop Work in the area affected, and (ii) report the condition to City's Representative in writing. If the Work is so stopped in excess of ten (10) days and hazardous material is found, the Work in the affected area shall not thereafter be resumed except by Change Order. Any such Change Order shall include, but not be limited to, an adjustment to the Contract Time as appropriate. If no hazardous material is found after the Work is stopped, no Change Order is required to resume the Work in the affected area. Further, if the hazardous material was generated or caused by the Construction Manager or any of its employees, agents, subcontractors, or material suppliers, no Change Order will be required for an adjustment in the Contract Time and Construction Manager shall indemnify the City and hold City harmless for any costs incurred by the City with respect to such material.
- 5.3 NO DAMAGES FOR DELAY. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the City and Architect/Engineer may be responsible, in whole or in part, shall relieve Construction Manager of his duty to perform, or give rise to any right to damages or additional compensation from the City. Construction Manager's sole remedy, if any, against the City will be the right to seek an extension to the Contract Time and the payment of additional Costs of the Work and associated increase in the Construction Manager's Fee, as allowed pursuant to Article 6. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion. In no event shall the City be liable to Construction Manager, whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

ARTICLE 6

CONTRACT AMOUNT

6.1 In consideration of the full and faithful performance by the Construction Manager of the covenants in this Agreement, City agrees to pay, or cause to be paid, to Construction Manager the following amounts (hereinafter collectively referred to as "Contract Amount"), in accordance with the terms of this Agreement and with the Hourly Rate Schedule attached hereto and incorporated herein as **Exhibit "K"**. The Hourly Rate Schedule identifies all job classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.

6.1.1 Pre-Construction Phase Services - For all Pre-Construction Phase Services enumerated in this Agreement, including, but not limited to, providing value engineering, reviewing documents for constructability, assisting and meeting with the City and the Design professionals, preparing cost estimates and schedules and preparing the GMP Proposal, Construction Manager shall receive the lump sum amount as specified in the Pre-Construction Services Addendum and in accordance with the payment schedule set forth in said Addendum.

6.1.2 Construction Phase Services – With respect to the Construction Phase Services to be provided by Construction Manager, City shall: 1) reimburse Construction Manager for the Cost of the Work; and 2) pay the Construction Manager a Construction Manager's Fee to be negotiated as part of the GMP Addendum process.

6.1.2.1 Construction Manager's Fee: The Construction Manager's Fee shall be Construction Manager's total compensation for the Construction Manager's profit on the Cost of the Work, as defined below. Construction Manager agrees to provide City with a GMP Proposal for the total sum of the Construction Manager's Fee, plus the Cost of the Work, plus the Construction Manager's Contingency, after the Construction Manager determines the Construction Documents are sufficiently complete.

6.1.2.2 The GMP Proposal shall be based upon actual subcontractor cost proposals with the various subcontractors. Further, the proposal shall be broken down into the categories and level of detail required by City's Representative. Construction Manager agrees that all its books, records and files, with respect to its development of the GMP Proposal, shall be open to City for review and copying. The final GMP Proposal shall be mutually agreed upon by City and Construction Manager and shall be set forth in the GMP Addendum (**Exhibit "C"**). The GMP Addendum shall further identify the drawings, specifications (Schedule 1 of the GMP Addendum) and other descriptive documents (Schedule 4 of the GMP Addendum) upon which the GMP is based. The Construction Manager guarantees that in no event shall the sum of the Construction Manager's Fee, the total Cost of the Work, and the Construction Manager's Contingency exceed the GMP. The Construction Manager acknowledges multiple GMP Addendums may be required for the portions of the Project to support the Project phasing and schedule.

6.1.2.3 The amount to be paid for Construction Manager's Fee shall be stated in the GMP Addendum. The Construction Manager's Fee shall be paid proportionally to the ratio of the Cost of the Work completed. The balance of the Construction Manager's Fee shall be paid at Final Completion. If construction is authorized for a portion of the Project, the Construction Manager's Fee shall be paid proportionally to the amount of the Work authorized by the City.

6.1.2.4 In the event Construction Manager and City fail to reach an agreement on the GMP, the City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the completed Pre Construction Phase Services; but Construction Manager shall not be entitled to any further additional compensation from City, including but not limited to damages or lost profits on portions of the Work not performed. Construction Manager may be required to continue to provide all other agreed upon Pre Construction services.

6.1.2.5 The Construction Manager will not be due any increases in the Construction Manager's Fee on increases in the GMP value that do not exceed a cumulative total of a specified amount which shall be stated as a "nominal overage" in the GMP Addendum. Should the GMP value be increased by more than such nominal overage amount under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager's additional Construction Manager's Fee will be (5) five percent of that portion of the accumulative increases in the GMP value that exceed the GMP value by more than such nominal overage amount.

6.1.3 Cost of the Work. The Phrase "Cost of the Work" shall mean all costs necessarily and reasonably incurred by Construction Manager in the proper performance of the Construction Phase Services portion of the Services. Such costs shall be at rates not higher than the standard paid at the place of the Project except with the prior written consent of City only after Construction Manager has provided sufficient support in writing that exceptional circumstances exist, which justify the payment of rates higher than the standard. The Cost of the Work shall include only those items set forth below in this subsection 6.1.3:

6.1.3.1 Construction Phase Costs: The following items constitute the elements that can be included in the Construction Phase Cost calculations.

6.1.3.1.1 Wages of construction workers directly employed by Construction Manager to perform the construction of the Work at the Project site or, with City's written agreement, at off-site workshops;

6.1.3.1.2 Wages of Construction Manager's supervisory, technical and administrative personnel who are stationed at the Project site as specified in Schedule 1 to the proposed GMP;

6.1.3.1.3 Wages of Construction Manager's supervisory and administrative personnel engaged at factories, workshops or on the road in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and only with City's written agreement;

6.1.3.1.4 Wages of Construction Manager's supervisory, technical, and administrative personnel when assigned to this Project and specifically working on this Project in the Construction Manager's administrative or home office, as specified in Schedule 1 to the proposed GMP ;

6.1.3.1.5 Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts;

6.1.3.1.6 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents;

6.1.3.1.7 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof;

6.1.3.1.8 Minor expenses at the site, such as internet, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.

6.1.3.2 Subcontract and Material Costs. All Subcontractor Costs will be documented and signed by Subcontractor invoices and all material costs will be documented by copies of invoices. Subcontract and Material Costs may also be referred to as "Reimbursable Costs". All requests for payment of expenses eligible for reimbursement under the terms of this Agreement, unless otherwise specifically stated herein, shall be reimbursed per the City's Reimbursable Schedule that is attached hereto as **Exhibit "J"** and made a part of this Agreement. Reimbursable Costs shall include:

6.1.3.2.1 Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, which are used in the support of a sub-contractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area;

6.1.3.2.2 Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum of the final Contract Amount, adjusted to include any previously deducted City Direct Purchase amounts, and Construction Manager bonds will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. **There shall be no Construction Phase Fee on this item;**

6.1.3.2.3 Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles, provided they have resulted from causes other than the negligent misconduct of Construction Manager;

6.1.3.2.4 Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable;

- 6.1.3.2.5 The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship, or other causes due to the negligence of the Construction Manager or his subcontractors or suppliers. No costs shall be paid by the City to the Construction Manager for any expenses made necessary to correct defective workmanship, or to correct any work not in conformance with the Plans and Specifications, or to correct any deficiency or damage caused by negligent acts by the Construction Manager;
- 6.1.3.2.6 Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of Subcontractors, except in the case of a Subcontractor's default;
- 6.1.3.2.7 Costs for trash and debris control and removal from the site;
- 6.1.3.2.8 Costs incurred due to an emergency affecting the safety of persons and property;
- 6.1.3.2.9 Legal costs reasonably and properly resulting from prosecution of the Project for the City, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations: 1) The City approved, in writing, incurring such costs in advance, which approval shall be in the City's sole discretion; and 2) the legal costs were not incurred as result of the Construction Manager's own negligence or default. This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders, or in enforcing the obligations of this Agreement;
- 6.1.3.2.10 Transportation outside of Osceola City for those personnel employed directly for the project, not including relocation expenses. Such transportation must be extraordinary and be approved in advance by the City's Representative, and will be in accordance with the Construction Manager's standard personnel policy;
- 6.1.3.2.11 Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the project;
- 6.1.3.2.12 Costs for watchman and security services for the project, if necessary;
- 6.1.3.2.13 Costs for efficient logistical control of the Project, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space;
- 6.1.3.2.14 Costs for such temporary facilities and temporary protection during construction, as approved by the City, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software;

- 6.1.3.2.15 Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Work;
- 6.1.3.2.16 Costs, including transportation, installation, maintenance, dismantling and removal or materials, supplies, temporary facilities (including Project field offices, furniture and fixtures), temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager;
- 6.1.3.2.17 Rental charges, at standard industry rates for the area, for temporary facilities, machinery, vehicles, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site, whether rented from Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of all equipment rented, whether from Construction Manager or others, shall be subject to the prior written approval of City's Representative;
- 6.1.3.2.18 Costs, fees and assessments for the building permit and for other permits, licenses and inspections for which Construction Manager is required by the Contract Documents to pay;
- 6.1.3.2.19 Cost of Public Information Programs or other neighborhood functions hosted by Construction Manager at the direction of City's Representative;
- 6.1.3.2.20 Costs of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded pursuant to the terms of this Agreement;
- 6.1.3.2.21 Cost of documentation, inspection and testing as required for the preparation of the Final Estimate and implementation of the FDOT Contractor Quality Control process;
- 6.1.3.3 Costs Not To Be Reimbursed. The Cost of the Work shall not include the following items: Except as provided in Article 6, Section 6.1.3.1:
- 6.1.3.3.1 Temporary living and travel expenses of employees who are not relocated, but are assigned to the Project;
- 6.1.3.3.2 Except as provided in the Fringe Benefits rate included in Article 6, Section 6.1.3.1.4, expenses of Construction Manager's principal office and offices other than the Project site office;
- 6.1.3.3.3 Overhead and general expenses, except as may be expressly included in Article 6, Section 6.1.3.1 and 6.1.3.2;

- 6.1.3.3.4 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work;
- 6.1.3.3.5 Rental costs of machinery and equipment, except as specifically provided in Article 6, Section 6.1.3.2.1;
- 6.1.3.3.6 Except as expressly provided in Article 6, Section 6.1.3.2.5, costs due to the negligence of Construction Manager, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, costs for the correction of damaged, defective, or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied;
- 6.1.3.3.7 Any costs not specifically and expressly described in Article 6, Section 6.1.3.1 and 6.1.3.2 above;
- 6.1.3.3.8 Construction Manager is responsible, without reimbursement from City, for re-inspection fees and costs; to the extent such re-inspections are due to the negligence of the Construction Manager;
- 6.1.3.4 Adjustments in Construction Phase Costs: For changes in the Project as provided in Article 7, the Construction Phase Costs shall be adjusted as follows:
 - 6.1.3.4.1 The Construction Manager shall be paid an additional amount, subject to negotiation, if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss, excluding any condition that may have been caused from negligent acts by the Construction Manager.
 - 6.1.3.4.2 Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs or Construction Manager's Fee paid to the Construction Manager, unless such delays are as defined in Article 7.
- 6.1.4 City's Allowance: The GMP Addendum shall include the City's Owner Allowance, which permits the City to authorize the Construction Manager to perform work which may not have been specifically addressed in the original contract documents, but which the City deems necessary for the project. The City's Allowance is also intended to protect against price increases between the GMP Addendum and the completion of the 100% Construction Documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction, and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the City's Allowance prior to the release of funds by the City. Documentation for use of the City's Allowance shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. The Architect/Engineer shall verify the actual costs. The maximum dollar amount of permitted Allowance Work shall be 5% of the GMP or \$250,000, whichever is less. The City Manager or his designee can approve the use of the City's Allowance up to \$50,000 per occurrence. When allowance funds are utilized for changes and/or additions to the work, the CM shall submit a written request to the City's Representative, in the same manner as a change order request. The City's Representative shall

prepare an Allowance Authorization Release, in form attached here to as **Exhibit "I"** to this Agreement.

The GMP Addendum may, at the City's discretion, also contain allowance time, not to exceed fifteen (15) percent of the total amount of time allotted for the work. This time shall be used for any unforeseen changes to the work which may cause the time to be extended and will be granted via an Allowance Authorization Release, approved by the City Manager or his designee.

6.1.4.1 Following the full execution of the GMP Addendum, at a point mutually agreed upon between the City's Representative and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds may be taken from the City's Allowance. If the net amount of the buyout results in a savings, the savings will be assigned to the City's Buyout Allowance.

6.1.5 The City's Buyout Allowance shall be created by savings generated by the subcontractor buyout, unused contingency funds, and also by reductions in scope that otherwise could reduce the GMP. The intent of this City's Buyout Allowance is to allow funds already approved within the GMP Addendum to remain and be used at the City's discretion for scope issues that may become required and/or desired during the course of the project. Authorizations up to \$50,000, for the use of the City's Buyout Allowance, will be granted by the City Manager, or his designee. Authorizations for more than \$50,000 will be required to be obtained from the Board. The City's Representative shall prepare an Allowance Authorization Release, in form attached here to as **Exhibit "N"** to this Agreement.

ARTICLE 7

CHANGE IN THE PROJECT

7.1 Change Orders:

7.1.1 City shall have the right, at any time during the progress of the Work, to increase or decrease the Work. Promptly after being notified of a change, but in no event more than 14 days after its receipt of such notification (unless City's Representative has agreed in writing to a longer period of time), Construction Manager shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Architect/Engineer, no addition or changes to the Work shall be made except upon written order of City, and City shall not be liable to Construction Manager for any increased compensation or adjustment to the Contract Time without such written order.

7.1.2 A Change Order, in form attached here to as **Exhibit "H"** to this Agreement, shall be prepared by City's Representative, reviewed by Architect/Engineer and Construction Manager, and executed promptly by the parties after an agreement is reached between Construction Manager and City, concerning the requested changes. Construction Manager shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as City and Construction Manager shall mutually agree.

7.1.3 Notwithstanding anything in the Contract Documents to the contrary, if conditions are encountered at the Project site which are: (1) subsurface or otherwise concealed

physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of any unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and which reasonably would not have been discovered by Construction Manager as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager shall provide City's Representative with prompt written notice thereof before conditions are disturbed and in no event later than 48 hours after first observance of such conditions. City's Representative and Architect/Engineer shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, City will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If City's Representative determines that the conditions at the site are not materially different from those indicated in the Contract Document or not of an unusual nature or should have been discovered by Construction Manager as part of its investigative services, and that no change in the terms of the Contract is justified, City shall so notify Construction Manager in writing, stating its reasons. Claims by Construction Manager in opposition to such determination by City must be made within 48 hours after Construction Manager's receipt of the written determination of City's Representative. If City's Representative and Construction Manager cannot agree on an adjustment to the Contract Amount or Contract Time, the parties shall comply with the dispute resolution procedure set forth in the Contract Documents.

- 7.1.4 The increase or decrease in the GMP as set forth in the GMP Addendum resulting from a change in the Project shall be determined in one or more of the following ways: 1) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and City's Representative, or 2) by unit prices stated in the Agreement or subsequently agreed upon.
- 7.1.5 If none of the methods set forth in Article 7, Section 7.1.4 is agreed upon, the Construction Manager, provided he receives a written order signed by the City, shall promptly proceed with the Work involved. The increase or decrease in the GMP shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate, without prior written approval by the City's Representative. In such case, and also under Article 7, Section 7.1.4 above, the Construction Manager shall keep and present, in such form as the City's Representative may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Work as outlined in Article 6., Section 6.1.3.2 Should Contractor not agree with this method of calculation Contractor may, without delaying the prosecution of the work, submit a Claim for relief consistent with the terms of this Agreement Contractor shall ensure that any subcontractor dispute is subject to the same Claims procedure.
- 7.1.6 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the City or the Construction Manager, the applicable unit prices and GMP shall be equitably adjusted.

- 7.1.7 In the event the Construction Manager encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop Work in the area affected and report the condition to the City in writing. City shall thereafter, as soon as reasonably possible, conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste, or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the City to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
- 7.1.8 The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to the changes clause herein.
- 7.1.9 *Intentionally omitted.*
- 7.1.10 Claims for Additional Cost or Time: All claims for additional cost or time, in excess of what is addressed in Article 6.1.4, shall be made by request for a Change Order submitted as provided in this Article. The Substantial Completion date shall be extended by Change Order for such reasonable time as the Construction Manager may determine. If the Construction Manager is delayed at any time in the progress of the Work by any act or neglect of the City or the Architect/Engineer or of any employee of either or by any separate Construction Manager employed by the City or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the City pending resolution of disputes, and such delay extends the completion date, then the dates for completion may be equitably adjusted. Only delays, which are determined to extend the critical path of the schedule for constructing the project, will result in a time extension.
- 7.1.11 Minor Changes in the Project: The City will have authority to order minor changes in the Project not involving an adjustment in the Contract Amount or Contract Time and not inconsistent with the intent of the Construction Documents. Such changes shall be effected in writing. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. Changes shall be approved by the City and Architect/Engineer.
- 7.1.12 Emergencies: In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the GMP or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided herein. Construction Manager shall take immediate action to prevent injury to any person or damage to any property (including the Work and any adjacent property) which otherwise might arise from an emergency event at the Project Site.

If conditions are such that it is safe to return to the Project site, Construction Manager shall give Architect/Engineer written notice within 48 hours after the occurrence of the emergency, if Construction Manager believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Architect/Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Construction Manager fails to provide the 48 hour written notice noted above, Construction Manager shall be deemed to have waived any right it otherwise may have had to seek and adjustment to the Contract Amount or an extension to the Contract Time. Construction Manager is obligated to promptly report in writing to City all accidents relating to the Work that result in any personal injury or property damage.

ARTICLE 8

PAYMENTS TO THE CONSTRUCTION MANAGER

8.1 Progress Payments for Construction Phase Services

- 8.1.1 Construction Manager's monthly Applications for Payment shall be in a form, as shown in **Exhibit "F"**, and shall contain such detail and backup as City reasonably may require. Such detail and backup shall include documentation of actual payments made.
- 8.1.2 At the time it submits its GMP Proposal to City, Construction Manager shall submit to City's Representative and Architect/Engineer, for their review, a Schedule of Values based upon the GMP Proposal. The Schedule of Values will be based on the major items of work. The Schedule of Values will be structured so that the costs of the major items of work can be allocated to the various elements of work. The Schedule of Values shall be updated for the current month Change Orders and submitted each month to Architect/Engineer along with a completed and notarized copy of the Application for Payment form attached to the Agreement as **Exhibit "F"**.
- 8.1.3 If the payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at an approved location off site, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that City has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect City's interest therein, all of which shall be subject to City's satisfaction.
- 8.1.4 Construction Manager shall submit a notarized original of its monthly Application for Payment to City's Representative, or Architect/Engineer, as directed by the City's Representative, on a monthly basis, on or before the 25th of each month. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within seven calendar days after receipt of each Application for Payment, Architect/Engineer shall submit to City's Representative, a certification of the Application for Payment in the amount recommended by Architect/Engineer as being due and owing Construction Manager. Upon approval by City's Representative, payment shall be made to Construction Manager in accordance with the Florida Prompt Payment Act Statute 218.735. As a condition to the application for the monthly partial pay requisition, the Construction Manager agrees

that all as-built information will be recorded within 30 days after receipt of information that a change to the Construction Documents has occurred.

- 8.1.5 Ten percent (10%) retainage shall be held on all payments until the Construction Phase is 50% complete, except when approved by the City, certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. After 50% completion, the amount of retainage shall be reduced from 10% to 5%, in accordance with Section 255.078, Florida Statutes. Retainage shall not be withheld on services or fees set forth in Article 6, Section 6.1.2 and 6.1.3.
- 8.1.6 Monthly payments to Construction Manager shall in no way imply approval or acceptance of Construction Manager's work.
- 8.1.7 Each Application for Payment shall be accompanied by a Release and Affidavit showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full through the previous month's Application for Payment. City shall not be required to make payment until and unless these affidavits are furnished by Construction Manager. Further, if Construction Manager is withholding any portion of a payment to any subcontractor for any labor, services, or materials for which City has paid Construction Manager, Construction Manager agrees to refund such money to City.

8.2 Payments Withheld

Architect/Engineer shall review each Application for Payment submitted by Construction Manager and shall make recommendations to City's Representative as to the proper amounts, if any, which may be owed Construction Manager under the Application for Payment. Both Architect/Engineer and City's Representative shall have the right to refuse to certify or approve for payment any amounts, or portions thereof, requested by Construction Manager in an Application for Payment, and City's Representative may withhold any payments otherwise due Construction Manager under this Agreement, to the extent it is reasonably necessary, to protect City from any expense, cost or loss attributable to: (a) defective or deficient Work not properly remedied in accordance with the terms of the Contract Documents; (b) the filing or reasonable evidence indicating the probable filing of third party claims against City attributable to the negligence of Construction Manager; (c) Construction Manager's failure to make timely and proper payments to all subcontractors and suppliers; (d) reasonable evidence that the remaining Work cannot be completed for the unpaid Contract Amount balance; (e) reasonable evidence indicating that the remaining Work cannot be completed within the remaining Contract Time; (f) Construction Manager's failure to satisfactorily prosecute the Work in accordance with the requirements of the Contract Documents; or (g) any other material breach of the requirements of the Contract Documents by Construction Manager. City shall have the right, but not the obligation, to take any corrective action City deems appropriate to cure any of the above noted items (including withholding Contractor payment), at the Construction Manager's expense, if Construction Manager has not started with a cure, to the City's reasonable satisfaction, of any of the above noted items within ten working days after Construction Manager's receipt of written notice from City.

8.3 Final Payment.

City shall make final payment to Construction Manager provided the Work is finally accepted by City in accordance with Article 2, Section 2.5.2, and provided that Construction Manager first, and as an explicit condition precedent to the accrual of Construction Manager's right to final payment, shall have furnished City with a properly executed and notarized final release

(conditioned only upon receipt of final payment) in the form of the Release and Affidavit attached to the Agreement as **Exhibit "E"**, as well as a duly executed copy of the surety's consent to final payment and such other documentation that may be required by the Contract Documents or City. Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against City arising out of this Contract or otherwise relating to the Project, except those identified in writing by Construction Manager as unsettled in the final Application for Payment. Neither the acceptance of the Work nor the payment by City shall be deemed to be a waiver of City's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective Work not discovered by City's Representative or Architect/Engineer at the time of final inspection. The Project will be considered complete when all Work has been completed and accepted by the Board of City Commissioners. The Construction Manager will then be released from further obligation except as set forth in Section 2.6 Warranty.

ARTICLE 9

INSURANCE, WAIVER OF SUBROGATION, AND INDEMNITY

9.1 Construction Manager's Insurance:

9.1.1 The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the City, nor shall the Construction Manager allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida with an A.M. Best & Company rating of no less than A. The insurance company must have a current A.M. Best & Company financial rating of Class VIII or higher. The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida. The insurance company must have been in such insurance business continuously for not less than 5 years prior to the date of the execution of this Agreement.

9.1.2 Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the City, for the protection of employees not otherwise protected. Employers' liability shall be set at \$1,000,000/1,000,000/1,000,000.

9.1.3 Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect him from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by himself or by anyone directly or

indirectly employed by him, and the amount of such insurance shall be minimum limits as follows:

- 9.1.3.1 Construction Manager's Comprehensive General, \$1,000,000 Each (\$2,000,000 aggregate) Liability Coverages, Bodily Injury Occurrence, & Property Damage Combined Single Limit
- 9.1.3.2 Automobile Liability Coverages, \$1,000,000 Each Bodily Injury & Property Damage Occurrence, Combined Single Limit
- 9.1.3.3 Excess Liability, Umbrella Form \$2,000,000 Each Occurrence, Combined Single Limit
- 9.1.3.4 Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis. There shall not be an EFIS Exclusion Endorsement on any general liability policy. The Products and Completed operations portions of the General Liability shall extend for a period of two years after the Final Acceptance of the Project by the City.
- 9.1.4 Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of his subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in his policy, as specified above.
- 9.1.5 *Intentionally omitted.*
- 9.1.6 "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
- 9.1.7 Broad Form Property Damage Coverage, Products & Completed Operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.
- 9.1.8 Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
- 9.1.9 Certificate of Insurance - The City shall be furnished proof of coverage of Insurance as follows:
 - 9.1.9.1 Certificate of Insurance form will be furnished to the City. These shall be completed and signed by an authorized Resident Agent. This Certificate shall be dated and show: the name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. Such Certificates of Insurance shall be updated within five (5) business days of the expiration of or material change to any insurance evidenced on the Certificate of Insurance.
 - 9.1.9.2 Certificate of Insurance shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverages required in this Section.

9.1.9.3 City of Kissimmee, a municipal corporation of the State of Florida, is to be named as an Additional Insured under all policies except for Worker's Comp.

9.1.9.4 The insurance evidenced by the certificate shall be primary and non-contributory to any other insurance of the certificate holder.

9.1.9.5 The Notice to Proceed will not be given until the Construction Manager has obtained all the insurance and Bonds required by the Contract Documents and such insurance has been approved by the City.

9.1.10 The Construction Manager shall not be required to provide Builder's Risk or Architects' and Engineers' Professional Liability Insurance unless specifically requested by the City. The City has Builder's Risk coverage and will provide the Construction Manager with appropriate Certificate of Insurance upon request. The City's Builder's Risk policy does not insure the Construction Manager's tools, machinery or equipment that is stored at the Project site. The Construction Manager should provide insurance in the form of an equipment floater for the Construction Manager's tools and equipment and the City should be named as an additional insured on the Construction Manager's policy with an appropriate waiver of subrogation as to any claims the Construction Manager or the Construction Manager's insurer may have against the City arising from the storage of the Construction Manager's tools and equipment. The Construction Manager shall be responsible for the first \$5,000 of any claim against the City's Builder's Risk policy.

9.1.11 The Construction Manager shall not allow a subcontractor to work on the Project without the subcontractor carrying its own Workers Compensation and Liability insurance or the Construction Manager covering the subcontractor under its policies. This requirement is the same for each succeeding sub-tier contractor. The Construction Manager shall provide proof of such coverage to the City upon the City's request.

9.2 Waiver of Subrogation:

9.2.1 The Construction Manager shall ensure all insurance policies it maintains in fulfillment of its obligations under this Agreement shall contain a waiver of subrogation against the City, its officials, employees, agents and consultants. Waiver of subrogation will apply to the general liability and workers compensation policies. The City, a municipal corporation of the State of Florida, shall be named as an additional insured with respect to liability arising from all Services and work performed under this Agreement for automotive and general liability policies of insurance, and such policies should so state in the Certificate of Insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

9.2.2 The Construction Manager hereby waives all rights against the City for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

9.3 Indemnification of City

Construction Manager, to the maximum extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to City) protect and hold the City, and its officers, employees and agents harmless from and against any and all, claims, actions, causes of action,

liabilities, penalties, forfeitures, damages, losses, and expenses (including, without limitation, attorneys' fees costs and expenses incurred during negotiation, through litigation and all appeals therefrom) whatsoever including, but not limited, to those pertaining to the death of or injury to any person, or damage to any property, to the extent caused by (i) the failure of Construction Manager to comply with applicable laws, rules or regulations, (ii) the breach by Construction Manager of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of Construction Manager's performance or nonperformance of this Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Construction Manager, its professional associates, subcontractors, agents, and employees; provided, however, that Construction Manager shall not be obligated to defend or indemnify the City with respect to any such claims or damages arising out of the City's sole negligence. The provisions of this Section shall include any claims for equitable relief or for damages (compensatory or punitive) against the City, its agents, officials, and employees including alleged injury to the business or any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include, without limitation, the costs incurred by the City, its agents, officials and employees in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees, costs and expenses incurred by reason of the assertion of any such claim against the City, its agents, officials or employees.

The Construction Manager expressly understands and agrees that any insurance protection required by this Agreement, or otherwise provided by the Construction Manager, shall in no way limit the Construction Manager's responsibility to release, indemnify, keep and save harmless and defend the City as herein provided. The intention of the parties is to apply and construe broadly in favor of the City the foregoing provisions subject to the limitations, if any, set forth in the Florida Statutes. The Construction Manager shall obtain an endorsement or other affirmative coverage from its insurance policies required by this Agreement insuring the Construction Manager's contractual obligations under this Section. The obligations imposed by this Section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 10

TERMINATION OF THE AGREEMENT AND THE CITY'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

10.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the City's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the City, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

10.2 City's Right to Perform Construction Manager's Obligations and Termination by City for Cause:

10.2.1 If the Construction Manager fails to perform any of his obligations under this Agreement, including any obligation he assumes to perform work with his own forces, the City may, after seven (7) days written notice during which period the

Construction Manager fails to perform such obligation, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the City of making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

10.2.2 The City may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient if: the Construction Manager is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls 45 days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a breach of a material provision of the Agreement. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished, nor shall he be relieved from his obligations assumed under Article 6. Reasonable terminal expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

10.2.3 The City may terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, purchased by the Construction Manager for incorporation into or use on the Project, and may finish the project by whatever method he may deem expedient, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to allow access to the City. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding moneys owed to the Construction Manager for subcontract work).

10.3 Termination by City Without Cause:

10.3.1 The City may, at any time, terminate this Agreement for the City's convenience and without cause.

10.3.2 Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

10.3.2.1 Cease operations as directed by the City in the notice;

10.3.2.2 Take actions necessary, or that the City may direct, for the protection and preservation of the Work; and

10.3.2.3 Terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for Work directed to be performed prior to the effective date of termination stated in the notice.

10.4 In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable fee, as defined in Article 6, overhead and profit on the Work performed.

ARTICLE 11

ASSIGNMENT AND GOVERNING LAW

11.1 Neither the City nor the Construction Manager shall assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

11.2 This Agreement shall be governed by the Laws of the State of Florida. Venue shall be as specified in Section 13.2.3. The parties waive all rights to trial by jury.

ARTICLE 12

NOTICE OF CLAIM: WAIVER OF REMEDIES

12.1 The City's liability to the Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the City of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions, subject to Section 13.4 herein:

12.1.1 All claims must be submitted as a Request for Change Order in the manner as provided herein;

12.1.2 The Construction Manager must submit a Notice of Claim to City within 20 days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and

12.1.3 Within 10 days of submitting its Notice of Claim, the Construction Manager shall submit to the City its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected. The Construction Manager agrees that the City shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the City is prejudiced by the failure of the Construction Manager to give notice. In the event a Claim is not resolved to Contractor's satisfaction, Contractor may initiate the Contract's dispute resolution procedures.

12.2 After receipt of a Request for Change Order, the City, in consultation with the Engineer, shall deliver to the Construction Manager its written determination of the claim.

12.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 6, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the City or the Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with

Article 12.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in such work, and eliminate any other remedies for claim, for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 13

MISCELLANEOUS

13.1 Harmony:

The Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and his Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.

The Construction Manager further agrees that this provision will be included in all subcontracts of the Subcontractors as well as the Construction Manager's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

13.2 Dispute Resolution:

13.2.1 All claims, disputes and other matters in question (hereinafter referred to as a "Controversy") between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.

13.2.2 Should either the City or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement between said parties, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

13.2.3 Any litigation between the City and Construction Manager (which term for the purposes of this subparagraph shall include the Construction Manager's surety), whether arising out of any claim as described in Article 12, or Controversy arising out of this Agreement or any breach thereof, shall be brought, maintained, and pursued only in the State of Florida's Ninth Judicial Circuit in and for Osceola County, Florida or in the United State District Court, Middle District of Florida in Orange County, Florida. Construction Manager consents and submits to the jurisdiction of such courts and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

13.3 Construction Manager's Project Records and City's Auditing Rights

The Construction Manager's Project Records shall be maintained as prescribed hereinabove for the minimum period required by State and Federal Law, and shall be made available to the City or his authorized representative at mutually convenient times.

Construction Manager shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of 3 years from the date of termination of this Agreement or the date the Project is completed, whichever is later or such longer period of time as may be required by law. Construction Manager shall require all of its subcontractors to likewise retain all of their Project records and supporting documentation. City, and any duly authorized agents or representatives of City, shall be provided access to all such records and supporting documentation at any and all times during normal business hours upon request by City. Further, City, and any duly authorized agents or representatives of the City, including, without limitation, the Department of Inspector General of the Clerk of the Circuit Court and City Comptroller, shall have the right to audit, inspect and copy all of Construction Manager's and any subcontractor's Project records and documentation as often as they deem necessary and Construction Manager shall cooperate in any audit, inspection, or copying of the documents.

If at any time, the City, or its duly authorized agents or representatives, conducts such an audit of Construction Manager's records and documentation and finds that Construction Manager overcharged City, Construction Manager shall pay to City the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). If the Audit Amount is equal to or greater than \$10,000.00, which is defined as the total aggregate of City's reasonable audit costs incurred as a result of its audit of Construction Manager, City may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing Construction Manager with regard to the Project or under any other agreement between Construction Manager and City. If such amounts owed Construction Manager are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Construction Manager hereby acknowledges and agrees that it shall pay such remaining amounts to City within 30 business days of its receipt of City's invoice for such remaining amounts. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable Cost of the Work.

This Article, including all access, inspection, copying, auditing, reimbursement and repayment rights shall survive the termination of this Agreement.

13.4 **LIMITATION OF LIABILITY**

IN NO EVENT, SHALL THE CITY BE LIABLE TO THE CONSTRUCTION MANAGER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE CITY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

With respect to the Owner's claims for breach of contract, negligence or other act or omission of Contractor (other than failure to achieve Substantial Completion of the Work by the Contract Time and/or the applicable Milestone dates established in this Agreement, which are addressed by the liquidated damage provisions of this Agreement), the Owner agrees that the Owner's ability to recover damages related to lost revenue or profit arising from the inability to use or occupy the Work and/or for lost profit, loss of use, increased financing costs, damage to business or reputation or loss of management or employee productivity shall be limited to the amount of such damages as are covered by any insurance covering the Work, the Contractor or its Subcontractors, or the acts or omissions of the Contractor and/or its Subcontractors in connection with the Project (including any self-insured retention or deductible comprising or applicable to such coverage). However, Contractor acknowledges and agrees: (a) that the foregoing limitation does not apply to Contractor's liability for costs to repair defects or deficiencies in the Work performed by Contractor or to repair or replace other property that is physically damaged as a result of defects or deficiencies in the Work; (b) that the foregoing limitation shall not apply to claims asserted by third parties with respect to whom Contractor owes an obligation of indemnity pursuant to this Agreement or applicable law (even if

such third party claim seeks damages of the type for which the Owner has limited recovery as set forth above); and (c) that the foregoing limitation is not intended to prevent, and shall not preclude, Owner's recovery of liquidated damages to the extent allowed by this Agreement.

13.5 Cleanup and Protections

Construction Manager agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. If Construction Manager fails to keep the Project Site clean, City has the right, after providing a 24 hour written notice, to perform any required clean up and to backcharge the Construction Manager for the costs of such clean up. At the completion of the Work, Construction Manager shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project Site clean and ready for occupancy by City.

Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Construction Manager from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Construction Manager to condition at least equal to that existing at the time of Construction Manager's commencement of the Work.

13.6 Ownership of Documents

All analyses, reference data, bills, completed reports, or any other form of written instrument or document created or resulting from the Construction Manager's performance of the Services pursuant to this Agreement shall become the property of the City after payment is made to the Construction Manager for such instruments or documents.

13.7 No Contingent Fees

The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award of or making of the Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

13.8 Sovereign Immunity

Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable. Nothing in this Agreement is intended to be, nor shall be construed as an extension of liability beyond the statutory limitations of liability set forth in section 768.28 Florida Statutes. Except for the enforcement of the express provisions of this Agreement, which may only be enforced by the expressly identified parties to the Agreement, the City of Kissimmee shall have and maintain all rights, privileges, and immunities of sovereign immunity, including, but not limited to those at common law, and those rights and limitations of liability set out in section 768.28 Florida Statutes."

13.9 Public Entity Crimes

The Construction Manager understands and acknowledges that this Agreement will be voidable by the City in the event the conditions stated in Florida Statutes, Section 287.133 relating to conviction for a public entity crime apply to the Construction Manager.

13.10 Non-Discrimination

The Construction Manager warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

13.11 All Prior Agreements Superseded

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and 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 or its designated exhibits. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. No modification, amendment or alteration in the terms or conditions contained herein, unless otherwise stated herein, shall be effective unless agreed to and executed in writing by both parties to this Agreement in a form acceptable to the City.

13.12 Independent Contractor

Nothing stated in this Agreement is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties, or as constituting the Construction Manager (including its officers, employees, and agents) as the agent, representative, or employee of the City for any purpose, or in any manner, whatsoever. The Construction Manager is to be and shall remain forever an independent contractor with respect to all Services performed under this Agreement. The Construction Manager shall not pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and the Construction Manager shall have no right to speak for or bind the City in any manner.

13.13 Public Records Law

(a) The Construction Manager acknowledges the City's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to (i) release public records to members of the public upon request; and (ii) comply in the handling of the materials created under this Agreement; and further acknowledges that the constitutional and statutory provisions control over the terms of this Agreement. In association with its performance pursuant to this Agreement, the Construction Manager will not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.

(b) To the extent applicable, the Construction Manager acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:

(1) keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services required under this Agreement;

(2) 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 Chapter 119, Florida Statutes, or as otherwise provided by law;

(3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and

(4) meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the Construction Manager 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.

13.14 Compliance with Laws and Regulations

In providing all Services pursuant to this Agreement, the Construction Manager shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the City to terminate this Agreement immediately upon delivery of written notice of termination to the Construction Manager.

13.15 Notices

Whenever either party desires to give notice unto the other, it must be given by written notice, delivered (i) in person, (ii) via registered or certified United States mail, postage prepaid with return receipt requested, or (iii) via nationally recognized overnight delivery service, and addressed to the party for whom it is intended at the place last specified by each party. The place for giving of notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section 13.15. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For City:

City of Kissimmee Public Works Director
101 Church Street
Kissimmee, Florida, 34741
Attention: Public Works Director

For Construction Manager:

13.16 Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement; any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as

possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

13.17 Annual Appropriations

Construction Manager acknowledges that during any fiscal year the City shall not expend money, incur any liability, or enter into any agreement which by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Accordingly, any agreement, verbal or written, the City may make in violation of this fiscal limitation is null and void, and no money may be paid on such agreement. The City may enter into agreements whose duration exceeds one year; however, any such agreement shall be executory only for the value of the services to be rendered which the City agrees to pay as allocated in its annual budget for each succeeding fiscal year. Accordingly, the City's performance and obligation to pay the Construction Manager under this Agreement is contingent upon annual appropriations being made for that purpose.

13.18 Unauthorized Alien(s)

The Construction Manager shall not employ or utilize unauthorized aliens in the performance of the Services provided pursuant to this Agreement. The City shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a) and a cause for the City's unilateral termination of this Agreement. When delivering executed counterparts of this Agreement to the City, the Construction Manager shall also deliver a completed and executed counterpart of the attached "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" form.

13.19 Construction Manager Representations - The Construction Manager hereby represents and warrants the following to the City:

- 13.19.1 Construction Manager is a corporation that is duly organized and existing in good standing under the laws of the State of Florida with full right and authority to do business within the State of Florida;
- 13.19.2 Construction Manager's performance under this Agreement will not violate or breach any contract or agreement to which the Construction Manager is a party or is otherwise bound, and will not violate any governmental statute, ordinance, rule, or regulation;
- 13.19.3 Construction Manager has the full right and authority to enter into this Agreement and to perform its obligations in accordance with its terms;
- 13.19.4 Construction Manager now has and will continue to maintain all licenses and approvals required for conducting its business, and that it will at all times conduct its business activities in a reputable manner;
- 13.19.5 Construction Manager has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement;
- 13.19.6 Construction Manager has the personnel and experience necessary to perform all Services in a professional and workmanlike manner;

- 13.19.7 Construction Manager shall exercise the same degree of care, skill, and diligence in the performance of the Services as provided by a professional of like experience, knowledge and resources, under similar circumstances;
- 13.19.8 Construction Manager shall, at no additional cost to the City, re-perform those Services which fail to satisfy the foregoing standard of care or which otherwise fail to meet the requirements of this Agreement;
- 13.19.9 Each individual executing this Agreement on behalf of the Construction Manager is authorized to do so.

13.20 Waiver

A waiver by either City or Construction Manager of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by either party with the knowledge of the other party's existing default or breach of the Agreement shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

ARTICLE 14

DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES FOR PUBLIC PROJECTS

14.1 Direct Materials Acquisition by City - Supply Bonds:

- 14.1.1 Each Subcontractor shall include Florida State Tax and other applicable Sales Taxes for all material, supplies and equipment included in the Subcontractor's bid.
- 14.1.2 The City may, if not prohibited by Law, exercise a right to purchase directly various construction materials, supplies and equipment that may be part of the Subcontract. Any materials purchased by the City shall be referred to as "City Purchased Materials" and the responsibilities of both the City and the Construction Manager relating to such City Purchased Materials shall be governed by the terms and conditions of the "Sales Tax Exempt Purchasing Procedures for Public Projects", which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
- 14.1.3 The City will issue its own Purchase Orders directly to the vendor. The City's Purchase Order shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager, for prices negotiated by the Construction Manager or Subcontractor. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the City and will coordinate the purchase of the materials in a timely manner so as not to negatively impact on the performance of the construction activity of the project.
- 14.1.4 The Subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the City shall not relieve the Subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the

exception of the payments for the material so purchased. The Construction Manager and the Subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning, and the management of all applicable warranties.

- 14.1.5 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.1.6 The Contractor shall maintain products liability insurance, which shall include City Purchased Materials, as required for the normal practice of general contracting.
- 14.1.7 The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the City and the Construction Manager. The premium cost for this supply bond shall be included in the sub-contractor's cost. Verifying that a designated material supplier can furnish a supply bond (if required) will be the responsibility of the Subcontractor. City reserves the right to waive the requirement of providing a supply bond at the discretion of City.
- 14.1.8 If the State of Florida assesses any Sales Tax penalties and/or interest against the Construction Manager or any of its Subcontractors or Material Suppliers relating to the direct acquisition of materials and/or equipment by City as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by City to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

14.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

- 14.2.1 The Subcontractor has included Florida State Sales and other applicable taxes in his bid for material, supplies and equipment. The City, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.
- 14.2.2 Any equipment, materials or supplies directly purchased by the City that are included in the Subcontractor's contract shall be referred to as City Purchased Materials and the responsibilities of both the City/Public Entity and the Subcontractor relating to such City Purchased Materials shall be governed by the terms and conditions of these procedures.
- 14.2.3 Material suppliers shall be selected by the Subcontractor awarded the subcontract.
- 14.2.4 The Subcontractor has included the price for all construction materials plus applicable taxes in their bid. City purchasing of construction materials, if selected, will be administered on a deductive Change Order basis, the Subcontract amount shall be reduced by the net undiscounted amount of these Purchase Orders, plus all sales tax.

- 14.2.5 The Subcontractor shall provide the Construction Manager a list of all intended suppliers, vendors, and material men for consideration as City Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values and the Project schedule. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.
- 14.2.6 Upon request from Construction Manager, and in a timely manner, the Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the City and the Construction Manager, to specifically identify the materials, which City has, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:
- A. the name, address, telephone number and contact person for the material supplier
 - B. manufacturer or brand, model or specification number of the item
 - C. quantity needed as estimated by Subcontractor
 - D. the price quoted by the supplier for the materials identified therein, including freight
 - E. any sales tax associated with such quote
 - F. delivery dates as established by Subcontractor
- 14.2.7 Subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors; i.e., warranties, retainage, etc. The Purchase Order Requisition Forms are to be submitted to the City's designated representative no less than seven (7) days prior to the need for ordering such City Purchased Materials, in order to provide sufficient time for City review and approval and to assure that such Directly Purchased Materials may be directly purchased by City and delivered to the Project site without any delay to the Project.
- 14.2.8 After receipt of the Purchase Order Requisition Form, the City's Representative shall prepare Purchase Orders for equipment, materials or supplies which the City chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The City's Procurement Director or their designated representative shall be the approving authority for the City on Purchase Orders in conjunction with City Purchased Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the City Purchased Materials on the delivery date provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The City's Purchase Orders shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number.
- 14.2.9 In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the City, through the Construction Manager, one or more deductive Change Orders, referencing the full value of all City-Purchased materials to be provided by each supplier from whom the City elected to purchase material directly, plus all sales tax savings associated with such materials in the Subcontractor's bid to the Construction Manager.

- 14.2.10 All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
- 14.2.11 Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by the City in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the City due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor shall provide all services required for the unloading, handling and storage of materials through installation. The Subcontractor agrees to indemnify and hold harmless the City from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor.
- 14.2.12 As City Purchased Materials are delivered to the jobsite, the Subcontractor and the Construction Manager, as City's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Subcontractor shall assure that each delivery of City Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the City or Construction Manager may require. The Construction Manager, as City's Representative, shall verify in writing to the City the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the City through the Construction Manager for payment. The invoice shall be thereupon furnished to the City for processing and payment in the manner as all other City invoices are processed. The City shall have the right to assign City personnel to verify and audit the accuracy of all City Purchased Material documents.
- 14.2.13 The Subcontractor shall ensure that City Purchased Materials conform to the Specifications and determine, prior to incorporation into the Work, if such materials are patently defective, whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Subcontractor discovers defective or nonconformities in the City Purchased Material upon such visual inspection, the Subcontractor shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the Vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the City, through the Construction Manager, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporates City Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Subcontractor shall be responsible for all damages to the City resulting from the Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective, or nonconforming, the Subcontractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.
- 14.2.14 The Subcontractor shall maintain records of all City Purchased Materials it incorporates into the Work from the stock of City Purchased Materials in its possession. The Subcontractor shall account monthly to the City, through the

Construction Manager, for any City Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials, which have been incorporated into the Work.

- 14.2.15 The Subcontractor shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
- 14.2.16 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.2.17 The transfer of possession of City-Purchased Materials from the City to the Subcontractor shall constitute a bailment for mutual benefit of the City and the Subcontractor. The City shall be considered the bailor and the Subcontractor the bailee of the City Purchased Materials. City Purchased Materials shall be considered returned to the City for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. The Bailee shall have the duty to safeguard, store and protect all City Purchased Materials.
- 14.2.18 The City shall purchase and maintain insurance pursuant to the requirements set forth in the City and Construction Manager Agreement which shall be sufficient to protect against any loss of or damage to City Purchased equipment, materials or supplies. Such insurance shall cover the full value of any City Purchased Materials not yet incorporated into the Project from the time the City first takes title.
- 14.2.19 The City shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, City Purchased Materials.
- 14.2.20 On a monthly basis, the Subcontractor shall be required to review invoices submitted by all suppliers of City Purchased Materials delivered to the Project site during that month and either concur or object to the City's issuance of payment to the suppliers, based upon the Subcontractor's records of materials delivered to the site and any defects in such materials.
- 14.2.21 In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the City, through the Construction Manager, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the City. Upon receipt and verification of the appropriate documentation, the City shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Subcontractor agrees to assist the City to immediately obtain partial or final release of lien waivers as appropriate.
- 14.2.22 At the end of the Project, any refund for surplus materials returned to suppliers, plus applicable sales tax savings amount, shall be credited with an additive Change Order to the Subcontractor's agreement with the Construction Manager.

Salvage materials shall be the property of the City and stored or removed from the site by the Subcontractor at the City's direction.

ARTICLE 15

INCORPORATION OF EXHIBITS

- 15.1 The following Exhibits, attached hereto, are hereby fully incorporated herein by this specific reference as if fully set forth in the body of this Agreement:

Exhibit "A"	-	RFP2022-008 and Construction Manager's Proposal
Exhibit "B"	-	Pre-Construction Services Addendum
Exhibit "C"	-	GMP Addendum
Exhibit "D"	-	Certificate of Substantial Completion
Exhibit "E"	-	Release and Affidavit
Exhibit "F"	-	Application for Payment Form
Exhibit "G"	-	Final Payment Request Checklist / Certificate of Final Completion
Exhibit "H"	-	Change Order
Exhibit "I"	-	Allowance Authorization Release
Exhibit "J"	-	Schedule of Reimbursables
Exhibit "K"	-	Hourly Rate Schedule
Exhibit "L"	-	Affidavit Certification Immigration Laws
Exhibit "M"	-	Public Construction Bond
Exhibit "N"	-	Buy-Out Allowance Authorization Release

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**CITY OF KISSIMMEE, a municipal
corporation of the
State of Florida**

ATTEST:

By: _____
Linda Hansell
City Clerk

By: _____
Olga Gonzalez, Mayor
City of Kissimmee Commission

Date Signed by Mayor: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Olga Sanchez de Fuentes
City Attorney

Date

ATTEST: **Balfour Beatty Construction, LLC**, a Florida corporation

By: *Henry Thacker*

Printed Name: Henry Thacker

By: *John Harris*

Printed Name: John Harris

Title: Sr Vice President / Business Unit Leader

EXHIBIT “A”

RFP2022-008 and Construction Manager’s Proposal

Kissimmee City Hall Addition

EXHIBIT “B”

PRE-CONSTRUCTION SERVICES ADDENDUM

Kissimmee City Hall Addition

I. Construction Team Representatives

CityCity of Kissimmee

- Facilities Construction & Maintenance Manager
- City Building Official

Architect/EngineerReynolds, Smith & Hills/RS&H, Inc.,

- Edward J. Gonzalez, PE, Vice President
- Michael R. DeMeo, RA, LEED AP, Project Architect
- John Rice, PE, CEM, Senior Program Management Engineer

Construction Manager.....ABC Construction

- Scott Skidelsky, President
- John Harris, Sr. Vice President / Business Unit Leader
- Brian Prebenda, Sr. Vice President of Ops
- Henry Thacker, Sr. Project Manager

II. Pre-Construction Phase Services

1. GMP Proposal Estimate

III. Omitted Services as previously included in Article 2 of the Agreement

1.2.1.4.1 – Estimate at completion of Schematic Design
2.2.1.4.2 Estimate at the completion of 100% design development plans

IV. Revised Services as previously included in Article 2 of the Agreement

V. Construction Manager’s Staff Positions to be assigned to the Pre-Construction/Design Phases

Position	Name	Duration in Months	Percentage of Time Assigned
Vice President	tbd	x	x
Preconstruction Manager	tbd	x	x
Sr. Project Manager	tbd	x	x
Superintendent	tbd	x	x

VI. Construction Manager's Staff Positions to be assigned to the Pre-Construction/Design Phases

The Fee due to the Construction Manager for Services identified in Section II is Twenty Thousand Dollars, (\$20,000)

EXHIBIT “C”

GMP ADDENDUM to **Agreement between City of Kissimmee and Construction Manager At Risk** ***Kissimmee City Hall Addition***

Pursuant to the Master Services Agreement (the “Agreement”) dated _____ between City of Kissimmee City Commission, a municipal corporation of the State of Florida (the “City”) and _____ (the “Construction Manager”), with respect to the Project, as identified and described in the Pre-Construction Addendum, the City and the Construction Manager hereby establish a Guaranteed Maximum Price (GMP), Contract Time for the Work and amend the Agreement as set forth below.

1. The Construction Manager’s (GMP) for the Work as defined in Section 6.1.3 and the Construction Manager’s Fee as defined in Section 6.1.2, for the Construction Phase Services is _____.

2. This price is for the performance of the Work in accordance with the Schedules listed below and attached to this Addendum as follows:

- Schedule 1 Construction Manager’s Personnel.
- Schedule 2 Contract Drawings & Specifications.
- Schedule 3 GMP Bid Breakdown.
- Schedule 4 Clarifications, Assumptions, Exclusions and Allowances.

3. Pursuant to Section 1.3.12 of the Agreement, the City’s Construction Budget is estimated at \$ _____ including all Construction Manager fees, costs of the work, the City’s Allowances and the Construction Manager’s contingencies within the GMP as defined in Articles 2, 3 and 6 of the Agreement.

4. Pursuant to Section 1.3.12 of the Agreement, the City’s funds budgeted for the development of the Project including the construction budget and all professional service fees and equipment necessary to develop the project, excluding land costs is \$ Amount to be inserted by City _____.

5. Pursuant to Article 2, Section 2.5, the Project critical dates are as follow:

- | | |
|---|---|
| A. Construction Phase Commencement Date | Date stated in the Notice To Proceed |
| B. Project Substantial Completion Date | Enter # of Days from Construction Phase Commencement Date |
| C. Project Final Completion Date | 30 Calendar Days after Substantial Completion |

6. In the event the Construction Manager does not achieve Substantial Completion within the Contract Time, including approved extensions, the Construction Manager shall pay the City, as liquidated damages and not as a penalty, the sum of _____ per day for each calendar day the actual time of performance exceeds the authorized Contract Time.

7. The Construction Manager shall not be due any additional Construction Phase Fee on increases in the GMP that do not exceed a cumulative total of _____. Should the GMP be increased by more than _____ under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager’s additional Construction Phase Fee will be 5% percent of that portion of the accumulative increases in the GMP that exceed the GMP by more than _____.

8. The Construction Manager’s Fee for overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, shall be _____% of the

GMP value and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid proportionally to the ratio of the cost of the work in place, including stored materials (see Article 8.1.3), as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less.

9. Pursuant to Section 6.1.3.2.2, the cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of _____ % of the final Contract Amount and Construction Manager bonds will be cost at a fixed rate of _____ %. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Manager overhead and profit fee on this item.

IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives, as of the effective date.

**CITY OF KISSIMMEE, a municipal
corporation of the
State of Florida**

ATTEST:

By: _____
Linda Hansell
City Clerk

By: _____
Olga Gonzalez, Mayor
City of Kissimmee Commission

Date Signed by Mayor: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Olga Sanchez de Fuentes
City Attorney

Date

ATTEST: **XXXXXX**, a Florida corporation

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

SCHEDULE 1 to the GMP ADDENDUM

Kissimmee City Hall Addition

**Construction Manager's Personnel
During Construction Phase**

(TO BE COMPLETED AT GMP)

Name	Title	Duration (Months)	Percentage
Off-Site Staff			
On-Site Staff			

SCHEDULE 2 to the GMP ADDENDUM

Kissimmee City Hall Addition

Contract Drawings & Specifications

SCHEDULE 3 to the GMP ADDENDUM

Kissimmee City Hall Addition

GMP Bid Breakdown

SCHEDULE 4 to the GMP ADDENDUM

Kissimmee City Hall Addition

Clarifications, Assumptions, Exclusions and Allowances

EXHIBIT “D”

Kissimmee City Hall Addition **Certificate of Substantial Completion**

Standard AIA Document G704 to be used

EXHIBIT “E”

Kissimmee City Hall Addition **RELEASE AND AFFIDAVIT**

STATE OF FLORIDA
COUNTY OF Osceola County

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$ _____ paid, _____ (“Construction Manager”) releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims, demands damages, costs and expenses, whether in contract or in tort, against the City of Kissimmee City Commission, a body corporate existing under the laws of the State of Florida (“City”) relating in any way to the performance of the Agreement between Construction Manager and City, dated _____, 20__, for the period from _____ to _____.

(2) Construction Manager certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which City might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Construction Manager agrees to indemnify, defend, and save harmless City from all demands or suits, actions, claims of liens or other charges filed or asserted against City arising out of the performance by Construction Manager of the Work covered by this Release and Affidavit.

(4) Construction Manager certifies that it has paid all its subcontractors and materialmen in full all amounts owed them from any previous payments received by Construction Manager from City and has not withheld any such amounts. In the event Construction Manager withholds any unpaid amounts due to its subcontractors and/or materialmen from the payment it receives from City with respect to the Application for Payment referenced in Paragraph 5 below, Construction Manager agrees to immediately refund all such unpaid amounts to City.

(5) This Release and Affidavit is given in connection with Construction Manager's [monthly/final] Application for Payment No. _____.

Construction Manager:

By: _____

Title:_____

Witnesses

[Corporate Seal]

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____, of _____, a _____ corporation, on behalf of the corporation. He/She is personally know to me or has produced a _____ (state) driver's license no. _____ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Notary Public / signature

Printed Name

Title or Rank

Serial Number, if any

EXHIBIT “F”

Kissimmee City Hall Addition

Application for Payment

Form shall be AIA Document G702 Application and Certificate for Payment

EXHIBIT “G”

Kissimmee City Hall Addition **Final Payment Request Check List / Certificate of Final Completion**

Items to be submitted with Construction Manager’s Request for Final Payment

- ___ 1. Pay Request (1 copy with original signatures and original seals, noted as FINAL)
- ___ 2. Final Schedule of Contract Values
- ___ 3. Consent of Surety to make Final Payment (signed and sealed)
- ___ 4. Power of Attorney from Surety for Release of Final Payment (signed, sealed and dated same as Consent of Surety)
- ___ 5. Affidavit of Contract Completion (**Exhibit “E”**)
- ___ 6. Satisfactory Conclusion or Release of Lien from all Subcontractors or laborers who have filed Intent to Lien or have indicated non-payment from the Contractor
- ___ 7. Construction Manager’s Guarantee of Construction for one (1) year from the date of Substantial Completion
- ___ 8. Copy of the approval by the Architect/Engineer and the transmittal to the City of Manuals, Shop Drawings, As-Builts (one electronic media and two sets of prints), brochures, warranties, and list of Subcontractors with telephone numbers and addresses
- ___ 9. Verification that City’s personnel have been trained in the operation of their new equipment, attendance lists and videos
- ___ 10. Other special Warranties are required by Specifications in the name of the City

EXHIBIT "G"

Kissimmee City Hall Addition CERTIFICATE OF FINAL COMPLETION

Project: _____ City's Project No.: _____

Contract No.: _____ Contract Date: _____

Notice to Proceed Date: _____ Completion Date: _____

The Work to which this Certificate applies has been inspected by the authorized representatives of the City, Construction Manager and Professional; and that Work is hereby declared to be finally complete in accordance with the Contract Documents on _____. This Certificate of Final Completion applies to all Work under the Contract Documents.

All punch list items have been completed and corrected for compliance with Contract Documents. This Certificate constitutes acceptance of Work as specified and intended in the Contract Documents. Construction Manager retains responsibility and obligation to the City for warranty Work arising after admission and acceptance of final completion. Signatories agree the project is finally complete as of the date of signature such that the project is in complete compliance with Contract Documents and authorized Change Orders.

Construction Manager: _____

By: _____
(Authorized Signature)

(Typed Name & Title)

Date: _____

Professional: _____
(Authorized Signature)

By: _____
(Typed Name & Title)

Date: _____

City: _____
(Division Director)

Date: _____



EXHIBIT "H"
CHANGE ORDER

CHANGE
ORDER

City _____
Engineer _____
Contractor _____

PROJECT: Kissimmee City Hall Addition

CHANGE ORDER NO: _____

CITY OF KISSIMMEE, A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

INITIATION DATE: _____

TO CONTRACTOR:

PROJECT NO: RFP2022-008

ABC Construction
123 N South Drive
Tampa, FL 12345

CONTRACT DATE: _____

The contract is changed as follows:

The original (Contract Sum) (Guaranteed Maximum Price) was..... \$
Net Change by previously authorized Change Orders.....\$
The (Contract Sum) (Guaranteed Maximum Price) prior to this change order was.....\$
The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased)
(unchanged) by this Change Order in the amount of.....\$
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be..... \$
The Contract Time will be (increased) (decreased) (unchanged) by () days
The date of Substantial Completion as of date of this Change Order therefore is: SUBSTANTIAL COMPLETION DATE HERE

_____ ARCHITECT/ENGINEER	_____ CONTRACTOR	_____ Kissimmee City Commission CITY
_____ ADDRESS	_____ ADDRESS	_____ 101 Church Street ADDRESS
_____	_____	_____ Kissimmee, Florida, 34741
By _____	By _____	By _____ Mayor / Commissioner
		Or _____ City Manager or Designee
Date _____	Date _____	Date _____

To the CONTRACTOR: Your acceptance of this Change Order shall constitute a modification to our agreement and will be performed subject to all of the same terms and conditions as contained in our Agreement indicated above, as fully as if the same were repeated in this acceptance. The adjustment, if any, to the agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.



EXHIBIT "I"
ALLOWANCE AUTHORIZATION RELEASE (AAR)

PROJECT: Kissimmee City Hall Addition

AAR NO: _____

CITY OF KISSIMMEE,
A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

CONTRACT NO: _____

INITIATION DATE: _____

CONSTRUCTION MANAGER: ABC Construction, 123 N South Drive, Tampa, FL 12345

ARCHITECT/ENGINEER: Reynolds, Smith & Hills/RS&H, Inc.,

DESCRIPTION OF ALLOWANCE WORK:

Reason for change:

***Not valid until signed by the City, Architect/Engineer and Construction Manager.**

Amount of Allowance Authorization included in this Contract is _____ \$

Amount of Allowance Authorization used to date _____ \$

Amount of Allowance Authorization used this AAR _____ \$

Balance of remaining AAR _____ \$

Original Contract Time _____ days

Amount of the Allowance Authorization time included in this Contract is _____ days

Amount of the Allowance Authorization time used to date _____ days

Amount of the Allowance Authorization time used this AAR _____ days

Balance of remaining Allowance Authorization Time is _____ days

Date of Substantial Completion therefore is _____

(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)

CONSTRUCTION

MANAGER: _____

ARCHITECT/

ENGINEER: _____

Date: _____ **Date:** _____

CITY: _____

City Manager or Designee

Date: _____



EXHIBIT “J”

REIMBURSABLE COST SCHEDULE

1. Reproduction Cost			
A.....	Regular Copying	Single Side	Double
Sided			
8 ½ x 11 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 11 (color)	\$ 0.30/page	\$ 0.40/sheet	
8 ½ x 14 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 14 (color)	\$ 0.30/page	\$ 0.40/sheet	
11 x 17 (black & white).....	\$ 0.25/page	\$ 0.35/sheet	
11 x 17 (color)	\$ 0.40/page	\$ 0.50/sheet	
9 ½ x 24 Single Side Only.....	\$ 1.00/page		
17 x 22 Single Side Only.....	\$ 2.00/page		
18 x 24 Single Side Only.....	\$ 2.00/page		
24 x 36 Single Side Only.....	\$ 3.00/page		
30 x 30 Single Side Only.....	\$ 5.00/page		
32 x 34 Single Side Only.....	\$ 5.00/page		
Other sizes-per square inch	\$ 0.03/page		
Compact Digital Disk.....	\$ 6.00/disk		
B. Blueprint Copy.....		\$10.00/page	
2. Subcontractor Services		Actual Costs	
3. Special Consultants		Actual costs	
4. Telecommunications			
A. Local		Non-reimbursable	
B. Non-Local		Actual Costs	
5. Computer Services		Non-reimbursable	
6. Travel Expenses	In accordance with Chapter 112.061, F.S.; and further defined in the City of Kissimmee Employee Handbook		
7. Postage, Fed Express, UPS		Actual Costs	
8. Pre-approved Equipment (includes purchase and rental of equipment used in project)		Actual Costs	

EXHIBIT “K”

Kissimmee City Hall Addition **HOURLY RATE SCHEDULE**

EXHIBIT "L"
AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

SOLICITATION NO.: **RFP2022-008** PROJECT NAME: **Kissimmee City Hall Addition**

CITY OF KISSIMMEE WILL NOT INTENTIONALLY AWARD CITY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

CITY OF KISSIMMEE MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY CITY OF KISSIMMEE.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: _____

Signature

Title

Date

STATE OF: _____
COUNTY OF: _____

The foregoing instrument was signed and acknowledged before me this ____ day of _____, 20____,
by _____ who has produced (Print or
Type Name)

_____ as identification.
(Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

EXHIBIT “M”
PUBLIC CONSTRUCTION BOND
FRONT PAGE
F.S. CHAPTER 255.05

BOND NO.: _____

CONTRACTOR NAME: _____

CONTRACTOR ADDRESS: _____

CONTRACTOR PHONE NO: _____

SURETY COMPANY: _____

OWNER NAME: City of Kissimmee, a municipal corporation of the State of Florida

OWNER ADDRESS: 101 Church Street

Kissimmee, FL 34741

OWNER PHONE NO: (407) xxx-xxxx

OBLIGEE NAME: (if
contracting entity is different
from the owner, the contracting
public entity) _____

OBLIGEE ADDRESS: _____

OBLIGEE PHONE NO: _____

BOND AMOUNT: \$ _____

CONTRACT NUMBER: _____

GENERAL DESCRIPTION
OF PROJECT: _____

PROJECT LOCATION: _____

PUBLIC CONSTRUCTION BOND

KNOW ALL MEN BY THESE PRESENTS: That _____, as Principal, and
_____, as Surety, located at

_____ (Business Address) are held and firmly bound unto City of Kissimmee, a municipal corporation of the State of Florida, as Obligee in the sum of _____) in lawful currency of the United States, for the payment whereof we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract executed between Principal and City for construction of _____, 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 in the Contract; and
3. Pays City all losses, damages, expenses, costs, liquidated damages, and attorney fees, including appellate proceedings, that City sustains because of a default by Principal under the Contract; 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.

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

Any changes in or under the Contract Documents and compliance or non-compliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond.

Reference is hereby made to Section 255.05 Florida Statutes, and to the notice and time limitation provisions thereof:

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____, 20 ____.

ATTEST:

Witness

Witness

PRINCIPAL:

BY: _____(SEAL)
Authorized Signature (Principal)

Printed Name

Title of Person Signing Above

ATTEST:

Witness

Witness

SURETY:

Printed Name

BY: _____(SEAL)
Attorney in Fact

Printed Name

Business Address

EXHIBIT “N”
BUY-OUT ALLOWANCE AUTHORIZATION RELEASE (AAR)

PROJECT: Kissimmee City Hall Addition

AAR NO: _____

CITY OF KISSIMMEE,
A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

CONTRACT NO: RFP2022-008

INITIATION DATE: _____

CONSTRUCTION MANAGER: ABC CONSTRUCTION, 123 N South Drive, Tampa, FL 12345

ARCHITECT/ENGINEER: Reynolds, Smith & Hills/RS&H, Inc.

DESCRIPTION OF ALLOWANCE WORK:

Total: _____ \$

***Not valid until signed by the City, Architect/Engineer and Construction Manager.**

Amount of Buy-out Allowance _____ \$

Amount of Buy-out Allowance Authorization used to date _____ \$

Amount of Buy-out Allowance this AAR _____ \$

Balance of remaining Buy-out Allowance _____ \$

(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)

CONSTRUCTION

MANAGER: _____

Date: _____

ARCHITECT/

ENGINEER: _____

Date: _____

CITY: _____

City Manager or Designee

Date: _____

Kissimmee City Hall Expansion

Submission Date:

11/2/2022

101 Church Street

Kissimmee, FL 34741

Preconstruction Proposal

Preconstruction Period

Item No. Description

Scope of Services

1 GMP Development

- 2 Create a Subcontractor Bid List
- 3 Send out ITB to Subcontractors
- 4 Create Scope Sheets and Bid Tabs
- 5 Identify any requested Bid Alternates to incorporate into the Bids
- 6 Process prebid RFIs to the Design Team
- 7 Received and Evaluate Sub Quotes
- 8 Bid Leveling and Post Bids
- 9 Finalize and Submit GMP

10 Planning

- 11 Develop a Site Logistics Plan
- 12 Develop the CPM Schedule
- 13 Constructability Review

14 SmartStart

- 15 Have a Kickoff meeting with all stakeholders (Owner, End User, Design Team, and GC)
- 16 High Level Agenda:
 - 17 a) Value Alignment
 - 18 b) Governance
 - 19 c) Milestone Planning

20 Value Engineering

- 21 Develop a list before the ITB is sent so these VE items can be priced at bid time
- 22 Explore other VE options through out the bid process with subcontractor input
- 23 Keep an updated log / VE Tracker to review and track all VEs and their status

24 Material Procurement Strategy

- 25 Develop Material Procurement Plan
- 26 Identify critical path materials
- 27 Develop ODP Execution Plan

28 Permitting

- 29 Finalize the permit process and move the permit under our license

Total Preconstruction / Material Procurement

\$

20,000

Notes & Clarifications:

1) The cost for Preconstruction Services is a fixed fee of \$20,000 billed at the completion of the GMP Deliverable

Kissimmee City Hall

Construction Manager at Risk – Kissimmee City Hall Addition

RFP 2022-008

August 26, 2022

Balfour Beatty



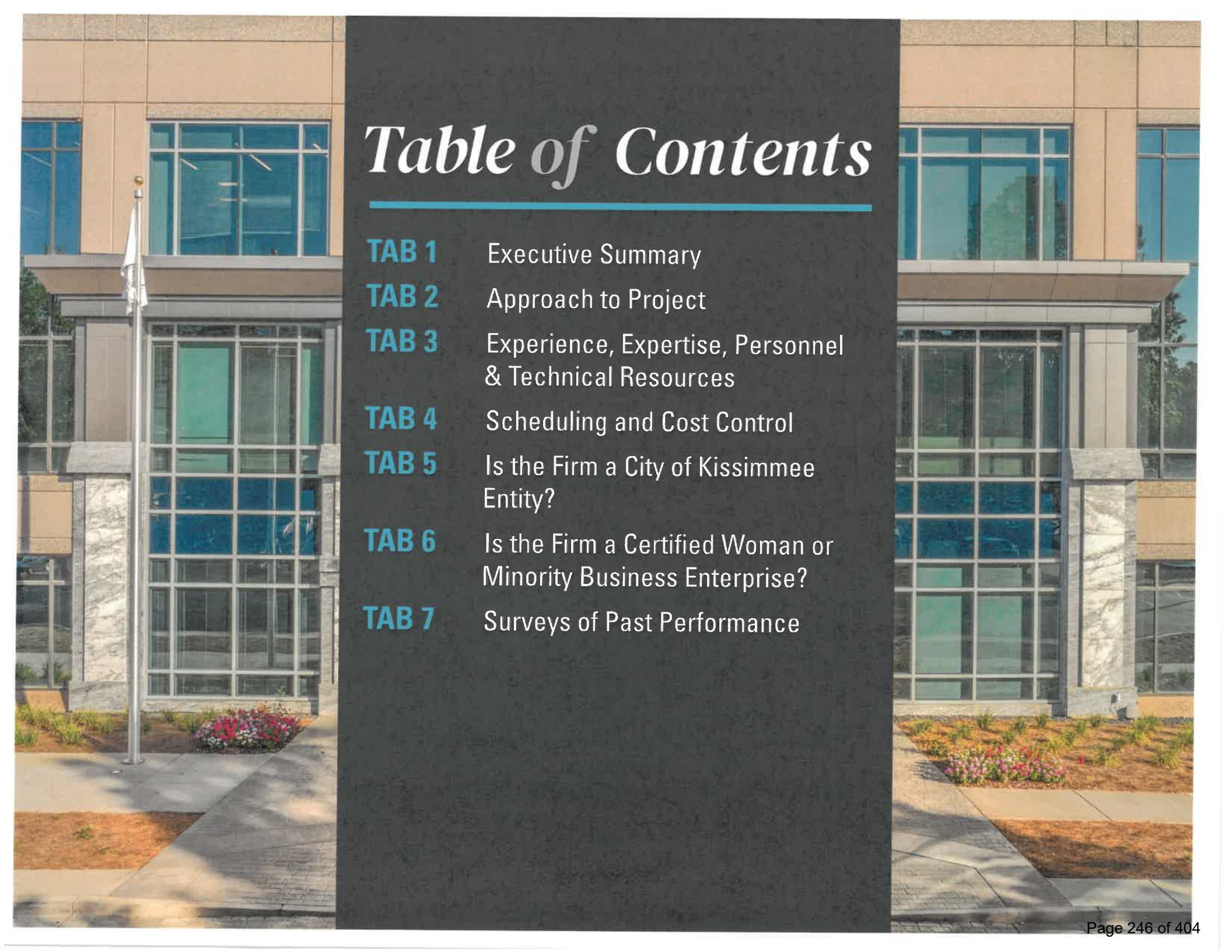


Table of Contents

- TAB 1** Executive Summary
- TAB 2** Approach to Project
- TAB 3** Experience, Expertise, Personnel
& Technical Resources
- TAB 4** Scheduling and Cost Control
- TAB 5** Is the Firm a City of Kissimmee
Entity?
- TAB 6** Is the Firm a Certified Woman or
Minority Business Enterprise?
- TAB 7** Surveys of Past Performance



Tab 1

Executive Summary

Photographed above:

Osceola County Courthouse and
Administrative Building

Tab 1 - Executive Summary

August 26, 2022

City of Kissimmee
Finance Department 4th Floor
Attn: Purchasing Division
101 Church Street
Kissimmee, FL 34741

Re: Response to Request for Proposal
Construction Manager at Risk – Kissimmee City Hall Addition
RFP Number: 2022-008

The City of Kissimmee continues to see rapid growth, and with that comes an unprecedented volume of work for your Building Division. We understand that your current facility does not meet the needs of your department, and our dedicated team will ensure that this expansion project better equips the City to serve residents and the community as a whole. This addition will not only create a better customer experience, but it will also enhance the work-life of your staff. We are excited for the opportunity to partner with the City of Kissimmee to develop this facility for the benefit of your residents and staff.

OUR PEOPLE

Balfour Beatty is eager to become an extension of the City of Kissimmee and RS&H to create an atmosphere of collaboration and true teamwork dedicated to finding the best and most cost effective solutions for the City. Balfour Beatty's extensive experience, transparent leadership and innovative approach to results is delivered with optimal cost efficiency, speed, quality and sustainability. Our teams have set the standard for delivering and special projects for our clients. We focus on value-based delivery by offering extensive services and solutions. Prioritizing partnerships over pride, our teams come to work each day with a people-first mindset and a commitment to go above and beyond for all our clients.

SAFETY

Our Zero Harm program goes above and beyond OSHA standards, and we require everyone on our job sites to follow our strict safety and loss prevention program. **Our current Recordable Incident Rate (RIR) is 0.33**, which is well below the industry national average of 2.90.

Balfour Beatty

255 S. Orange Avenue,
Suite 1100,
Orlando, FL 32801
Phone: 407-226-9819
Fax: 407-226-9970

PROVEN SPECIAL PROJECTS TEAM

Balfour Beatty has assembled a team of experts that have worked together and have a proven track record building unique and specialty projects. This team brings the right mix of experience working together on sites with meticulous phasing plans and coordination to successfully bring the projects across the finish line. Their expertise ensures that the City Hall Expansion project is safely delivered on time and within budget.

LOCAL OFFICE & PROJECT TEAM LOCATION

Our Central Florida office is located in downtown Orlando and houses our executive leadership and support services in safety, estimating, BIM and preconstruction. We have three permanent offices in Florida, not including full-time offices at our project sites. For this project, our team will be located on site at the project immediately following the preconstruction phase.

YOUR RELENTLESS ALLY

Balfour Beatty has been a long-time builder and advocate for quality construction projects throughout Central Florida and Osceola County. We are excited about the opportunity to partner with the City of Kissimmee to be your relentless ally in delivering the most optimal facilities for your City Hall Expansion.

Thank you for this opportunity.

Henry Thacker
Florida Special Projects Group Lead
hthacker@balfourbeattyus.com
407-908-0307



Tab 1 - Executive Summary

B. State the number of years in business

Balfour Beatty has been building in Florida since 1933. Through the past 89 years, we have operated under several names, most recently, Centex Construction, which was acquired by Balfour Beatty in 2007. Balfour Beatty has made vital contributions to Florida's growth, and we remain committed to the communities in which we work and live.

C. State the number of full-time employees

With 229 employees in the Florida Division, Balfour Beatty has a robust pool of resources spread amongst three offices, Orlando, Jacksonville, and Plantation. Our offices house the executive leadership and various departments: operations, safety, estimating/preconstruction, BIM/technology, scheduling, marketing, business development, human resources, accounting/finance and legal. In addition, with more than 4,300 employees nationwide, the City of Kissimmee will have national resources to pull from, if necessary. Overall, Balfour Beatty has the resources and capability to successfully perform the work for the City Hall Expansion Project.

Balfour Beatty Employees

Florida	
Total	242
Southeast	
Total	598
National	
Total	4,300+

The local Balfour Beatty team is equipped with experienced resources, local relationships and buying power to deliver results.

89

Years in Business

4,300+

Employees Nationwide

#1

Top Performers
(ABC 2021)

#1

General Contractor
(ABC 2021)

\$4.5B+

Annual Revenue

Tab 1 – Executive Summary

Volume of work during each of the last five calendar years

Florida Division Volume of Work

	NUMBER OF PROJECTS ACTIVE & COMPLETED	REVENUE
2021	47	\$405M
2020	30	\$350M
2019	32	\$552M
2018	23	\$457M
2017	24	\$231M

Describe and explain any litigation, major disputes, contract defaults, or liens experienced in the last ten (10) years.

In the past 10 years Balfour Beatty, LLC, Florida Division, has built more than 200 projects totaling more than \$6 billion. With this volume, we have unavoidably been involved as a party to occasional lawsuits and mediation or arbitration is typically a step for us in resolving litigation. Below are the filed claims:

- Balfour Beatty Construction LLC v. 251 S. Dixie LLC – Miami-Dade Circuit Court/2021. Balfour is suing the Owner for default of the construction contract, including but not limited to, failure to make final payment to Balfour Beatty. Case is settled.
- Southern Foam Insulation v. Balfour Beatty Construction, LLC, et.al.– Miami-Dade Circuit Court/2022. Subcontractor is suing Balfour Beatty for final payment on the project that is the subject of the above-referenced case. Case is settled.
- Steadfast Insurance Co. v. Balfour Beatty Construction, LLC, et.al.– Miami-Dade Circuit Court/2021. Property insurer suing for subrogation of damages paid due to Owner's failure to maintain Builder's Risk Insurance for the project. Balfour has filed a Motion to Dismiss and awaiting resolution.
- City Center Properties, LLC v. Balfour Beatty Construction, LLC, et. al. – Miami Dade County Circuit Court/2021. Plaintiff in neighboring office tower falsely alleges over

spray from building BBC built cause damage to Plaintiff's roof. Case is settled.

- Manatee County, Florida v. Balfour Beatty Construction, LLC Manatee County Circuit Court Case Number: 2019CA001831AX (2019). Owner claims defective work by subcontractor, ten years after project completion. Case is settled.
- BBC v. Ikea Products, Inc. – Miami-Dade County Circuit Court, Case No.2015-CA-0155669 (2015). Dispute over final payment owed to BBC. Case settled pursuant to confidentiality agreement.
- Four Midtown Miami Condominium Association Inc. v BBC et. al., Case No. 2015-CA-026675 (2015) Alleged construction defect. Case settled pursuant to confidentiality agreement.
- Estate Shell v. BBC (via surety) – Arbitration (2017). Terminated subcontractor seeking payment, despite incomplete, defective work. Full arbitration award in BBC favor.
- BBC v. Drawdy Concrete Construction, Western Surety Co. (2015) BBC claimed a right of reimbursement from subcontractor. Case settled pursuant to confidentiality agreement.
- BBC v. Coastal Plains Recovery – Arbitration (2015) Dispute regarding adequacy of performance by subcontractor. Case settled pursuant to confidentiality agreement.
- South Broward Hospital vs. Balfour Beatty Construction, Inc. (f/k/a Centex Rooney - Tennessee Healthcare Division) et al – Case number: CACE15009415 (2015) Defect claim brought by owner against contractor, designer and engineer. Case settled pursuant to confidentiality agreement.
- Balfour Beatty Construction, LLC ("BBC") v. Woolpert Engineering and Streamline Grading – Arbitration (2014) - BBC claimed a right of reimbursement from Defendant. Case settled pursuant to confidentiality agreement.

Tab 1 - Executive Summary

Provide a copy of the firm's applicable certification(s) from the State of Florida allowing them to provide the services as outlined in the Scope of Service as well as compliance with F.S. 287.055

Balfour Beatty is properly registered and licensed to work in the State of Florida. Brian Prebenda, Senior Vice President of Central Florida Operations, is the licensed qualifier for Balfour Beatty. Please refer below for Brian Prebenda's State of Florida Department of Business and Professional Regulation license. In addition, on the right is Balfour Beatty's State of Florida registration license.

Balfour Beatty

State of Florida Department of State

I certify from the records of this office that BALFOUR BEATTY CONSTRUCTION, LLC is a Delaware limited liability company authorized to transact business in the State of Florida, qualified on September 28, 2004.

The document number of this limited liability company is M04000004032.

I further certify that said limited liability company has paid all fees due this office through December 31, 2021, that its most recent annual report was filed on April 9, 2021, and that its status is active.

I further certify that said limited liability company has not filed a Certificate of Withdrawal.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Thirtieth day of September,
2021*

*Randy B. ...
Secretary of State*

Tracking Number: 2888124638CU

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

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

PREBENDA, BRIAN ALAN
BALFOUR BEATTY CONSTRUCTION, LLC
710 MOUNT VERNON ST
ORLANDO FL 32803

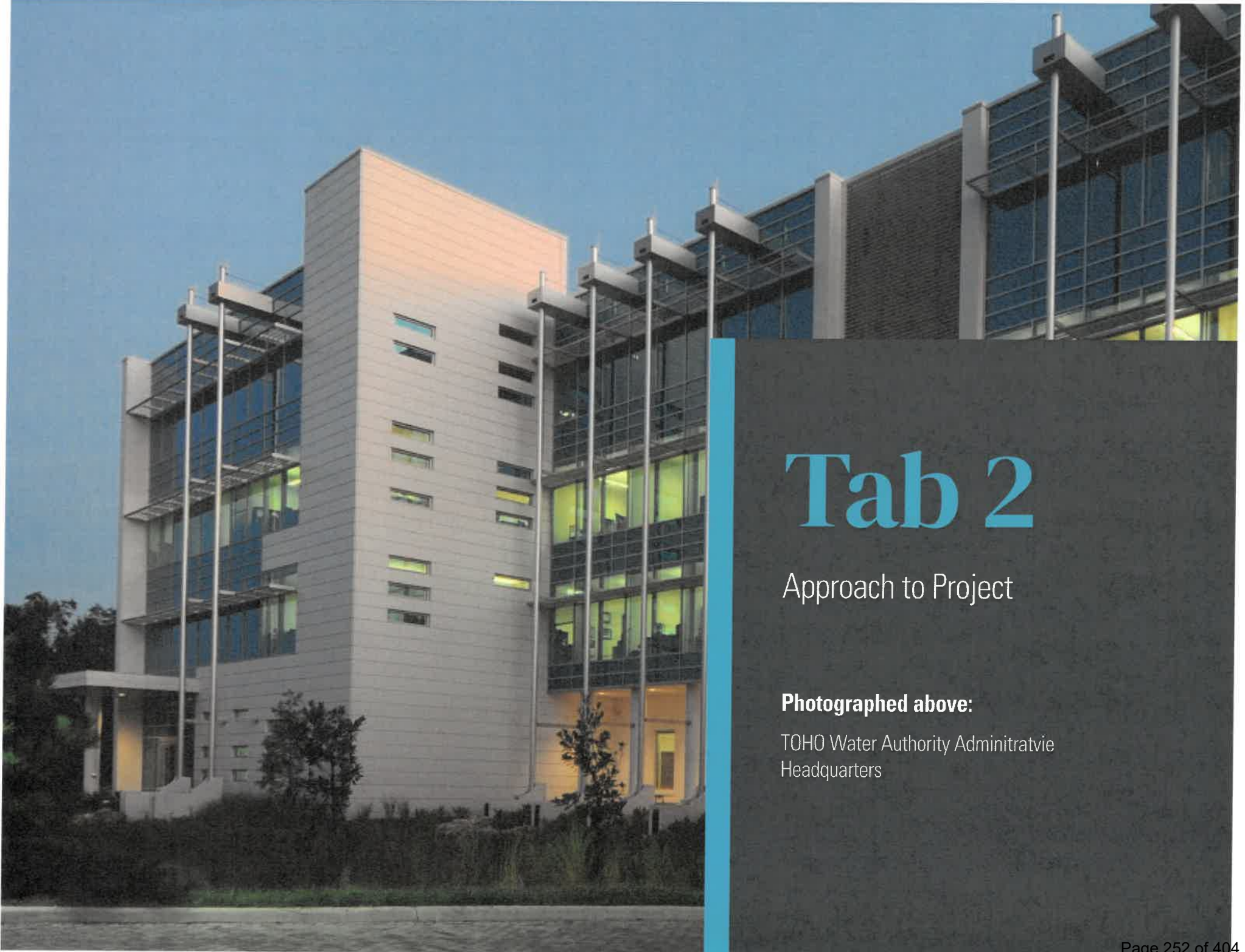
LICENSE NUMBER: CGC1516710
EXPIRATION DATE: AUGUST 31, 2024

Always verify licenses online at [MyFloridaLicense.com](https://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.





Tab 2

Approach to Project

Photographed above:

TOHO Water Authority Administrative
Headquarters

Tab 2 - Approach to Project

OPERATIONS EMBEDDED DAY ONE

Balfour Beatty's team will be involved in all phases of preconstruction to assist with estimating, cost tracking, constructability review and other preconstruction services. We will establish a meeting schedule with the City of Kissimmee in order to foster collaboration and complete transparency.

This level of participation ensures a seamless transition into the construction phase. The team will conduct regular design review meetings and coordination of the documents with the user groups throughout the process to identify project phasing, sequence of work and areas of the design in need of further development to ensure expectations are being met.

Balfour Beatty will provide cost feedback on a real-time basis to analyze the potential use of different materials, systems, and types of equipment. This will allow the City and the overall team to make timely and cost-effective design decisions throughout preconstruction.

Resources used during the design phase will include digital cost estimating, system analysis, lifecycle studies, value engineering capabilities, in-house mechanical and electrical engineering resources, in-house scheduling/phasing, cash flow systems and our local/area construction market expertise and experience.

ESTIMATING & BUDGET

As early as possible, we want to put the schematic documents in the hands of our estimating team and establish line item integrity of your budget. This process will involve both internal take-off/estimating and reaching out to the sub market for feedback. **By understanding the values for each system or scope of work, we can better track the design progression against the budget and validate value engineering (VE) opportunities throughout the preconstruction phase.**

CONSTRUCTABILITY REVIEWS

As soon the drawings are available to us, we review the materials and systems proposed and perform an in-depth study of the design from a feasibility and timeliness viewpoint considering the availability, appropriateness and compatibility of materials. We also review the construction documents for completeness and ease of understanding. We will review the plans and specifications for constructability to determine if areas of omission and/ or duplication exist. As a result of this session, we will prepare written requests for information (RFIs) to forward to the designer for their reply.

VALUE ENGINEERING

Value engineering is not scope reduction of the architect's design. It is a value-enhancing process that preserves the intent of the building and its systems by increasing function, decreasing cost, or doing both, for systems or portions of a project. Value engineering will occur throughout the preconstruction phase to analyze such items as first cost vs. lifecycle cost, scheduling issues, elements of the design that are must-haves, etc. **Value analysis provides the City and the project team with the information necessary to make budget, schedule and design decisions for the project.**

COMPETITIVE BIDDING

Before it is time to accept bids for the various components of the project, the bid packages are scrutinized for accuracy and effectiveness while the drawings and specifications are subjected to our constructability reviews. **Before any bid package goes out to the subcontractors, our team will conduct an in-depth pre-bid meeting to ensure all questions are answered and that there are no misunderstandings with requirements.**

Balfour Beatty has inherent knowledge of the local subcontracting community. Our subcontractor partners are vital to the overall project success for the City of Kissimmee and its stakeholders. With this in mind, we proactively:

- Start planning a procurement/bid packaging strategy that meets your team's approval and the project's schedule, while developing bid lists of qualified partners.
- Engage the City of Kissimmee for input and approval prior to inviting them to bid. We submit the proposed bidder invite lists as a formal submittal to ensure all appropriate partners have the opportunity to provide input.
- With approved bid lists in hand, planning and ample notice, we move to inform the market.
- In the weeks leading up to the bid, our estimating and operations teams make constant contact to ensure continued engagement and work to leverage relationships with subcontractors for the price, schedule and quality benefits.
- As part of this process, we actively solicit subs, suppliers and manufacturers for further constructability input and additional cost saving initiatives.
- On bid day, **we work to keep the City of Kissimmee regularly informed on the bid status and results.** During post-bid, we plan and schedule interviews with the most competitive subcontractors and the project team to do a deep dive scope review and ensure a complete and correct scope is being bought.

Tab 2 – Approach to Project

OWNER DIRECT PURCHASING

Balfour Beatty is committed to making Owner Direct Purchasing programs for equipment, supplies and other materials. Our proposed team and project accountants understand that these ODP savings could be used for other project enhancements.

APPROACH TO ODP OUTLINED THROUGH THE PROJECT PHASES:

1. Buyout

- Identify ODP goals in scope sheets for subcontractor buyout
- Include discussion on subcontractor's ODP plan in post-bid meetings prior to sub selection
- Ensure trade partners understand PO detail requirements for issuance
- Confirm ODP savings are available for selected materials

2. Construction

- Create a list of ODP materials for tracking, each item tied to project schedule to ensure on time delivery for installation
- Change order out ODP materials from subcontractor scopes as they are purchased by City of Kissimmee
- Ensure timely submission and approval of monthly invoices with POs listed

3. Close-out

- Typical closeout process with subcontractors; ensure warranty and O&M information is provided for all ODP materials

In Florida, Balfour Beatty has **successfully performed ODP programs and processes on 75 projects equating to \$2 billion in construction value with over \$558 million in owner direct purchases and savings.** Our project team looks forward to further discussing ODP programs and opportunities.

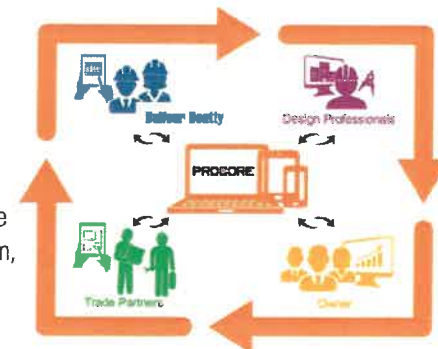
PROJECT MANAGEMENT

Preconstruction meetings, safety orientation, weekly meetings, pull planning and daily check-ins with all trades will reinforce the priorities and ensure compliance. Meetings play an important role in the planning, coordination and execution of a project. It's vital that meetings are run effectively with an agenda, meeting minutes and action items with due dates. It is imperative that these items are followed up at the next meeting to ensure everyone is properly tracking and fully aligned with one another.

PROJECT STATUS REPORTING

To effectively manage the project budget and forecasting, change event management, accounting information, project records, scope and non-scope changes, Balfour Beatty will introduce **Procore** at the onset of the project. We will tailor the system to report the specific information that the City prefers to view.

Balfour Beatty utilizes Procore to track cost updates and project statuses in real time helping our project teams quickly identify and mitigate any challenges early before they become issues. All financial controls are viewable in one platform. Our system is interactive, meaning that as updated cost revisions are entered into any part of the system, all related budgets and contracts are automatically updated throughout the system, at the same time. This is especially valuable as the team is considering different design alternatives during preconstruction.



QUALITY ASSURANCE

We take a proactive approach to quality control, and it starts with staffing your project with people who know and demand quality construction. During the design phase Balfour Beatty will work with the City of Kissimmee and RS&H to ensure that quality control measures are identified early on.

Our proposed team will provide a comprehensive quality control program specific to this project that ensures all services, calculations, studies, designs, drawings, specifications, and construction management services required by the contract are performed and provided in accordance with the highest professional standards.

Quality assurance begins with clear roles and responsibilities and continues with quality control organization and staffing, addressing challenging aspects of the project, submittal requirements, commissioning, testing, inspection, closeout and reporting. Our quality control measures will ensure:

- Program, code, budget, submittal compliance
- Proactive, first-time quality in installed work
- Fully commissioned and functional MEP systems
- Minimal punch list
- Coordination of A/E disciplines
- Well-documented quality compliance



Tab 3

Experience, Expertise,
Personnel & Technical
Resources

Photographed above:

Osceola County Communications
& Emergency Operations Center

Tab 3 - Experience



St. Cloud City Hall



Osceola County Courthouse & Administration



Osceola County Agricultural Center



Osceola County Government Complex



Osceola County Sheriff's Complex



TOHO Water Authority Administrative Headquarters



Osceola County Communications & EOC



Osceola County Stadium



Osceola County Deer Run Fire Station #53



Osceola County Fire Station #85



Osceola County Kenansville Fire Station #57



Reedy Creek Elementary Classrooms



Celebration K-12 School Expansion



Gateway High School Classrooms

Balfour Beatty

YOUR RELENTLESS ALLY

26 YEARS

Working in
Osceola County

\$433 MILLION

Completed
projects in
Osceola County

#1

Top General
Contractor
(2021 ABC)

Tab 3 - Experience

RS&H + Balfour Beatty

20+

Projects
completed in
the Southeast

\$500M+

Of design + construction
put in place

23

Years of
collaborating

Balfour Beatty's proven performance working with RS&H throughout the years is best demonstrated through the invitations we receive from some of our most valued clients to serve as an extension of their business and continue collaborating to create their legacy spaces and shepherd their investment.

RS&H **Balfour Beatty**

Jacksonville International Airport



Peak 10 Data Center



Onslow County Albert J Ellis Airport



RDU Airport Buildings Bundle



Onslow County Albert J Ellis Airport



Peak 10 Data Center



Jacksonville International Airport Pedex Enclosure



Wells Fargo CIC



RDU Terminal One Renovations



Tab 3 - Experience



PROJECT DESCRIPTION & SCOPE OF WORK

Balfour Beatty provided preconstruction and construction management services for this public client. The facility was completed in two phases.

The first phases included the 10,000 square foot Intercity Bus Terminal, which offers new bus terminals, ticketing counter, restrooms, and spacious waiting areas. In addition to transportation accommodations, the facility also includes space for offices, a fully functioning cafeteria and dining areas.

The second phase allowed a variety of transportation facets to be housed under one roof. The new facility included, offices,

board room, conference rooms and ancillary spaces in the amount of approximately 35,000 square feet.

OWNER QUOTE

"Balfour Beatty's performance during this contract was instrumental in delivering one of the most important infrastructure projects in the history of the Authority and transportation in Northeast Florida."

Throughout the course of the project, the CMAR partnered with Authority staff and the design team to expeditiously resolve challenges and delivered the project on time and within budget. From the beginning to the end of the project, the CMAR exhibited dedication, professionalism and partnering that is unmatched on any project in recent memory."

Jacksonville Regional Transportation Center Administrative Headquarters



ADDITIONAL PROJECT INFORMATION

REFERENCE #1

Location	Jacksonville, FL	
Firm's Responsibility	Construction Manager at Risk	
Owner	Jacksonville Transportation Authority	
Owner Representative	Victor Gilpin	
Principal in Charge (Contact Information)	vgilpin@jtafla.com	904-632-5279
Completion Date	01/30/2020	
Size of Project	66,938	
Cost of Project	\$56,000,000	
Change Orders	0	

Relevance to City of Kissimmee City Hall Expansion

- ✓ Spacious customer waiting area equipped with furniture and counters
- ✓ Constructed to provide access to the existing facility
- ✓ Office space, conference room, board room, and storage room

Tab 3 - Experience



City of Raleigh Central Communications Center



PROJECT DESCRIPTION & SCOPE OF WORK

Balfour Beatty provided CM at-risk for the City of Raleigh Communications Center. The 95,000 square-foot, LEED Silver facility is the critical communications hub that connects citizens to first responders. Raleigh's Central Communications Center houses the City's Emergency Communication Center, 911 Call Center, Emergency Operations Center, Data Center and Traffic Control Center.

Staff support spaces include an exercise room, showers, washer and dryer room, coffee bars, break rooms and kitchens.

The center is also sustainable—designed and built to reach a LEED Silver certification. The City and its

team restored the site to its original grade, managed unsuitable soils and provided the appropriate level of storm water control. The site and building are models of environmental efficiency and sustainability, while also being models of safety and security, technology and resiliency.

The building was designed with its occupants' stressful jobs in mind. The seating and site-lines are ergonomically correct, there is ample daylight, comfortable amenities, and pleasant surroundings and grounds. The exterior features zinc panels, brick, glass curtain wall, finned partitions to shades balconies and concrete benches encircling an abstract ten-foot granite sculpture.

ADDITIONAL PROJECT INFORMATION

REFERENCE #2

Location	Raleigh, NC	
Firm's Responsibility	Construction Manager at Risk	
Owner	City of Raleigh	
Owner Representative	Priscilla Tyree Williams	
Principal in Charge (Contact Information)	Priscilla.Williams@raleighnc.gov	919-996-4147
Completion Date	05/02/2016	
Size of Project	95,000	
Cost of Project	\$58,800,000	
Change Orders	0	

Relevance to City of Kissimmee City Hall Expansion

- ✓ Administrative offices and meeting spaces
- ✓ Equipped with technology to be the City's Emergency Operations Center
- ✓ Local government administrative building

Tab 3 - Experience



Forsyth County Courthouse



PROJECT DESCRIPTION & SCOPE OF WORK

The new Forsyth County courthouse will be a 250,679-square-foot facility and expand the existing justice center by 50 percent. The facility will address Forsyth County's growing needs and improve upon security measures in place for their current facilities.

The courthouse will be approximately 250,000 square feet with six floors, 18 courtrooms, two escalators and four public elevators. It will have a secure tunnel that will allow for inmate transfers from the county jail without using a vehicle.

There will be a physical connection to the Government Center that allows for shared services and will allow for future expansion of court services into the center. Most functions of the Clerk

of Court's office will be located in a dedicated area on the first floor, so without having to take an elevator or visit multiple areas of the building.

The expanded building will feature additional judicial spaces, including courtrooms and hearing rooms, rightsized to functionally accommodate judicial staff and the public as needed. The judicial spaces will be situated on the first three floors of the building arrayed in double-loaded corridors to improve wayfinding and ease-of-access throughout the courthouse.

Additionally, the facility will feature waiting areas specifically designed to provide open, daylight public spaces that lead into various courtrooms.

ADDITIONAL PROJECT INFORMATION

REFERENCE #3

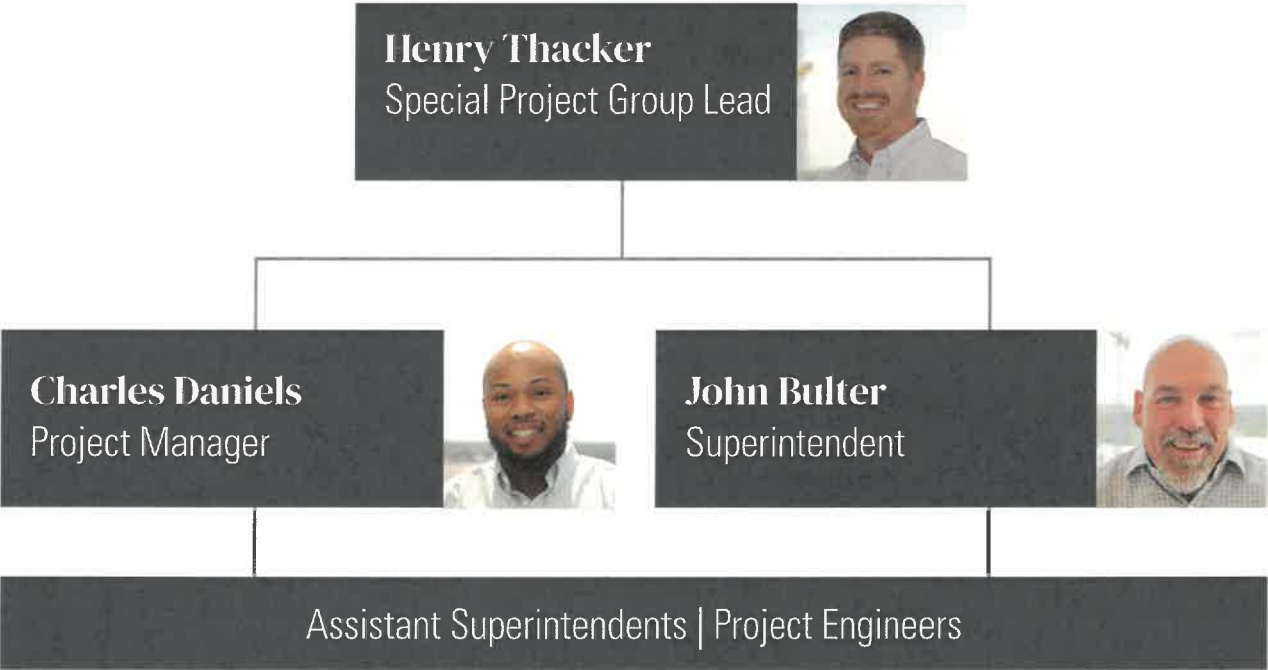
Location	Winston-Salem, NC	
Firm's Responsibility	Construction Manager at Risk	
Owner	Forsyth County	
Owner Representative	James Anderson, Jr	
Principal in Charge (Contact Information)	andersja@forsyth.cc	336-703-2205
Completion Date	02/01/2023	
Size of Project	250,679	
Cost of Project	\$91,500,000	
Change Orders	0	

Relevance to City of Kissimmee City Hall Expansion

- ✓ Administrative offices and meeting spaces
- ✓ Visitor-facing facilities
- ✓ Local government administrative building
- ✓ Addition included improved wayfinding and signage

Tab 3 - Personnel

Provide an organizational chart of the team highlighting the key individuals who will work on this project as identified above.



Tab 3 - Personnel



Role Description

Leading project management, Henry will be responsible for direct oversight of project goals and construction activities to ensure the project is built efficiently and completed on-time, within budget to exceed the City of Kissimmee's expectations for quality and service.

Years of Experience:

- 11 years in the industry
- 4 with Balfour Beatty
 - 7 with other firms

Education:

Bachelor of Science,
Construction Management,
University of Florida

Certifications/Registrations:

- OSHA 30 Hour

Participation:

- 25% dedicated to this project

Henry has experience working with Charles and John

Henry Thacker

Special Project Group Lead

Relevant Project Experience

1. Lake Nona Office 1C | Orlando, FL | \$11,200,000

Located in the heart of Lake Nona Town Center, Office 1C is the core and shell construction of a five-level retail/office building totaling 70,912 square feet. The glass building houses a coffee shop and bank on the first floor and office space on the floors above.

2. 800 North Orange Office Core & Shell | Orlando, FL | \$4,000,000

A four-story 21,900-square-foot office building located in downtown Orlando's North Quarter area with ground floor parking and additional parking on the side and behind the building

3. KPMG Tenant Upfit | Orlando, FL | \$5,000,000

This 10th floor office up-fit featured the refresh of individual offices, collaborative workspaces, worker lounges, new computer and server rooms, and an updated cafe and lounge.

4. Harmony Middle School | St. Cloud, FL | \$35,000,000

Sitting on a 33-acre site, this project included a two-story tilt-wall building, a one-story tilt-wall gym and a concession building. The 170,000-square-foot campus houses classrooms, offices and a media center.

5. Osceola County Fire Stations | Osceola County | \$5,000,000

Osceola County's Proposed Fire Station 85 will involve the construction of a new Fire Station on the intersection of Cypress Parkway and Cypress Drive in Poinciana to service local Osceola County residents. The new, ground-up project will include site work, tilt-wall construction, vehicle bays, living quarters and office spaces.

Balfour Beatty

Your Local Advocate

Henry is a lifetime resident of Osceola County and currently resides less than a mile from the Kissimmee City Hall Expansion project site.



Tab 3 - Personnel



Role Description

Charles brings more than a decade construction industry experience, and will provide the project management necessary to take your facility from preconstruction through to turnover. As part of his duties, he will oversee project cost management and lead weekly meetings with the City of Kissimmee, the RS&H and the subcontractors. Charles will also be an integral part of the Quality Control process.

Years of Experience:

- 12 years in the industry
- 12 with Balfour Beatty

Education:

Bachelor of Science,
Construction Management,
Florida A&M University

Certifications/Registrations:

- OSHA 30 Hour

Participation:

- 100% dedicated to this project

Charles has experience working with Henry and John.

Charles Daniels

Project Manager

Relevant Project Experience

1. Narcoossee Road Widening | St. Cloud, FL | \$48,500,000

Three-phase replacement of a two-lane rural road with a four-lane urban road with curb and gutter, depressed medians, and sidewalks totaling 7.3 miles of construction. Included coordination of the relocation of existing underground and overhead utilities.

2. Fort Benning Reception Station Barracks | Columbus, GA | \$39,000,000

This federal government project featured 306,000 square feet of new barracks facilities to accommodate up to 1,800 soldiers. Two barracks buildings, each with sleeping bays, restrooms, lockable storage, laundry areas, NCO suites, and covered walkways between the buildings. Designed with progressive collapse, stand-off distances, controlled access, and blast resistant openings, in accordance with AT/FP criteria. Included 42,000 square feet of covered assembly areas.

3. Memorial Middle School | Orlando, FL | \$30,000,000

Phased demolition of eight buildings, selective demolition and renovation of four buildings, construction of four buildings, relocation of one building, construction of a new central energy plant, and all related site work. Renovations included the administration workspaces, gymnasium, locker, and small classroom buildings. Construction included a three-story classroom building, and music, multi-purpose, and library/media buildings along with utility upgrades, new driveways, landscaping, bus loop, parking lots, track, basketball and tennis courts, and sporting fields re-sod.

4. Project Yellow Jacket | St. Petersburg, FL | Confidential

This project included phased electrical, mechanical, and ADA upgrades in a critical environment. The control center and computer/data center spaces of the building remained 100 percent operational throughout the upgrade process. The scope of work included selective demolition of the main electrical room, battery room, and existing access pathways to the main

Balfour Beatty



Tab 3 - Personnel



Role Description

As Superintendent, John has experience working in Kissimmee on local government projects. His experience ensures that he is equipped with the know-how necessary to ensure your facility is built on time and within budget. John's responsibilities will include overseeing the daily project work activities with responsibility for field safety, quality assurance, schedule adherence and cost performance.

Years of Experience:

- 43 years in the industry
- 39 with Balfour Beatty
 - 4 with other firms

Certifications/Registrations:

- OSHA 30 Hour
- CPR & First Aid

Participation:

- 100% dedicated to this project
- Located on-site

John has experience working with Charles and Henry.

John Butler

Superintendent

Relevant Project Experience

1. Osceola County Courthouse and Administrative Building | Kissimmee, FL | \$71,900,000

A five-phase, 410,000-square-foot project that included parking lot and infrastructure construction, conversion of a former middle school into administrative space, renovations and additions to the existing administration building, construction of a new courthouse, and the renovation of the existing historic courthouse.

2. Osceola County Sheriff's Administrative Complex | Kissimmee, FL | \$10,000,000

A 69,000-square-foot facility with office space, conference rooms, and community service areas. The building houses forensic operations, records, training rooms, evidence storage, armories and shell space for future build-out. The project also included construction of a parking lot and an FAA-approved helipad.

3. Orange County Jail Expansion | Orlando, FL | \$60,000,000

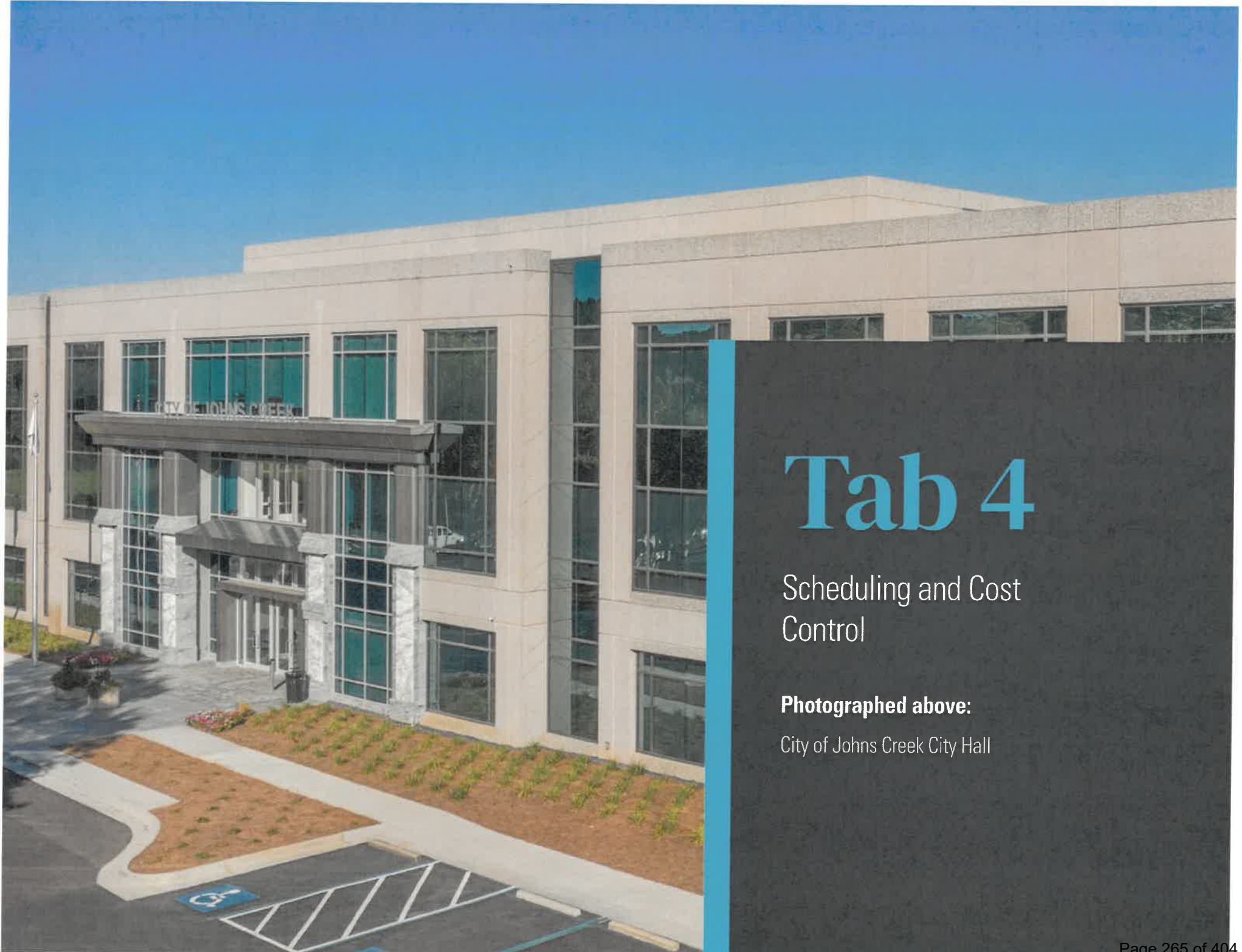
A two-phase project that included the booking and release center, an inmate housing expansion and a visitation center, which all featured spaces for the judiciary, state attorney, public defender, clerk of the court, administration, corrections health services and numerous internal units.

4. Camden Lake Eola | Orlando, FL | \$85,090,000

A contemporary mixed-use, 14-story high-rise development that blends a combination of residential, retail-live-work, commercial and restaurant spaces in Downtown Orlando. The project consists of 344 residential units, 16 retail/live/work units, 4,050 square feet of office/retail/restaurant space, an amenity deck and parking garage.

Balfour Beatty





Tab 4

Scheduling and Cost
Control

Photographed above:

City of Johns Creek City Hall

Tab 4 – Scheduling and Cost Control

Scheduling Systems & Procedures

We use **Primavera P6 scheduling software to develop computer-generated schedules**. This program enables APS and our team to review schedules against the baseline schedule and conduct hypothetical analysis. In addition to these systems and procedures, we have dedicated in-house Scheduling Manager focused on your project from day one. P6 Scheduling ensures all scheduling information is recorded accurately and efficiently on the Primavera P6 system, enabling effective planning and reliable status reporting to capture real time information.

The milestone plan is developed internally by the project team during preconstruction, with subcontractor input, utilizing a high-level Primavera P6 schedule.

Procore Project Management Technology

Our project management technology provides simple and intuitive access to real-time information for the entire team. Procore is a collaborative tool that helps owners, the design team, our Balfour Beatty construction management professionals and our trade partners share and review all project information on one well-organized platform. The ability to easily input and access project data promotes effective team communication and is a game changer in making team processes successful throughout the project.



Procore's Project Management Essentials suite of tools includes RFIs, submittals, drawings, specifications, meeting minutes, daily reports, etc. Balfour Beatty uses Procore's Construction Financial suite of tools for managing and responding to requests for information and architect's supplemental instructions, contract management, change event management, budget management and forecasting.

Balfour Beatty utilizes Procore to track cost updates and project statuses in real time helping our project teams quickly identify and mitigate any challenges early before they become issues. All financial controls are viewable in one platform. Our system is interactive, and when any updated cost revisions are entered into any part of Procore, related materials are automatically updated throughout the system, all at once. This is especially valuable as the team is considering design alternatives during preconstruction.

Schedule Detail

Balfour Beatty's scheduling team works through five levels of detail for project schedules:

- **Level 1** - Schedule showing one bar each for permitting, procurement, construction, commissioning by major work package/area
- **Level 2** - Integrated schedule of the entire project including a clearly identified critical path. This schedule has robust logic and is fit for risk analysis.
- **Level 3** - Outlines schedule activities by discipline. Each trade is identified for a build sequence.
- **Level 4** - Includes detailed deliverables planning: major equipment procurement, fabrication or construction by subcontractor element type of work
- **Level 5** - Schedule includes a list of final deliverables and status by each trade, systems mechanical completions, punch listing, etc.

The attached schedule is currently a level two and will be developed in into a level four schedule.

Scheduling Approach

During the early stages of the project, and throughout the project life cycle, Balfour Beatty utilizes a systematic process for planning out scopes of work, pull planning, which looks at the schedule in reverse. We start by looking at milestones established during the Smartstart session and then break them into the steps that need to happen to accomplish them. We identify what scopes of work have to be completed to allow others to begin. **It encourages all stakeholders, including subcontractors to work together rather than as separate companies with their own sets of goals.**

Balfour Beatty's approach to scheduling is a fully integrated team process, and incorporates input from all members of the team and most importantly The City. The project schedule must reflect input from the entire team, including the design schedule and procurement, for sequencing of activities, interrelationships and durations. When project team members participate in the schedule development, each feels ownership and commitment to achieving the schedule - **the result is an integrated master schedule that is an effective tool to manage the overall project.**

Pull Planning

During the early stages of the project, Balfour Beatty utilizes a systematic process for planning out scopes of work, **pull planning**, which looks at the schedule in reverse. We start by looking at milestones and then breaking them into the steps that need to happen to accomplish them. We identify what scopes of work have to be completed to allow others to begin. It encourages all stakeholders, including subcontractors to work together rather than as separate companies with their own sets of goals.

Tab 4 – Scheduling and Cost Control



Our team understands the need to maintain a high level of confidence in the schedule's ability to forecast when activities occur and the use of the schedule as a planning tool to keep team members properly focused on a coordinated effort to achieve successful project completion. Starting at the early stages of the project during preconstruction and continuing throughout the project life cycle, Balfour Beatty utilizes a systematic process called **pull planning**.

Pull planning success is derived from four basic actions:

1. **Involve the right people in the planning process**
2. **Obtain reliable commitments**
3. **Enable open and collaborative discussions early**
4. **Allow for continuous improvement**

Cost Control

Using our extensive historical cost database, which represents projects we have budgeted and priced over the past +/-20 years, we are able to compare current project in-house estimates against similar past projects to make sure the budget is realistic. This allows us to make proactive decisions about the design from the beginning during the preconstruction/design development process and mitigate the need to cut items out of the project at a later date. **We also engage subcontractors as early as the schematic and design development phase to ensure we are obtaining current market pricing and back checking continually against the previous and current budget being developed.**

The Balfour Beatty cost control mind-set is instilled in each subcontractor we select to participate early on in the preconstruction process. Potential cost impacts, which may be tracking above the historical cost curve for a particular trade, will be discussed and alternative solutions developed and documented utilizing a tracking document we call the "Budget Revision Tracker." This document will be active through each pricing deliverable milestone.

At each milestone estimate, a variance report will be prepared by the preconstruction team to track cost variances in the trade scopes of work. We have the ability to provide

cost feedback on a real-time basis to analyze the potential use of different materials, systems and types of equipment. This information is used by the team to target the trades for further cost management. As mentioned above, using Balfour Beatty's value management tracking system (budget revision tracker), a comprehensive list of cost saving suggestions is maintained at each estimate phase. This list is updated throughout the preconstruction phase to make critical cost decisions to maintain the



Cost Control Example When budget cuts threatened the design of the Jacksonville Regional Transportation Center's outer curve curtainwall, the team examined options to drive value without sacrificing quality or vision. Drastically reducing the volume of custom glass panels on the backside of the building proved to be the most cost-effective solution. In turn, the team worked together to value engineer a layered metal facade technique that would meet the desired energy criteria and keep the artistic vision of the building. To achieve this, the team leveraged BIM models. The end product resulted in a futuristic design that carried over the same visual elements of the desired model.

General Conditions, CM Fee and Bond

Balfour Beatty's team will be actively involved in all phases of the construction as the project's CM, including preconstruction phase. The services received during this phase are absorbed within our CM Fee, **therefore there is no upfront cost to the City of Kissimmee.**

On all our projects, Balfour Beatty treats our GCs and money as if it was our own and practices fiscal responsibility. We understand that the city will be using are taxpayer dollars, permit fees and inspection fees to cover the cost of this expansion project. **Balfour Beatty will make sure that the City of Kissimmee and its resident's dollars are well spent and stretched to create a exceptional facility.**

As global company with strong financial backing, many of our clients waive any bond. In some cases, a client will elect to have us give a corporate guarantee at no cost to the Owner for the project in place of a bond, which in turn is a **savings to the owner.**

FEE PERCENTAGES	
Preconstruction	Included within CM fee below
General Conditions	6%
Fee	3.5%
Bond Rate	0.73%
*percentages are general and not final	

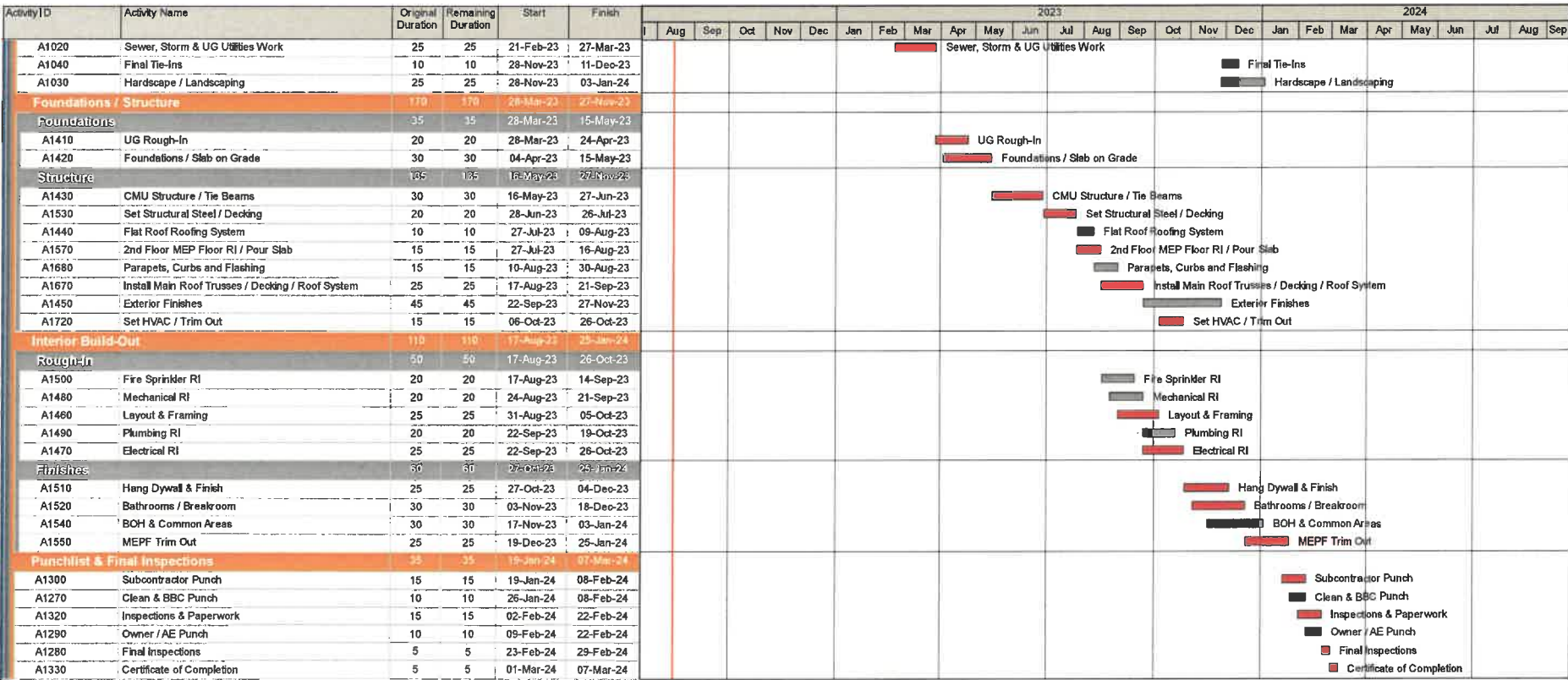
Tab 4 - Scheduling and Cost Control

Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish	2023												2024													
						Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Kissimmee City Hall Expansion																															
A1760	Construction Duration (Work Days)	290	290	09-Jan-23	29-Feb-24																										
A1770	Foundations thru Roofing Duration	120	120	04-Apr-23	21-Sep-23																										
A1780	Rough-In Duration	50	50	17-Aug-23	26-Oct-23																										
A1790	Finishes Duration	70	70	27-Oct-23	08-Feb-24																										
Milestones																															
M520	RFP Submission	0	0		26-Aug-22*																										
M210	Project Award	0	0		01-Sep-22																										
M200	Notice to Proceed (NTP)	0	0	09-Jan-23																											
M540	Structure / Roof Complete	0	0		21-Sep-23																										
M550	Start Finishes (Hang Drywall)	0	0	27-Oct-23																											
M400	Substantial Completion	0	0		29-Feb-24																										
Preconstruction																															
Permitting																															
A1560	Building Permit	40	40	02-Sep-22	28-Oct-22																										
Subcontractor Buyout																															
PROC000	Subcontractor Buyout - Critical Scopes	10	10	09-Jan-23	23-Jan-23																										
PROC0	Subcontractor Buyout - Remaining Scopes	15	15	24-Jan-23	13-Feb-23																										
Material Expediting																															
Division 03 - Concrete																															
Concrete Reinforcement																															
A1580	Rebar - Shop Drawings	10	10	17-Jan-23	30-Jan-23																										
A1590	Rebar - AE Review & Approve	5	5	31-Jan-23	06-Feb-23																										
A1600	Rebar - Procurement & Delivery	20	20	07-Feb-23	06-Mar-23																										
Division 05 - Metals																															
Metal Joists																															
A1610	Roof Structure - Shop Drawings	15	15	24-Jan-23	13-Feb-23																										
A1620	Roof Structure - AE Review & Approve	10	10	14-Feb-23	27-Feb-23																										
A1630	Roof Structure - Procurement & Delivery	80	80	28-Feb-23	20-Jun-23																										
Division 07 - Thermal & Moisture Protection																															
Roofing																															
A1640	Roofing - Product Data / Color	15	15	14-Feb-23	06-Mar-23																										
A1650	Roofing - AE Review & Approve	10	10	07-Mar-23	20-Mar-23																										
A1660	Roofing - Fabrication & Delivery	70	70	21-Mar-23	27-Jun-23																										
Division 15 - Mechanical																															
HVAC Systems																															
A1730	HVAC System - Product Data / Shop Drawings	10	10	24-Jan-23	06-Feb-23																										
A1740	HVAC System - AE Review & Approve	10	10	07-Feb-23	20-Feb-23																										
A1750	HVAC System - Fabrication & Delivery	120	120	21-Feb-23	09-Aug-23																										
Division 16 - Electrical																															
Electrical Gear																															
A1690	Gear & Panels - Product Data	10	10	24-Jan-23	06-Feb-23																										
A1700	Gear & Panels - AE Review & Approve	10	10	07-Feb-23	20-Feb-23																										
A1710	Gear & Panels - Procurement & Delivery	160	160	21-Feb-23	05-Oct-23																										
Construction																															
Mobilization / Area Development																															
A1000	Mobilization / Install Fence & Safe Off Project	10	10	24-Jan-23	06-Feb-23																										
A1010	Clear, Grub & Rough Grade	10	10	07-Feb-23	20-Feb-23																										
All Activities																															
Data Date: 15-Aug-22; Print Date: 25-Aug-22 - 09:59																															
Kissimmee City Hall Expansion																															
Page 1 of 2																															
Balfour Beatty																															

All Activities
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Kissimmee City Hall Expansion
Page 1 of 2

Tab 4 - Scheduling and Cost Control



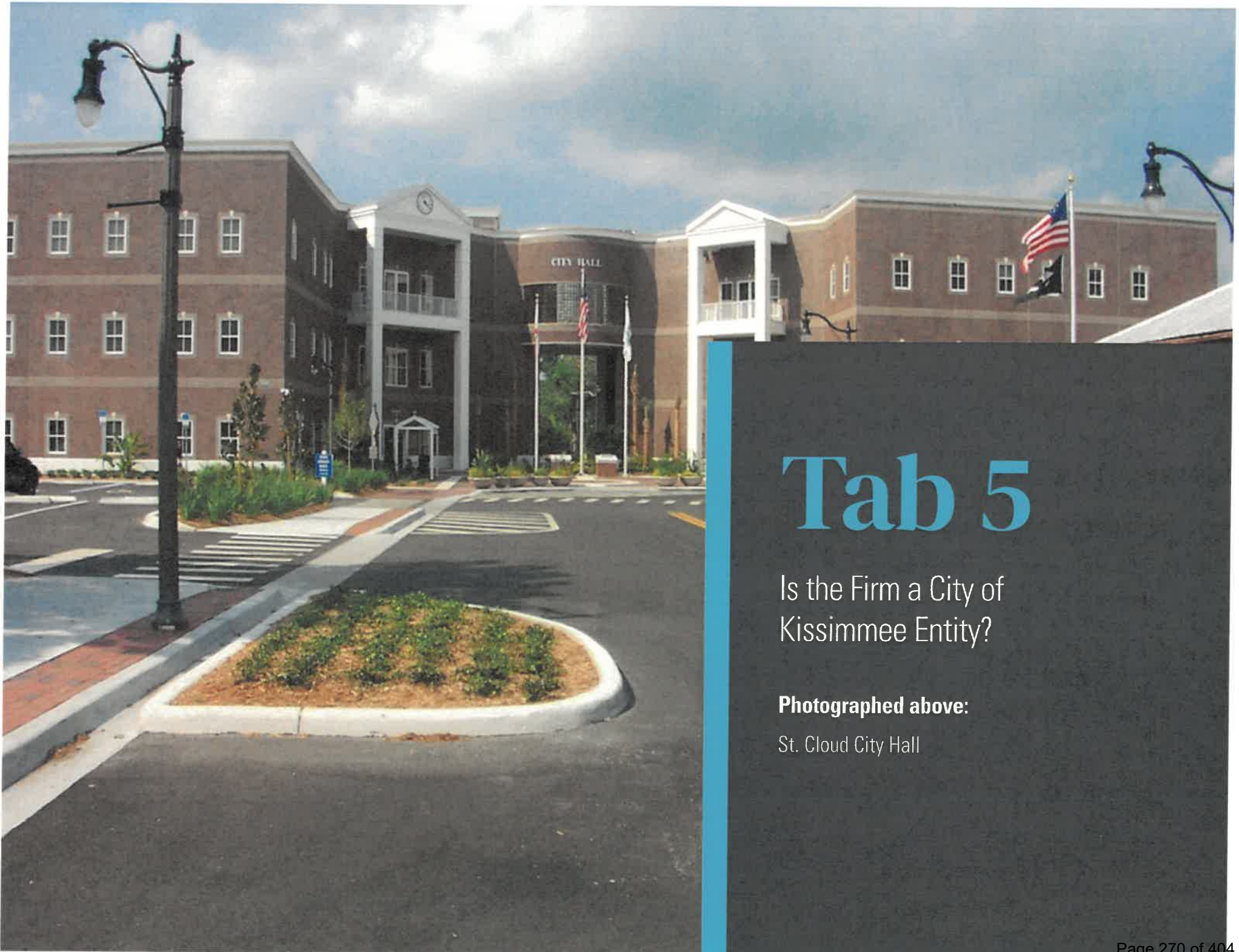
Cost Control Report Example

Change Events Summary

Change Event Number	Change Event Title	Change Event Change Reason	Change Event Status	Change Event Origin	Change Event ROH Total Amount	Prime PCO Number	Prime PCO Total Amount
008	R1 # 002 - Redesigning Spec Change Confirmation	Owner Change	Open	R1#002, R1 # 002 - Redesigning Spec Change Confirmation	\$4,050.00		
050	R1 # 071 - Door 300 Material Confirmation	AE Directive	Open	R1#071, R1 # 071 - Door 300 Material Confirmation	\$1,413.00		
053	R1 # 075 - Chilled Water Valves	AE Directive	Open	R1#075, R1 # 075 - Chilled Water Valves	\$3,600.00		
055	R1 # 083 - Architectural Ballasts	AE Directive	Open	R1#083, R1 # 083 - Architectural Ballasts	\$0.00		
059	Flush Valves - Zuni vs Sloan	Owner Change	Open		\$10,900.00		
060	R1 # 093 - Fiber Mesh Substitution	Owner Change	Open	R1#093, R1 # 093 - Fiber Mesh Substitution	(\$3,070.00)		
063	Brigadeon Controlled Pn	Owner Change	Open		(\$2,000.00)		
062	Transformer Red Change - 300kva to 750kva Transformer	AE Directive	Open		\$1,218.84	031	\$1,245.91

All Activities
Data Date: 15-Aug-22; Print Date: 25-Aug-22 - 09:59

Kissimmee City Hall Expansion
Page 2 of 2



Tab 5

Is the Firm a City of
Kissimmee Entity?

Photographed above:

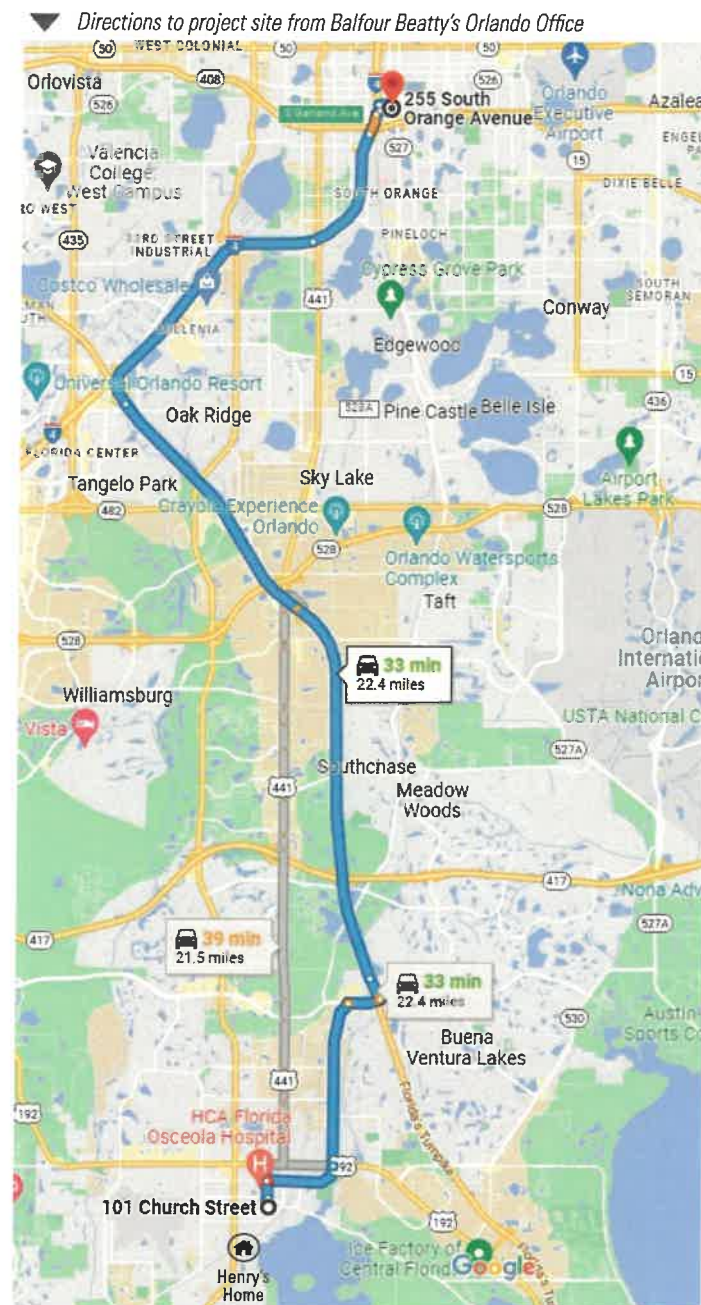
St. Cloud City Hall

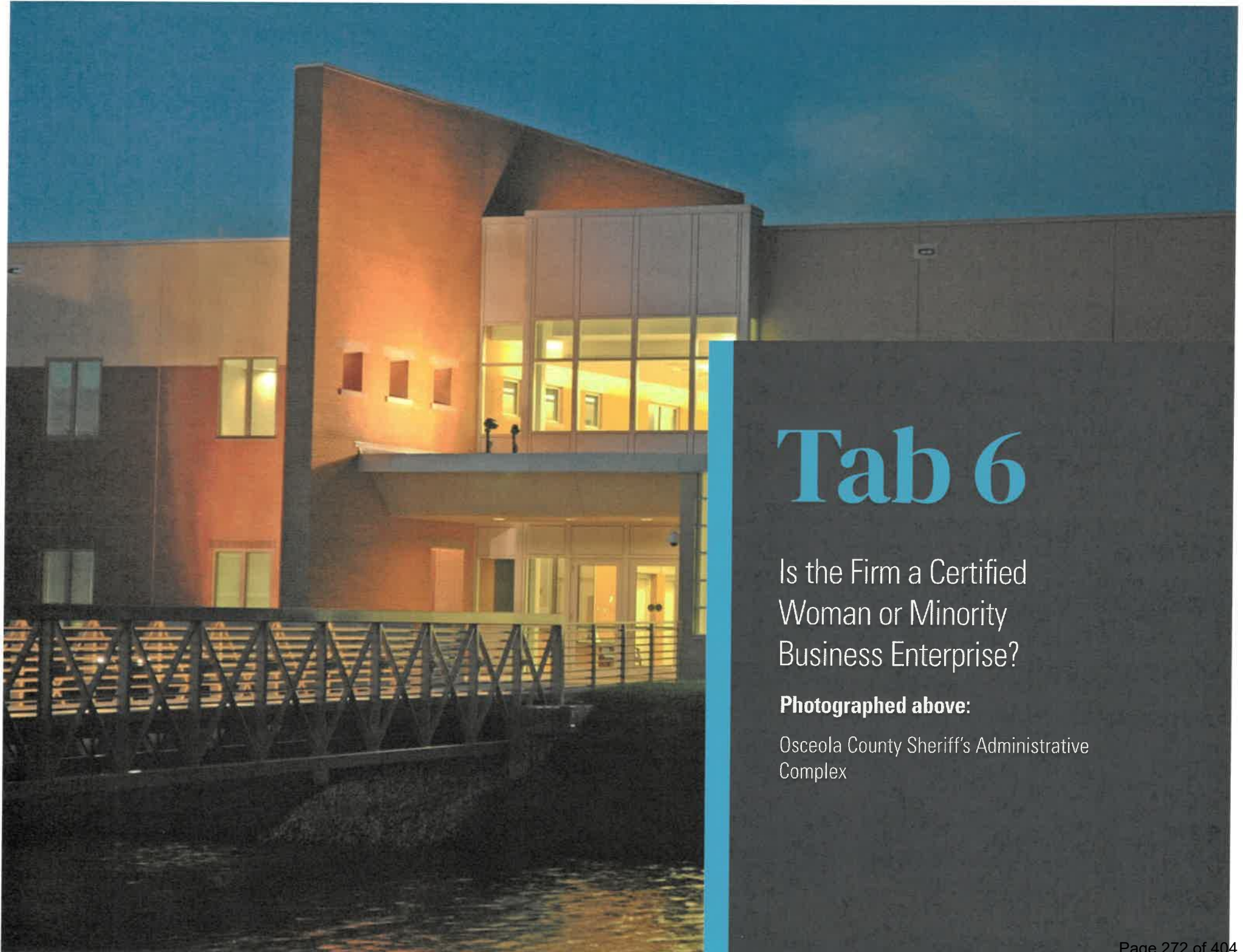
Tab 5 - Is the Firm a City of Kissimmee Entity?

Balfour Beatty is not a City of Kissimmee entity.

Balfour Beatty's Central Florida office is located in Downtown Orlando: 255 S. Orange Ave, Suite 1100, Orlando, FL 32801.

Balfour Beatty's division headquarters in Downtown Orlando is located an estimated 30 minutes from the City Hall Expansion site. Therefore, we can ensure timely and responsive services. With our close proximity to the project, as well as our fully operational on-site office, we will ensure your project has complete and full-time office support. In addition, Balfour Beatty has offices in South Florida (Plantation) and North Florida (Jacksonville).





Tab 6

Is the Firm a Certified
Woman or Minority
Business Enterprise?

Photographed above:

Osceola County Sheriff's Administrative
Complex

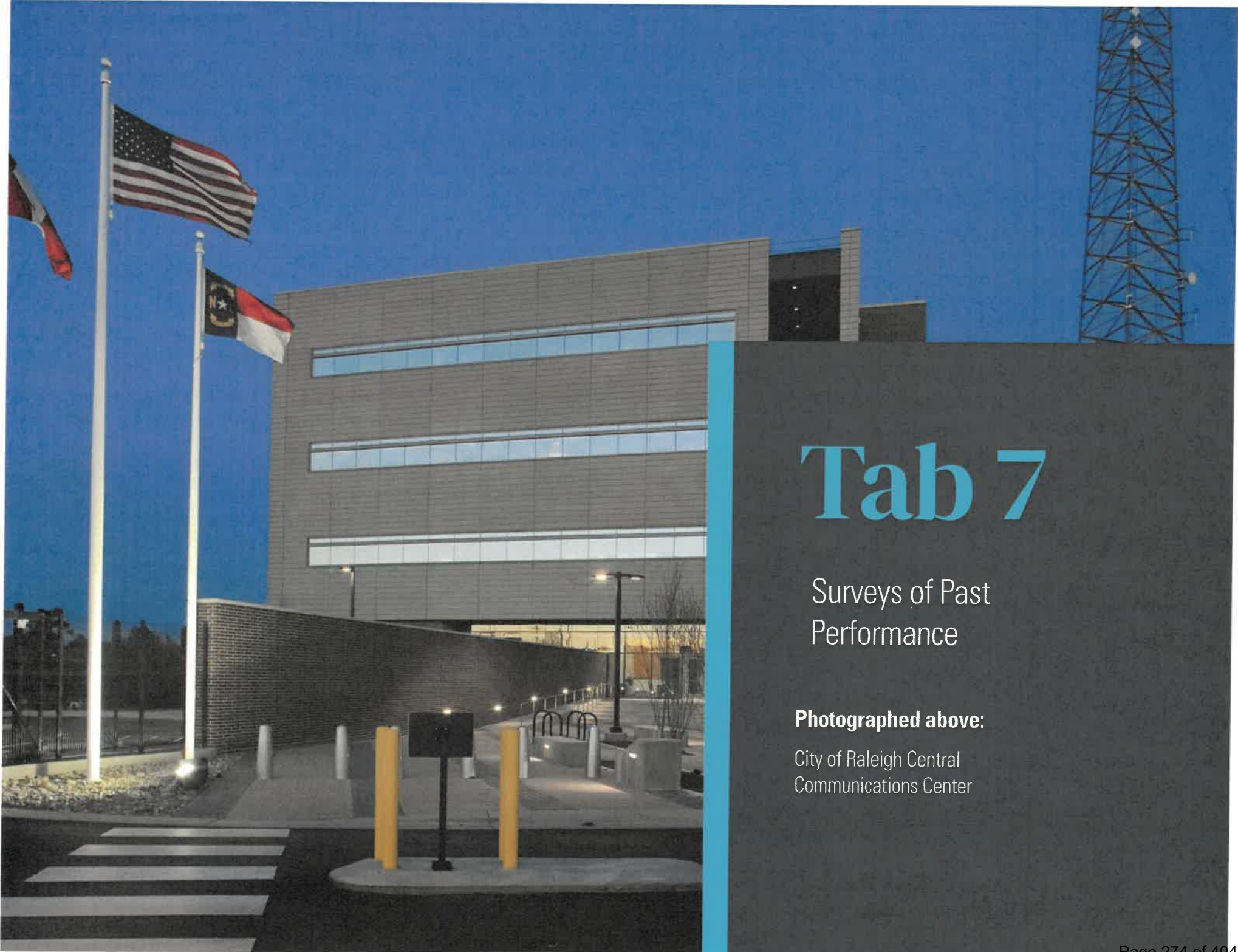
Tab 6 - Is the Firm a Certified Woman or Minority Business Enterprise?

Balfour Beatty is not a certified Woman or Minority Business Enterprise.

Balfour Beatty is committed to developing a high performance, inclusive work environment that creates opportunities for woman, minority and local businesses to flourish in the City of Kissimmee. Through our MWBE/local participation and subcontractor outreach plan, we will actively seek local contractors and vendors to participate on this project.

Balfour Beatty believes in the spirit of local, disadvantaged, minority, veteran and women-owned businesses. These companies foster innovation, creativity and competition and are a vital part of the local community. We continually strive to maximize local subcontractor participation on our projects to build our local resources in Central Florida and help small businesses flourish. Our team makes every effort to provide access and opportunity to local businesses throughout the lifecycle of the project through our Local Business Participation Plan. Balfour Beatty's program provides many avenues to ensure we achieve and exceed local business participation goals, maximizing opportunities for qualified firms to participate on our projects. For each of our projects, Balfour Beatty develops a customized plan leveraging a combination of the following strategies to achieve success:

- Foster growth for local businesses through a mentor/protégé relationships with established prime contractors.
- Leverage our strong local subcontractor relationships and our subcontractor database to enhance our reach and communication to more diverse businesses.
- Create small and meaningful bid packages to ensure local firms have the ability to participate.
- Establish working partner relationships with MWBE/local business community partners.
- Leverage our local partnerships with external partners, local agencies and network of experienced MWBE/local firms.
- Create opportunities for engagement through in person and virtual community events.



Tab 7

Surveys of Past
Performance

Photographed above:

City of Raleigh Central
Communications Center

Tab 7 - Survey of Past Performance

Survey Questionnaire – City of Kissimmee RFP, Construction Manager at Risk – Kissimmee City Hall Addition

To: Victor Gilpin Jacksonville Transportation Authority
(Name of Person completing survey) (Name of Client Company/Firm)

Phone Number: (407) 654-2492

Email: vgilpin@jtafla.com

Subject: Past Performance Survey of: Jacksonville Regional Transportation Center
(Project Name)

Consultant Name: Balfour Beatty

(Name of firm being surveyed)
Cost of Services: \$6,000,000 Date Complete: 1/30/2020

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: Jacksonville Regional Transportation Center Date Completed: 1/30/2020

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3	Quality of workmanship	(1-10)	8
4	Professionalism and ability to manage	(1-10)	10
5	Close out process	(1-10)	9
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	10
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

Victor Gilpin [Signature]
Printed Name of Evaluator Signature of Evaluator

Please fax or email the completed survey to: onutting@bbus.com

Tab 7 - Survey of Past Performance

Balfour Beatty

Attachment A

Survey Questionnaire -- City of Kissimmee RFP, Construction Manager at Risk -- Kissimmee City Hall Addition

To: Priscilla Tyree Williams City of Raleigh
(Name of Person completing survey) (Name of Client Company/Firm)

Phone Number: 919 996 4147

Email: priscilla.williams@raleighnc.gov

Subject: Past Performance Survey of: City of Raleigh Central Communications Center
(Project Name)
Consultant Name: Balfour Beatty

(Name of firm being surveyed)
Cost of Services: \$58,800,000 Date Complete: 5/2/2016

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: City of Raleigh Central Communications Center
Date Completed: 5/2/2016

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3	Quality of workmanship	(1-10)	10
4	Professionalism and ability to manage	(1-10)	10
5	Close out process	(1-10)	10
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	10
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

Priscilla Tyree Williams City of Raleigh
Printed Name of Evaluator Signature of Evaluator

Please fax or email the completed survey to: chumphrey@balfourbeattyus.com

Tab 7 - Survey of Past Performance

Balfour Beatty

DocuSign Envelope ID: BF0DE833-518F-4C26-93BA-CFDB0BCF0F1A Attachment A

Survey Questionnaire – City of Kissimmee RFP, Construction Manager at Risk – Kissimmee City Hall Addition

To: James Anderson, Jr. Forsyth County
(Name of Person completing survey) (Name of Client Company/Firm)

Phone Number: 336-703-2205

Email: andersja@forsyth.cc

Subject: Past Performance Survey of: Forsyth County Courthouse ____ (Project Name)
Consultant Name: Balfour Beatty

(Name of firm being surveyed)
Cost of Services: ____ Date Complete: 02/01/2023

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: Forsyth County Courthouse Date Completed: 02/01/2023

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3	Quality of workmanship	(1-10)	10
4	Professionalism and ability to manage	(1-10)	10
5	Close out process	(1-10)	n/a
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	10
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

James Anderson, Jr. Designated by: James Anderson, Jr. 60910672331423
Printed Name of Evaluator Signature of Evaluator

Please fax or email the completed survey to: littleton@balfourbeattyus.com



August 1, 2022

Addendum No. 1

Project: Construction Manager at Risk – Kissimmee City Hall Addition
Bid No: RFP 2022-008

TO ALL PROPOSERS:

The following items are clarifications, corrections, additions, deletions and / or revisions, which shall take precedence over the original documents.

Due to COVID-19 interested parties can respond to this Request for Proposal by Electronic submittals. Email will not be accepted.

Vendor Link

Vendor Link help can be accessed by emailing, support@evendorlink.com, and Demandstar help can be accessed by emailing, support@demandstar.com.

To ensure correct information formatting:

- Submit electronically through myvendorlink.com
- Upload files only in MS Word (.doc or .docx), Excel (.xls or .xlsx), and PowerPoint (.ppt or .pptx); Adobe Portable Document Format (.pdf); Compressed File (.ZIP) formats.
- Enable printing on files submitted
- Clearly identify the Bid Number, Name, Submission Date, and Name on the Response Cover Page or Letterhead
- Contact Vendor Link technical support at support@evendorlink.com if technical difficulties arise during proposal submission. Any bids received after above stated time and date will not be considered.

If you are receiving this message you have requested updates and/or information for a particular project or service which can be obtained by registering with <https://www.myvendorlink.com/common/register.aspx>. Registering with myvendorlink will ensure that you receive notifications, and of any changes to an advertised solicitation.

DemandStar:

To ensure correct information formatting:

- Submit electronically through demandstar.com
- Upload files only in MS Word (.doc or .docx), Excel (.xls or .xlsx), and PowerPoint (.ppt or .pptx); Adobe Portable Document Format (.pdf); Compressed File (.ZIP) formats.
- Enable printing on files submitted
- Clearly identify the Bid Number, Name, Submission Date, and Name on the Response Cover Page or Letterhead
- Contact Demandstar technical support at support@demandstar.com if technical difficulties arise during proposal submission. Any bids received after above stated time and date will not be considered.

It shall be the sole responsibility of the bidder to have their bid electronically delivered to Procurement Services Division for receipt on or before the above stated time and date.

1. The proposer shall acknowledge receipt of this addendum by completing the applicable section in the RFP. The Proposer shall submit said Form with the proposal.
2. All other terms and conditions of the RFP remain unchanged.

ACKNOWLEDGMENT OF ADDENDA NO.(S) 1 (IF APPLICABLE)

222/42/8

(typed name/title of signer)

EMAIL: bprebenda@bbus.com



August 17, 2022

Addendum No. 2

Project: Construction Manager at Risk – Kissimmee City Hall Addition
Bid No: RFP 2022-008

TO ALL PROPOSERS:

The following items are clarifications, corrections, additions, deletions and / or revisions, which shall take precedence over the original documents.

1. When is the actual construction start date?
 Answer: Actual construction start date is approximately 2-3 months after bid opening.
2. The 2nd floor will be a future build out, will that be completed by another bid or a change order?
 Answer: Change Order

A. ACKNOWLEDGMENT OF ADDENDA:

1. The proposer shall acknowledge receipt of this addendum by completing the applicable section in the RFP. The Proposer shall submit said Form with the proposal.
2. All other terms and conditions of the RFP remain unchanged.

Brandon Durango
Procurement Manager

ACKNOWLEDGMENT OF ADDENDA NO.(S) 2 (IF APPLICABLE)

B. Beatty
 (Signature)

COMPANY NAME

COMPANY ADDRESS

BY:

Balfour Beatty

255 S. Orange Ave #100, Orlando, FL 32801

DATE: 8/26/2022

(signature)

BRIAN REBECCA, SUPERVISOR
 (typed name/title of signer)

EMAIL: bbebecc@balfourbeattyus.com



Jacksonville Regional Transportation Center

Balfour Beatty

CGC1514969

255 S. Orange Avenue,
Suite 1100,
Orlando, FL 32801
407-538-2628

www.balfourbeattyus.com

ITEM 7.H

Approval of Holiday Incentive Payment

Request

This request is for Commission approval to utilize approximately \$137,200 from reserves for a one-time holiday incentive payment to all full-time and part-time employees.

Explanation

The year-end results for FY 2022 are approximately 6% better than anticipated. This can be attributed to conservative spending by the General Fund departments as well as slightly better revenue performance. The Commission has annually rewarded employees with a holiday incentive when revenue performance has been determined to exceed budget projections. Therefore, staff is requesting Commission consideration of a holiday incentive payment to reward employees for their efforts to contain costs and enhance revenues.

Staff recommends that all full-time employees with more than one year of service receive \$215 while all part-time employees with one year of service receive \$107.50. All employees with less than one year of service as of the date of the incentive payment will receive one-half of the above amounts depending upon whether the employee is a full-time or part-time employee. Within the General Fund, this is estimated to cost approximately \$109,000. The cost to the other funds would be approximately \$28,200 for a total cost to the City of \$137,200.

Recommendation

Based upon the projected fiscal year end results, staff requests Commission approval of a holiday incentive payment of \$215 for each full-time employee with more than one year of service (\$107.50 for less than one year) and \$107.50 for each part-time employee with more than one year of service (\$53.75 for less than one year) utilizing General Fund reserves of approximately \$109,000 and reserves from other operating funds of approximately \$28,200.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Finance

Presenter:

Attachment(s):

None

ITEM 7.I

Utilize the City's continuing services contract with Baker Barrios Architects, Inc. for the design of the Berlinsky Community House project.

Request

Approval to utilize the City's continuing services contract with Baker Barrios Architects, Inc. for the design of the Berlinsky Community House project in the amount of \$415,700.00.

Explanation

The Facilities Management division of the Public Works and Engineering Department received a proposal from Baker Barrios Architects, Inc. for design services for the Berlinsky Community House project.

The proposal consists of a 7,500 square foot tilt-wall single story community center with a warming kitchen and simple stage. Baker Barrios will provide complete schematic design, design development, construction documents, and construction phase services. The structural, civil, mechanical, electrical, plumbing, and fire protection engineering services are included in this proposal.

The total amount of the proposal for design services is \$415,700.00 to include \$225,000 for basic design and construction phase services plus \$190,700 for costs associated with sub-consultant services.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10445606-506393	ST2117		\$2,178,289.00	\$415,700.00

Financial Summary:

The funds for this design services contract are readily available in the project account.

Recommendation

Staff recommends City Commission approval to utilize the City's continuing services contract with Baker Barrios Architects, Inc. for the design of the Berlinsky Community House project in the amount of \$415,700.00.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Berlinsky Community House - Task Work Order Form
2. Berlinsky Community House - Design Services Proposal
3. Continuing Contract for Professional Services - Baker Barrios Architects Inc.



**CITY OF KISSIMMEE
PUBLIC WORKS & ENGINEERING
WORK ORDER FORM**

Work Order #: 1

Purchase Order #:

DATE: 11/21/2022

Per the terms, conditions, and specifications of the City of Kissimmee purchasing policies and procedures, this work order is issued to **Baker Barrios** with the following described work as agreed upon and are hereby accepted and incorporated:

DESCRIPTION OF ASSIGNMENT: Baker Barrios Architects, Inc. (BBA) is pleased to submit to you this proposal to provide architectural and engineering services on this proposed Community Center project. The current program consists of a 7,500sf tilt wall single story community center with a warming kitchen and simple stage. The project is located in Kissimmee, FL and is further defined in the attached Concept Package. Baker Barrios will provide complete Schematic Design, Design Development, Construction Documents, and Construction Phase Services. Structural, Civil, and Mechanical, Electrical, Plumbing, and Fire Protection Engineering services are included in this proposal. The Consulting Engineers we are proposing for your project are TLC Engineering Solutions for Structural Engineering services and Mechanical, Electrical, Plumbing, Fire Protection Engineering services, and Low Voltage, and Kimley-Horn for Civil Engineering. BBA will provide Architecture, Interior Design, and Landscape Architecture Design services.

FORM OF COMPLETED DELIVERABLES: Labor, materials, permitting, equipment, and warranties.

BASIS OF PAYMENT: Services shall be made on the basis of invoice method in accordance with the Scope of Services, the total not to exceed \$415,700.00 without further authorization from the City of Kissimmee.

ESTIMATED DATE OF COMPLETION: This assignment shall be completed within 90 calendar days from the receipt of the official Notice to Proceed from the City.

TASK	FEE
1) Schematic design, design development, construction docs, permitting, & construction phase services.	\$ 415,700.00
2)	
3)	
	\$ 415,700.00
Contract Dollars:	\$415,700.00
NET Dollars for this Work Order/Addendum (Addition/Subtraction):	\$0.00
CONTRACT TOTAL DOLLARS:	\$415,700.00

Accepted By:


(Signature)

Requested By:

Robert Masiku
Digitally signed by Robert Masiku
Date: 2022.11.28 15:27:34 -05'00'
(Signature)

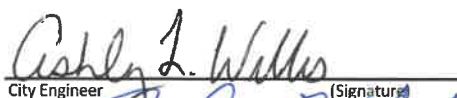
Title/Position:

Chief Design Officer

Approved By:

City Manager (Signature)

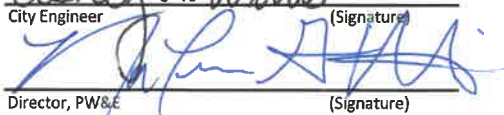
City Engineer:


City Engineer (Signature)

Approved By:

Mayor (Signature)

Approved By:


Director, PW&E (Signature)

City Commission Approval Date:

(If Required)

Approved as to Form and Legality:

City Attorney (Signature)

Public Works and Engineering



ORLANDO
189 S. ORANGE AVE.
SUITE 1700
ORLANDO, FLORIDA
32801
407.926.3000
AA0002981 | LC26000427

COMMERCIAL
CORPORATE
EDUCATION
ENTERTAINMENT
HEALTHCARE
HOSPITALITY
INDUSTRIAL
MIXED-USE
RESIDENTIAL
RETAIL
SENIOR LIVING
SPORTS & RECREATION

October 11, 2022
Revised November 8, 2022

Mr. Robert T. Masiku
Facilities Construction & Maintenance Manager
City of Kissimmee
101 N. Church Street
Kissimmee, FL 34741

Re: Berlinsky Community Center – Kissimmee
Full Architectural and Engineering Services Proposal
BBA Project Number: 220199.00

Dear Robert:

Baker Barrios Architects, Inc. (BBA) is pleased to submit to you this proposal to provide architectural and engineering services on this proposed Community Center project. The current program consists of a 7,500sf tilt wall single story community center with a warming kitchen and simple stage. The project is located in Kissimmee, FL and is further defined in the attached Concept Package. Baker Barrios will provide complete Schematic Design, Design Development, Construction Documents, and Construction Phase Services.

Estimated Construction Budget:

7,500sf @ \$400/unit	<u>\$3,000,000</u>
TOTAL:	\$3,000,000

Structural, Civil, and Mechanical, Electrical, Plumbing, and Fire Protection Engineering services are included in this proposal. The Consulting Engineers we are proposing for your project are **TLC Engineering Solutions** for Structural Engineering services and Mechanical, Electrical, Plumbing, Fire Protection Engineering services, and Low Voltage, and **Kimley-Horn** for Civil Engineering.

BBA will provide Architecture, Interior Design, and Landscape Architecture Design services.

Services which **may** be needed, but which are **not** part of this proposal, include the following: (1) soils testing and recommendations, (2) topographical surveying, (3) threshold inspection services, (4) water proofing consultant, (5) building lighting design consultant, (6) FF&E selection & procurement, (7) LEED certification services, (8) permit application fees, (9) kitchen consultant, and (10) acoustical engineering.

Note: The consultants above are not included in this proposal, but if required, will be coordinated by BBA as well as all other Owner provided consultants.

ARCHITECTURE + INTERIOR DESIGN + PLANNING + LANDSCAPE ARCHITECTURE

BAKERBARRIOS.COM

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 2 of 7

I. BASIC SERVICES: CORE & SHELL

BBA proposes to perform architectural design services and coordinate typical engineering services as described in AIA Document B101 (Standard Form of Agreement Between Owner and Architect). Typical engineering services include structural engineering, and mechanical, electrical, plumbing, fire protection, and low voltage engineering services. Basic Services as described in AIA B101 shall be provided for the building "shell," including site planning, the structural framework, the building enclosure, and the building core elements. The design work of these items will be carried to a point 5 feet outside the building line, at which point the civil engineering and/or landscape architectural work will begin. See the attached Kimley-Horn proposal for civil engineering services included.

BBA will prepare a 90% GMP permit package and a 100% for Construction package.

Construction Phase Services will begin at the issuance of the Building Permit. Services during the Construction Phase shall include checking of shop drawings, answering questions generated in the field during construction, review testing reports, review pay applications submitted by the General Contractor, review the construction work, preparation of a "punch list" at the time of substantial completion, and one final review. BBA's fee includes services for 14 months at 16 hours per month (224 total hours). One OAC visit per month is calculated into this fee. An additional service fee will be required if more than one OAC visit per month is required. Should weekly calls/video conferences be required, an additional service fee will be required for this effort. BBA will provide a maximum of two (2) reviews per submittal.

Any further requests for review beyond the two will be billed as an hourly additional service per the rate schedule defined in this proposal. At the conclusion of the 14-month period, Construction Phase Services will resume at the rate of \$3,000 per month.

See Exhibit A for Construction Phase Services included in this proposal.

II. INTERIOR DESIGN SERVICES

The interior design of all areas of the building's core, amenity space, and units have been included in this proposal separate from the Basic Services fee. These interior design services include full interior detailing of the approved design, selection of finishes, and specification of feature materials. All interior design components will be coordinated with the architectural, structural, and MEP consultant's work.

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 3 of 7

Assumptions

1. Areas of the core, amenities, and units to be included are public areas, lobbies, elevator cabs, building common areas, administrative offices, and public areas.
2. Interior architectural plans will be based upon architectural documents, as approved by the Owner.
3. Interior furniture, fixtures, and equipment selection and procurement assistance are not included but can be provided as an additional service.

Schematic Design

1. Provide preliminary finish selections, conceptual sketches, and details to convey the interior design intent for Owner approval.
2. Interior finish concepts will be submitted to the Owner for their review and approval.
3. Public area design will be based upon the approved design criteria as set forth by BBA's interior designer for approval by Owner.

Design Development

1. Develop floor plans.
2. Develop interior specialty details and design features.
3. Select final interior colors, finishes and material specifications.
4. Design millwork drawings for all areas.

Construction Documents

1. Prepare plans and details for inclusion in the architectural construction documents/interior design drawings. It is anticipated that these will include items such as the dimensional floor plans, the reflected ceiling plans, millwork details, column details and added design features which are integral with the base building architectural drawings.
2. Provide enlarged floor plans, reflected ceiling plans, finish plans, elevations, details, sections, specifications, and millwork details.
3. Prepare Project Manual Technical Specifications for all materials and systems.
4. Select lighting and plumbing fixtures.

I. LANDSCAPE ARCHITECTURAL SERVICES

Schematic Design

Baker Barrios Architects, Inc. (Landscape Architecture Dept.) will develop schematic plans that will illustrate the overall area development for the site's ground floor exterior spaces. BBA will develop the site plan showing the location of all landscaped areas, preliminary selection of landscape materials, hardscape, preliminary hardscape material selection, location of water features and site furnishings. This phase will also include one (1) rendered site plan.

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 4 of 7

After schematic design review BBA will incorporate client comments into the next phase of work. Any further revisions to the design will constitute an additional service.

Meetings: BBA's Landscape team will attend up to four (4) meetings associated with this phase.

Design Development

Upon approval of the project's previous phase, BBA will provide design services for the project's site hardscape and landscape planting to meet local jurisdictional requirements. Services include preparing preliminary hardscape and landscape plans, plant lists, planting details, and technical specifications. It is understood that the Landscape Architectural plans submitted for DD shall be designed to the 100% Permit/Bid Set phase.

Prepare plans and details to include:

- Site Hardscape and Hardscape Details for the project's hardscape elements related to exterior amenity areas. Vehicular pavement, such as roadways, drives, and service areas will be provided by others. All structural design will be provided by others.
- Site Grading: BBA will assist the project civil engineer in the development of site grading for pedestrian areas such as courtyards and plazas but assumes all preliminary and final topographic controls will be documented on the civil engineer's plans. BBA will coordinate all raised courtyard areas with the structural engineer including plant selections and soil weights.
- Site Layout: Construction level layout plans for the site hardscape elements related to the landscape scope.
- Planting Plans: BBA will provide Construction Documents design services for the project's exterior site landscape plantings. Planting plans will show intended plant material location, plant schedule showing size and drought tolerance, and details.
- Irrigation Plans: Baker Barrios, in conjunction with its sub-consultant, will provide irrigation construction documents for the exterior site irrigation.
- Site Furnishings: BBA will provide design for the project's exterior site furnishings defined as benches, trash receptacles, and landscape pots. Services include preparing plans and product selections for site furnishings. All pool deck furniture such as chaise lounges, tables, and chairs will be the responsibility of the project's interior designer.
- Landscape Lighting: BBA will provide design services for the project's site lighting defined as pedestrian pathway pole lights, landscape up lights, bollards, and courtyard area lighting. Services for the site lighting include the preparation of schematic plans with product cut sheets. The project's lighting designer/engineer shall be responsible to

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 5 of 7

prepare construction documents and construction phase services for all site lighting.

Meetings: BBA's Landscape team will attend up to six (6) meetings associated with this phase.

Bidding & Permitting

Baker Barrios Architects, Inc. (Landscape Architecture Dept.) will assist with the review of bidders' questions applicable to the landscape scope of work and provide appropriate responses in a timely manner.

Meetings: BBA's Landscape team will attend one (1) meeting with this phase.

Construction Phase Services

Construction phase services are provided as an hourly service. Services during the Construction Phase shall include reviewing shop drawings, submittals, and responding to RFI's associated with the landscape scope of work.

Design Direction, Programming, and Development: Project design direction, approval, programming, and development will be accomplished through continual direct interaction between the Owner's designated Representative, and the Design Team, and done in a timely manner to allow Baker Barrios to complete its work and meet the project schedule's milestones and completion deadlines.

Plan Changes: Significant changes to the site plan or program elements that affect the exterior area development scope will result in an additional service.

Permit Processing: Documents will be provided by BBA for permitting, but meetings with permitting officials and submission of permitting plans shall be provided as a part of the architectural services.

SCHEDULE OF PAYMENTS FOR SERVICES

For Basic Services, the payments to the Architects shall be made according to the schedule in the attached Exhibit B.

The Architect will submit monthly invoices for services rendered based upon the percentage of each phase completed at the time of invoicing. Payment will be due upon receipt. At no time during the duration of the project may the total fees outstanding equal or exceed 20% of the total base fee for the project. In the event the total outstanding equals or exceeds 20% of the base contract fee, the project will be placed on hold and no additional work will be performed by Architect or Consultant(s) until the outstanding balance has been paid to Architect.

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 6 of 7

REIMBURSABLE EXPENSES

Reimbursable expenses including, but not limited to, 3D-colored renderings, 3D project scale models, printing and reproduction costs, postage and shipping, travel expenses, and consultant additional services, if they are required, will be billed in addition to the above listed professional fees at 1.15 times the actual expenses. The following services are also offered at the following fees: \$1,500 per rendering and Lumion video file; \$7,500 per minute of animation. Reimbursable expenses will be capped at \$20,000. Included in Basic Services at no additional charge is access to the 3D Revit model, and the Enscape model to view the architectural model 3 dimensionally.

ADDITIONAL SERVICES

All Additional Services shall be based on time spent and billed on an hourly basis at the following rates or may be a negotiated fixed lump sum. All Additional Services shall be approved in advance, and in writing, by the Owner prior to commencement of services. It is assumed this is a full-service proposal and we do not anticipate additional services.

Architectural Design Services

Executive / President / Vice President	(AR6)	\$350
Practice Leader / Principal	(AR5)	\$250
Sr. Architect / Sr. Designer / Sr. Project Manager	(AR4)	\$200
Architect / Sr. Drafter / Project Manager	(AR3)	\$160
Project Architect	(AR2)	\$145
Drafter / Graduate Architect	(AR1)	\$100
Intern Architect (Internship)	(AR0)	\$90

Landscape Architectural Design Services

Practice Leader / Principal	(LA5)	\$250
Sr. Architect / Sr. Designer / Sr. Project Manager	(LA4)	\$190
Project Architect / Sr. Drafter / Project Manager	(LA3)	\$155
Architect	(LA2)	\$130
Drafter	(LA1)	\$90
Intern Architect (Internship)	(LA0)	\$85

Interior Design Services

Practice Leader / Principal	(ID5)	\$250
Sr. Interior Designer	(ID4)	\$200
Interior Designer	(ID3)	\$165
Project Designer	(ID2)	\$130
Drafter / Graduate Interior Designer	(ID1)	\$100
Intern Interior Designer (Internship)	(ID0)	\$90

Quality Assurance

Sr. Quality Assurance Specialist	(QA2)	\$175
Quality Assurance Specialist	(QA1)	\$140

Mr. Robert T. Masiku
City of Kissimmee
Re: Berlinsky Community Center
Full Architectural and Engineering Services
BBA Project Number: 220199.00
October 11, 2022
Revised November 8, 2022
Page 7 of 7

Other

Director of Special Projects	(DSP)	\$250
Branding	(MA3)	\$200
Computer Support	(IT1)	\$130
Graphics	(GD1)	\$90
Administrative Support	(AM1)	\$100
Business Development	(BD4)	\$250
Marketing	(MA4)	\$250

AGREEMENT BETWEEN OWNER AND ARCHITECT

BBA proposes to use the AIA Document B101 (Standard Form of Agreement between Owner and Architect), inclusive of BBA Amendments, as the basis for agreement. This AIA document is subject to review by the Owner and modifications will be considered if requested by the Owner. A draft of the proposed agreement will be provided shortly after the acceptance of this proposal. Until an Agreement is signed, the total liability, in the aggregate, of BBA and its officers, directors, employees, and consultants for any and all injuries, claims, losses, expenses, or damages arising out of or in any way related to the services under this proposal shall not exceed the total compensation received by BBA under this proposal or the total amount of \$50,000, whichever is less.

If this proposal meets with your approval, please indicate your acceptance by signing below and returning a copy to this office. We are prepared to begin this work immediately upon receipt of your written authorization to proceed.

Thank you for your interest in our firm. We look forward to working with you on this exciting project. If you have any questions or comments, please do not hesitate to call us.

Sincerely,

Accepted by:

Baker Barrios Architects, Inc.



Timothy R. Baker, AIA
CEO + Architect

Signature

Title

Date

TB:nr
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Community Center_Kissimmee_Full Arch and Eng Svcs_v2.doc



ORLANDO

189 S. ORANGE AVE.

SUITE 1700

ORLANDO, FLORIDA

32801

407.926.3000

AA0002981 | LC26000427

COMMERCIAL

CORPORATE

EDUCATION

ENTERTAINMENT

HEALTHCARE

HOSPITALITY

INDUSTRIAL

MIXED-USE

RESIDENTIAL

RETAIL

SENIOR LIVING

SPORTS & RECREATION

Construction Phase Services - Exhibit A – 10/11/2022

Revised November 8, 2022

Berlinsky Community Center – Kissimmee, FL

BBA Project Number: 220199.00

Scope of Services

- As set forth in the BBA Standard AIA Contract B101, Baker Barrios Architects, Inc. (BBA) will provide Construction Phase services including Site Observations, Shop Drawing Review, Response to Requests for Information, and Review of Contractor Pay Applications, all as detailed below.
- We anticipate the construction duration for this project to be 14 months and that the fee supports 16 hours per month, for a total of 224 hours. At the conclusion of the 14-month period, Construction Phase Services will resume at the rate of \$3,000 per month, for the remainder of the construction period.

Site Observations & On-Site Attendance

- BBA shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed upon in writing with the Client, in order to observe the progress of the work completed by the Contractor. Such visits are not intended to be exhaustive or detailed reviews of the Contractor's work, but rather to become familiar with the work in progress and determine if the work is in general conformance with the Contract Documents.
- Basic Services include monthly visits to the site, including meetings, based upon the agreed construction schedule. Any additional site visits requested by either the Owner or Contractor, or if the construction schedule is extended by no fault of the architect, time spent on site will be deemed an additional service to be billed hourly. Should weekly calls/video conferences be required, an additional service fee will be required for this effort.



Shop Drawing and Product Submittal Review

- BBA will review, or take appropriate action on, the Contractor submittals, shop drawings, and other data, which are requested by Baker Barrios, but only for the limited purpose of checking for conformance with the design concept and the information shown in the Construction Documents. This review shall not include review of the accuracy or completeness of details such as quantities, dimensions, weights or gauges, and means or methods, all of which are the sole responsibility of the Contractor. BBA will provide a maximum of two (2) reviews per submittal. Any further requests for review beyond the two will be billed as an hourly additional service per the rate schedule defined in the attached proposal.
- BBA will not be responsible for any deviations from the Construction Documents not brought to our attention in writing by the Contractor.
- Shop Drawing and Product Submittal review will be limited to those submittals required by Baker Barrios for this project. Additional submittals not listed will be returned to the Contractor as "Not Reviewed."

Product and Material Substitutions

- If, after the commencement of construction, the Owner or Contractor requests Baker Barrios to review and analyze a product or material substitution, the time spent for review will serve as an additional service to be billed hourly.
- Regarding substitutions, BBA relies on stated and implied representations made by the Contractor, manufacturers, suppliers, and installers of such products as being suitably fit for their intended purposes. BBA is not responsible if the product does not perform consistently with those representations or with the information presented.

Authorities Having Jurisdiction

- Extensive on-site meetings and post-permit reviews with the AHJ are not considered as part of the Base Fee. If on-site representation in excess of those listed under Site Observations and beyond the control of the architect is required, additional services will be billed based upon the hours spent.



Review of Pay Applications

- BBA will review the Contractor's requests for payment. Based upon Baker Barrios' knowledge, information, and belief that the work has progressed to the point indicated and the work is in general conformance to the Contract Documents, BBA will process the application for payment.

Evaluations of Work

- In addition to the agreed upon site visits, one review is included to determine whether such portions of work are deemed substantially complete in accordance with the requirements of the Contract Documents. Baker Barrios will generate a punch list based upon this evaluation and submit to the Contractor. The basis for this evaluation is as follows:

Base Fee includes one review of each space.

- Included in the Base Fee is a Final Completion site visit with the Owner to review the general project completeness. A second evaluation/punch list will not be generated based upon this site visit. Baker Barrios is not responsible for any acts or omissions of the Contractor, Subcontractor, or entity performing any portions of work on the project.

Close Out – Record Drawings

- The Base Construction Phase Fee does not include providing electronic Record Drawings to the Owner.
- If requested by the Owner, BBA will provide electronic documents (PDF) based upon the as-built drawings provided by the Contractor. Baker Barrios will not inspect or verify the documentation provided by the Contractor. An additional service fee of \$12,000 is required to generate Record Drawings.

Exhibit B

Berlinsky Community Center

Basic Services - Full Architectural & Engineering Services

Construction Estimate: \$3,000,000

Fee: 7.5% of the Cost of Construction

BBA Project Number: 220199.00

October 11, 2022

Revised November 8, 2022

Baker Barrios Architects, Inc. - Basic Services

Consultant/Sub-Consultant	Architectural & Design Services BBA	Structural TLC	MEP/FP TLC	Subtotal
Schematic Design	\$34,160	\$3,940	\$6,900	\$45,000
Design Development	\$42,700	\$4,925	\$8,625	\$56,250
Construction Documents	\$51,240	\$5,910	\$10,350	\$67,500
Permitting	\$8,540	\$985	\$1,725	\$11,250
SUBTOTAL DESIGN	\$136,640	\$15,760	\$27,600	\$180,000
Construction Phase Services (O/A/C weekly meetings)	\$34,160	\$3,940	\$6,900	\$45,000
TOTAL for Design & Construction Phase Svcs	\$170,800	\$19,700	\$34,500	\$225,000

Additional Consultants

Consultant/Sub-Consultant	Alternate - Low Voltage A/V-Technology TLC	Waterproofing Estimated Allowance	Landscape / Hardscape BBA	Residential Interior Design BBA	Civil Engineering Kimley-Horn	Subtotal
Schematic Design	\$1,500	\$6,000	\$13,000	\$9,000	\$8,300	\$37,800
Design Development	\$1,875	\$7,500	\$16,250	\$11,250	\$10,375	\$47,250
Construction Documents	\$2,250	\$9,000	\$19,500	\$13,500	\$12,450	\$56,700
Permitting	\$375	\$1,500	\$3,250	\$2,250	\$2,075	\$9,450
SUBTOTAL DESIGN	\$6,000	\$24,000	\$52,000	\$36,000	\$31,500	\$151,200
Construction Phase Services (O/A/C weekly meetings)	\$1,500	\$6,000	\$13,000	\$9,000	\$10,000	\$39,500
TOTAL for Design & Construction Phase Svcs	\$7,500	\$30,000	\$65,000	\$45,000	\$41,500	\$190,700
GRAND TOTAL						\$415,700

November 2, 2022

Mr. Annette DeSeve Rivera
Associate Principal + Architect
Baker Barrios Architects, Inc.
189 S. Orange Ave, Suite 1700
Orlando, FL 32801

**Re: Berlinsky Community House
300 E. Monument Avenue
City of Kissimmee, FL**

Dear Ms. DeSeve Rivera:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "the Consultant") is pleased to submit this letter agreement (the "Agreement") to Baker Barrios Architects, Inc. (the "Client") for providing professional engineering services.

PROJECT UNDERSTANDING

It is our understanding that the Client would like to demolish the existing Berlinsky Community House and construct a new facility on the same site. The new $\pm 7,575$ sf building will be constructed on the ± 19.43 acre property located at 300 E. Monument Avenue in the City of Kissimmee, Florida (Parcel ID# 28-25-29-1599-0001-00E0).

Kimley-Horn understands the following:

- Based on the Client's site plan, no parking area is proposed.
- Environmental analysis, and geotechnical investigation will be provided by the Client.
- Kimley-Horn has included an optional Special Purpose Survey task in this proposal. If this task is not chosen, a Special Purpose Survey will be provided by the Client.
- Landscape Architecture services will be provided by the Client.
- Further entitlements are not anticipated and if required, would be considered additional services under a separate scope and fee.
- Utility infrastructure is available at the property line and sufficient to serve the development.
- Offsite utility improvements or extensions, if needed, are not included.
- Retaining wall design is excluded from this proposal.
- The project will be permitted in one (1) phase. Phased submittals, including early site or foundation permits and separate amenity building permits, are not included in this scope.
- No stormwater management will be required.

Based on the above information we have prepared the following Scope of Services, Schedule and Fees:

SCOPE OF SERVICES

Task 1 – Special Purpose Survey (Optional)

Kimley-Horn will retain the services of a local registered land surveyor to provide a Special Purpose and a Limited Topographic Survey for the project footprint.

Task 2 – Conceptual Site Plan

Based on the boundary, topographic, and tree survey provided by the Client, Kimley-Horn will prepare a conceptual site plan in AutoCAD, incorporating the requirements of the City of Kissimmee.

Task 3 – Site Construction Documents

Kimley-Horn will provide engineering and design services for the preparation of site construction plans for the on-site improvements to include storm sewer collection system, paving and grading, traffic circulation, pedestrian access, ADA compatibility, water distribution system, sanitary sewer collection systems, and dry utilities layout. No off-site improvements are proposed or included in this scope.

Cover Sheet

The cover sheet includes plan contents, vicinity map, legal description and team identification.

Existing Conditions Plan/Demolition Plan

This sheet will include and identify the required demolition of the existing items to be cleared, demolished and/or removed prior to construction of the proposed site and facilities improvements. It will also include the boundary and topographic survey, as provided by the Surveyor.

Site Plan

Kimley-Horn shall prepare a Site Plan, as indicated above, with associated parking and infrastructure. Site Plan shall include the following: site geometry, building setbacks; boundary dimensions; dimensions and locations of pedestrian walks; and specifications.

Paving, Grading and Drainage Plan

Kimley-Horn shall prepare a plan for the site paving, grading to include: pipe materials and sizing; horizontal control; sidewalks; spot elevations and elevation contours; interfacing from paved surfaces to buildings; and construction details and specifications, and includes erosion and sedimentation control measures.

Utility Plans

Kimley-Horn shall prepare a plan for the site water distribution and sanitary sewer collection systems including: sewer main locations; pipe sizing; manhole locations; rim and invert elevations; sewer lateral locations and size; lift station, if required; main location; materials and sizing; fire hydrant locations; water service locations; fire service locations and sizes; pipe materials; meter locations; sample points; existing water main connections; and construction details and specifications.

Kimley-Horn's contract does not include the design of the fire lines to buildings as those lines will need to be sized and designed by a licensed fire sprinkler engineer and permitted by others.

Kimley-Horn has assumed utilities are available at the project boundary and have adequate capacity to accommodate the proposed development. Kimley-Horn assumes off-site utility extensions will not be required.

Kimley-Horn shall show any existing utility locations on the utility plans as provided by the surveyor, and research applicable utility records for locations in accordance with best available information.

Civil Details and Construction Specifications

Kimley-Horn shall prepare construction details for site work improvements and erosion and sediment control measures. Typically, these details will correspond with City of Kissimmee standard details.

Task 4 – Permitting

Kimley-Horn shall prepare and submit on the Client's behalf the following permitting:

- City of Kissimmee Site Plan Review (Building Permit for site work)

- Toho Utilities Commission Permit (water and sewer)
- South Florida Water Management District (SFWMD) (ERP Permit) Exemption
- Florida Department of Environmental Protection (FDEP) (water and sewer)
- Florida Department of Environmental Protection (FDEP) NPDES Permit

Kimley-Horn will provide up to three requests for information during the agency review process for obtaining the above permits. Responding to requests for additional information from the jurisdictional agencies beyond what is normal and customary, and responding to permitting issues beyond our control which result in site plan modification(s) are outside of this scope of services, and will be provided as needed, as an Additional Service only after prior written authorization by Owner. Efforts to respond to issues raised during the permitting process, which cannot currently be anticipated, shall be considered Additional Services.

Permit fees and impact fees are not included. Kimley-Horn does not guarantee the issuance of permits or approvals. If permits are issued for this project, the conditions and expiration dates are the sole responsibility of the Owner. Kimley-Horn is not responsible for extending time-limited entitlements or permits. Kimley-Horn may provide services related to permit time extension requests and/or re-application of expired permits as an additional service.

Any changes to the plans or scope of work requested by others after permit drawings are submitted to the above regulatory agencies will be addressed as additional services. After comments are received from all applicable regulatory agencies, Kimley-Horn will upgrade the civil engineering construction drawings produced in the above tasks to contract drawings suitable for construction. The plans will be prepared reflecting comments and/or conditions set forth by the regulatory agencies during the regulatory process.

Kimley-Horn has no control over the actions of jurisdictional agencies and is not a party to agreements between the client and others. Accordingly, professional opinions as to the status of permits and entitlements or the suitability for a specific purpose herein and professional opinions as to the probability and timeframe for approvals are made on the basis of professional experience and available data. The Consultant does not guarantee that the outcome of permits and entitlements or suitability will not vary from its opinions. Because its opinions are based upon limited site investigation and scope of services, Kimley-Horn does not guarantee that all issues affecting the site have been investigated.

Task 5- Meetings

Kimley-Horn will attend meetings and/or conference calls as requested by the Client. Meetings can be scheduled and held by the Architect, Client, Contractor, design team, and reviewing agencies throughout the duration of the project including the planning, design, permitting and construction phase. The meetings are described in the above tasks and any future addendums but will be invoiced out per this task. Meetings will only be attended at the request of the Client.

The budget provided for this task anticipates a total of 10 hours for meetings. If this is anticipated to be exceeded at any point Kimley-Horn will inform the Client and request additional services.

Task 6 – Construction Phase Services

Kimley-Horn will be available to provide construction phase services at an hourly rate, as requested. These services may include, but are not limited to:

- Review and approval of shop drawings and submittals required for the site improvements controlled by our design of documents.
- Review and reply to Contractor's request for information during construction phase.
- Review TV, Inspection Reports, etc.
- Site visits shall be coordinated with the Client and General Contractor to include: Pre-construction meeting with General Contractor; and close-out review.

- Review of “as-built” documents, submitted by the General Contractor.
- Preparation of Record Drawings based on Contractor’s As-Builts
- Submit Certifications of Completion as required to DEP, Toho Utilities, and SFWMD.

The Consultant shall have no responsibility for any contractor’s means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant’s visits shall be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor’s failure to perform their work in accordance with the contract documents.

If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor’s means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant’s visits shall be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor’s failure to perform their work in accordance with the contract documents.

INFORMATION PROVIDED BY THE CLIENT

The following information, upon which the consultant may rely, will be provided to Kimley-Horn by the Client or its representative:

- Permit application and review fees
- Boundary, topographic, and tree survey in AutoCAD format.
- Environmental Assessments and permitting
- Geotechnical analysis of property
- Landscape and irrigation plans
- Building elevations
- Building footprint in AutoCAD format (with mechanical, electrical, and plumbing)
- Sign elevations and monumentation
- Flow design for irrigation taps
- Fire Line Design
- Environmental Permitting Services/Assessments

SCHEDULE

Consultant shall provide the services described in the above scope as expeditiously as practical to meet a mutually agreed upon schedule.

FEE AND BILLING

Kimley-Horn will perform the services in Tasks 1 through 4 on a lump sum plus expense basis. Tasks 5 and 6 will be billed on an hourly basis. Budget amounts are provided as an estimate.

CIVIL ENGINEERING TASKS		FEE
1	Special Purpose Survey (Optional)	\$12,000
2	Conceptual Site Plan	\$2,500
3	Site Construction Documents	\$9,500
4	Permitting	\$7,500
5	Meetings	Hourly Budget \$2,500
6	Construction Phase Services	Hourly

All permitting, application, and similar project fees will be paid directly by the Client. Reimbursable expenses will be billed at 115% of actual cost.

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services completed or actual services performed, plus expenses incurred as of the invoice date. Payment will be due within 25 days of your receipt of the invoice.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, offers its clients the option to receive electronic invoices. These invoices come via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please select a billing method from the choices below:

____ Please email all invoices to _____

____ Please copy _____

(THIS SPACE IS INTENTIONALLY LEFT BLANK)

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions in the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, the term "the Consultant" shall refer to **Kimley-Horn and Associates, Inc.**, and the term "the Client" shall refer to **Baker Barrios Architects, Inc.**

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute this Agreement below and return it to our office for further processing. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please do not hesitate to contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Brooks A. Stickler, PE
Vice President

Enclosure: Standard Provisions

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Agreed to this _____ day of _____, 2022

BAKER BARRIOS ARCHITECTS, INC.

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

KIMLEY-HORN AND ASSOCIATES, INC. **STANDARD PROVISIONS**

- 1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
 - d. Arrange for access to the site and other property as required for the Consultant to provide its services.
 - e. Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Consultant as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - d. If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - e. The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

- 6) **Intellectual Property.** Consultant may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Consultant or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Consultant and its affiliates.
- 7) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify the Consultant.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation.
- 15) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

- 16) **Construction Phase Services.**
 - a. If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
 - b. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c. The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 18) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of Florida. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. If Client requires Consultant to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Consultant or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- 20) **PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.**

Rev 12/2021

Architectural/Engineering Services Master Agreement

THIS ARCHITECTURAL/ENGINEERING MASTER SERVICES AGREEMENT (“Agreement”) is entered into as of the Effective Date (hereinafter defined) by and between the City of Kissimmee, a Municipal Corporation of the State of Florida, by and through its Commission, 101 Church Street, Kissimmee, Florida 34741 (hereinafter referred to as the “CITY”), and **Baker Barrios Architects, Inc.**, 189 S Orange Ave, Suite 1700, Orlando, FL 32801 whose Federal Identification Number is: **59-3444163** (hereinafter referred to as the “CONSULTANT”).

WITNESSETH:

WHEREAS, the CITY requires certain architectural and/or engineering services to be performed in the City of Kissimmee; and,

WHEREAS, the CITY has solicited for these professional services via RFQ2018-009, an advertised request for proposals (the “RFQ”), and has received numerous responsive proposals thereto; and

WHEREAS, the CONSULTANT remains agreeable to providing the CITY the professional services and represents that it is capable and prepared to do so;

NOW, THEREFORE, in consideration of the promises contained herein, the CITY and the CONSULTANT (collectively, the “Parties”) hereby agree, as follows:

1.0 Term

1.1 This Agreement shall take effect on the date of its execution by the Mayor, The City of Kissimmee Commission (the “Effective Date”).

1.2 The initial term of this Agreement shall be for a five (5) year period, commencing upon the Effective Date, unless otherwise terminated as provided herein.

2.0 CONSULTANT Services - General

2.1 The CONSULTANT shall provide the CITY complete architectural and engineering services necessary to provide construction documents and administration for various projects (individually a “Project” and collectively, the “Projects”) throughout the Term, as may be further specifically designated and authorized by the CITY in writing. Such authorization shall be in the form of either a Consultant Services Authorization (“CSA”) or a Contract Purchase Order (“CPO”), and all provisions of this Agreement shall apply to the CSA or CPO with full force and effect as if appearing in full within each CSA or CPO. Each CSA or CPO will set forth a specific Scope of Services, maximum limit of compensation, schedule, and completion date, and shall become effective upon the due execution. When the

CONSULTANT and the CITY enter into a CSA or CPO where the term thereof expires on a date that is later than the date of this Agreement, the CONSULTANT and the CITY agree that the terms of this Agreement and any amendments, attachments, or provisions thereof are automatically extended until the expiration or full completion of the requirements of the CSA or CPO, as applicable, have been performed. Cancellation by the CITY of any remaining service prior to the full completion of the requirements of the CSA/CPO shall cause the terms of this Agreement to terminate at the same time. This provision only applies when the expiration of the CSA/CPO extends beyond the expiration of this Agreement. It does not apply when a CSA/CPO expires or is cancelled prior to the expiration of this Agreement.

2.2 The CONSULTANT is not authorized to undertake any Project without a duly executed CSA or CPO, which shall specify the work to be performed. The CONSULTANT recognizes that the CITY may employ several different CONSULTANTS and engineers to perform the services described herein and that the CONSULTANT has not been employed as the exclusive agent to perform any such services.

2.3 In addition to the services described in this Section 2.0, the RFQ, the Consultant's responsive proposal thereto, and otherwise set forth and described in the body of this Agreement, the CONSULTANT may also be authorized to perform, via a duly executed CSA or CPO, any or all of those services set forth and further described in **Exhibit "B"**, attached hereto and incorporated herein (collectively, the "Services").

3.0 Project Administration Services

3.1 The CONSULTANT shall manage the CONSULTANT'S services and administer the Project. The CONSULTANT shall consult with the CITY, research applicable design criteria, attend Project meetings, and communicate with members of the Project team and issue progress reports. The CONSULTANT shall coordinate the services provided by the CONSULTANT and the CONSULTANT'S sub-consultants with those services provided by the CITY and the CITY'S consultants.

3.2 When Project requirements have been sufficiently identified, the CONSULTANT may be required to prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the CITY, design services furnished by the CONSULTANT, completion of documentation provided by the CONSULTANT, commencement of construction and Substantial Completion of the Work.

3.3 The CONSULTANT shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

3.4 Upon request of the CITY, the CONSULTANT shall make a presentation to

explain the design of the Project to representatives of the CITY.

3.5 The CONSULTANT shall submit design documents to the CITY at intervals appropriate to the design process for purposes of evaluation and approval by the CITY. The CONSULTANT shall be entitled to rely on approvals received from the CITY in the further development of the design.

3.6 The CONSULTANT shall assist the CITY in connection with the CITY'S responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

3.7 EVALUATION OF BUDGET AND COST OF THE WORK.

- 3.7.1 When the Project requirements have been sufficiently identified, the CONSULTANT shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. The CONSULTANT shall advise the CITY of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the estimate of the Cost of the Work exceeds the CITY'S budget, the CONSULTANT shall make appropriate recommendations to the CITY to adjust the Project's size, quality or budget, and the CITY shall cooperate with the CONSULTANT in making such adjustments.
- 3.7.2 Evaluations of the CITY'S budget for the Project, the preliminary estimate of the Cost of the Work, and updated estimates of the Cost of the Work represent the CONSULTANT'S judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the CONSULTANT nor the CITY has control over the cost of labor, materials or equipment, over the CONSULTANT'S methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the CONSULTANT cannot and does not warrant or represent that bids or negotiated prices will not vary from the CITY'S budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the CONSULTANT.
- 3.7.3 In preparing estimates of the Cost of the Work, the CONSULTANT shall be permitted to include contingencies and allowances for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the CITY'S budget for the Cost of the Work.

3.7.4 If bidding or negotiation has not commenced within 90 days after the CONSULTANT submits the Construction Documents to the CITY, the budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

3.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, and the CITY elects to revise the Project scope to reduce the Cost of the Work, then the CONSULTANT, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit as a condition of this Agreement.

4.0 **Evaluation and Planning Services**

4.1 **The CITY may furnish a program setting forth the CITY's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.** The CONSULTANT shall provide a preliminary evaluation of the information furnished by the CITY under this Agreement, including the CITY'S program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The CONSULTANT shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the CITY of any other information or consultant services that may be reasonably needed for the Project.

4.2 The CONSULTANT shall provide a preliminary evaluation of the CITY'S site for the Project based on the information provided by the CITY of site conditions, and the CITY'S program, schedule and budget for the Cost of the Work.

5.0 **Design Services**

5.1 SCHEMATIC DESIGN DOCUMENTS

5.1.1 The CONSULTANT shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the CONSULTANT's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

5.2 DESIGN DEVELOPMENT DOCUMENTS

5.2.1 The CONSULTANT shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate

and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

5.3 CONSTRUCTION DOCUMENTS

5.3.1 The CONSULTANT shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

5.3.2 During the development of the Construction Documents, the CONSULTANT shall assist the CITY in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the CITY and the CONSULTANT; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The CONSULTANT also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

5.3.3 Progress submittals of design documents shall be delivered to the CITY for review and approval, at the 50% Construction Document Phase, the 100% Construction Document to be submitted for permit, and the 100% Construction Documents, approved for construction for each subproject. Such submittals shall be reissued as necessary to secure approval. CITY comments shall be incorporated into the next phase of the work. CONSULTANT is entitled to rely upon CITY'S approval that the design conforms to the program at each stage. The CITY and the CONSULTANT agree that they shall not proceed to the next phase, including the Construction Phase, until they have mutually agreed that the project is feasible in accordance with the budget approved by the CITY.

6.0 Contract Administration Services

6.1 GENERAL ADMINISTRATION

6.1.1 The CONSULTANT shall provide administration of the Contract between the CITY and the Contractor as set forth in the CITY'S Agreement with their Contractor.

- 6.1.2** The CONSULTANT'S responsibility to provide the Contract Administration Services under this Agreement commences with the Notice to Proceed to the Contractor and terminates at the issuance to the CITY of the final Certificate for Payment. However, the CONSULTANT may be entitled to a Change in Services in accordance with Section 47.2 if Contract Administration Services extend 60 days after the date of Final Completion of the Work.
- 6.1.3** The CONSULTANT shall be a representative of, and shall advise and consult with, the CITY during the provision of the Contract Administration Services. The CONSULTANT shall have authority to act on behalf of the CITY only to the extent provided in this Agreement unless otherwise modified by written amendment.
- 6.1.4** Duties, responsibilities and limitations of authority of the CONSULTANT under this Section 6.0 shall not be restricted, modified or extended without written agreement of the CITY and CONSULTANT.
- 6.1.5** The CONSULTANT shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the CONSULTANT and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.
- 6.1.6** If deemed appropriate by the CONSULTANT, the CONSULTANT shall on the CITY'S behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.
- 6.1.7** The CONSULTANT shall interpret and decide matters concerning performance of the CITY and Contractor under, and requirements of, the Contract Documents on written request of either the CITY or Contractor. The CONSULTANT'S response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- 6.1.8** Interpretations and decisions of the CONSULTANT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the CONSULTANT shall endeavor to secure faithful performance by both CITY and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.
- 6.1.9** The CONSULTANT shall render initial decisions on claims, disputes or other matters in question between the CITY and CONSULTANT as provided in the Contract Documents. However, the CITY'S decisions on matters

relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

6.2 EVALUATIONS OF THE WORK

6.2.1 The CONSULTANT, as a representative of the CITY, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the CITY and the CONSULTANT, (1) to become generally familiar with and to keep the CITY informed in writing about the progress and quality of the portion of the Work completed, (2) to endeavor to report to the CITY defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the CONSULTANT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The CONSULTANT shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

6.2.2 The CONSULTANT shall report to the CITY known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the CONSULTANT shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The CONSULTANT shall be responsible for the CONSULTANT'S negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Sub-contractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

6.2.3 The CONSULTANT shall at all times have access to the Work wherever it is in preparation or progress.

6.2.4 Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized in writing, the CONSULTANT and Contractor shall communicate through the CITY. Communications by and with the CONSULTANT'S sub-consultants shall be through the CONSULTANT. The CONSULTANT shall respond to the CITY with the CONSULTANT'S written responses or correspondence within a reasonable length of time.

6.2.5 The CONSULTANT shall have authority to reject Work that does not conform to the Contract Documents. Whenever the CONSULTANT considers it necessary or advisable, the CONSULTANT, with the CITY'S approval, will have authority to require inspection or testing of the Work in

accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the CONSULTANT nor a decision made in good faith, either to exercise or not to exercise such authority, shall give rise to a duty or responsibility of the CONSULTANT to the Contractor, Sub-contractor, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work. If the CONSULTANT requires inspection or testing of the Work without the CITY'S prior approval, the Work is deemed acceptable, the CONSULTANT will be responsible for any compensation due the Contractor.

6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

6.3.1 The CONSULTANT shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The CONSULTANT'S certification for payment shall constitute a representation to the CITY, based on the CONSULTANT'S evaluation of the Work as provided in Paragraph 6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the CONSULTANT'S knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the CONSULTANT.

6.3.2 The issuance of a Certificate for Payment shall not be a representation that the CONSULTANT has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Sub-contractors and material suppliers and other data requested by the CITY to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

6.3.3 The CONSULTANT shall maintain a record of the Contractor's Applications for Payment.

6.4 SUBMITTALS

6.4.1 The CONSULTANT shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The CONSULTANT'S action shall be taken with such

reasonable promptness as to cause no delay in the Work or in the activities of the CITY, Contractor or separate contractor. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The CONSULTANT'S review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the CONSULTANT, of any construction means, methods, techniques, sequences or procedures. The CONSULTANT'S approval of a specific item shall not indicate approval of an assembly of which the item is a component.

6.4.2 The CONSULTANT shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the CONSULTANT shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the CONSULTANT. The CONSULTANT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

6.5 CHANGES IN THE WORK

6.5.1 The CONSULTANT shall prepare Construction Change Directives and assist the City with the preparation of change orders and allowance authorizations for the CITY'S approval and execution in accordance with the Contract Documents. The CONSULTANT may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time, which are consistent with the intent of the Contract Documents. If necessary, the CONSULTANT shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

6.5.2 The CONSULTANT shall review properly prepared, timely requests by the CITY or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the CONSULTANT to make a reasonable determination without extensive investigation or preparation of additional

drawings or specifications. If the CONSULTANT determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the CONSULTANT may issue an order for a minor change in the Work or recommend to the CITY that the requested change be denied.

6.5.3 If the CONSULTANT determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the CONSULTANT shall make a recommendation to the CITY, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the CONSULTANT shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the CONSULTANT. With the CITY'S approval, the CONSULTANT shall incorporate those estimates into a Change Order or other appropriate documentation for the CITY'S execution or negotiation with the Contractor.

6.5.4 The CONSULTANT shall maintain records relative to changes in the Work.

6.6 PROJECT COMPLETION

6.6.1 The CONSULTANT shall conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion, shall receive from the Contractor and forward to the CITY, for the CITY'S review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

6.6.2 The CONSULTANT'S inspection shall be conducted with the CITY'S Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the CONSULTANT of Work to be completed or corrected.

6.6.3 When the Work is found to be substantially complete, the CONSULTANT shall inform the CITY about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

6.6.4 The CONSULTANT shall receive from the Contractor and forward to the CITY: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits,

receipts, releases and waivers of liens or bonds indemnifying the CITY against liens.

7.0 Facility Operation Services

7.1 The CONSULTANT shall meet with the CITY or the CITY'S Designated Representative promptly after Substantial Completion to review the need for facility operation services.

7.2 Upon request of the CITY, and prior to the expiration of one year from the date of Substantial Completion, the CONSULTANT shall conduct a meeting with the CITY and the CITY'S Designated Representative to review the facility operations and performance and to make appropriate recommendations to the CITY.

8.0 Additional Services

8.1 The CONSULTANT may be authorized, via a duly executed CSA or CPO, to perform any or all of the additional services as set forth and further described on **Exhibit "B"**.

8.2 The following minimum Design and Contract Administration Services shall be provided by the CONSULTANT without a Change in Services in accordance with Section 47.2:

8.2.1 A reasonable number of reviews of each Shop Drawing, Product Data item, sample and similar submittal of the CONSULTANT.

8.2.2 Up to two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

8.2.3 Up to two (2) inspections for any portion of the Work to determine final completion.

8.3 The following Design and Contract Administration Services shall be provided by the CONSULTANT as a Change in Services in accordance with Section 47.2:

8.3.1 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Services, with prior approval by CITY;

8.3.2 Providing consultation concerning replacement of Work resulting from fire or other cause during construction;

8.3.3 Evaluation of substitutions proposed by the CITY'S consultants or contractors and making subsequent revisions to the Instruments of Service, with prior approval by CITY.

8.3.4 Preparation of design and documentation for alternate bid or proposal requests proposed by the CITY after the Guaranteed Maximum Price is established.

8.3.5 Contract Administration Services provided 60 (sixty) days after the date of Final Completion of the Work, as may be requested by the CITY.

8.4 The CONSULTANT shall furnish or provide the following services only if specifically designated:

- 8.4.1 Programming
- 8.4.2 Land Survey Services
- 8.4.3 Geotechnical Services
- 8.4.4 Space Schematics/Flow Diagrams
- 8.4.5 Existing Facilities Surveys
- 8.4.6 Economic Feasibility Studies
- 8.4.7 Site Analysis
- 8.4.8 Environmental Studies and Reports
- 8.4.9 User-Supplied Data
- 8.4.10 Schedule Development and Monitoring
- 8.4.11 Civil Design
- 8.4.12 Landscape Design
- 8.4.13 Interior Design
- 8.4.14 Value Analysis
- 8.4.15 Cost Estimating
- 8.4.16 On-Site Project Representation
- 8.4.17 Construction Management
- 8.4.18 Start-up Assistance
- 8.4.19 Record Drawings
- 8.4.20 Post-Contract Evaluation
- 8.4.21 Tenant-Related Services
- 8.4.22 Underground Field Drainage

9.0 **Compensation**

9.1 In consideration of the Services provided by the CONSULTANT pursuant to this Agreement, the CITY shall pay CONSULTANT compensation which may be negotiated as either a not-to-exceed price or a lump sum amount, in the CITY's sole discretion.

9.2. In the event a not to exceed price is negotiated, compensation shall be billed and paid

based on and in accordance with the Hourly Rate Schedule attached hereto and incorporated herein as **Exhibit "A"**. The Hourly Rate Schedule identifies all job classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.

- 9.3 All invoices must reference this Agreement number, using an invoice form approved by the BOCC Auditor.
- 9.4 Each individual invoice shall be due and payable forty-five (45) days after receipt by the CITY of a correct, fully documented, invoice, in form and substance satisfactory to the CITY with all appropriate cost substantiations attached. All invoices shall be delivered to:

The City of Kissimmee
Public Works & Engineering
Attention: Division Director
101 Church Street
Kissimmee, FL 34741

- 9.5 In order for both parties herein to close their books and records for a particular Project, the CONSULTANT will clearly state "Final Invoice" on the CONSULTANT's final/last billing to the CITY for such Project. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.
- 9.6 Payment of the final invoice for any particular Project shall not constitute evidence of the CITY's acceptance of the Work or Services.
- 9.7 Pursuant to Section 9.2, if a not to exceed fee is negotiated, invoices shall be accompanied by time and task records for all billable hours appearing on the invoice. Alternatively, if a lump sum amount is negotiated, invoices shall be made upon the completion of each phase of the work in proportion to the Services performed, as specifically set forth in the applicable CSA or CPO. Additional documentation may be requested by the CITY and, if so requested, shall be furnished by the CONSULTANT to the CITY Auditor's satisfaction.
- 9.8 A contract amendment/change order may be executed by both parties, after Substantial Completion, to incorporate any additional design fees due to the CONSULTANT. The amendment shall be based upon 7% of the additional cost of the work that has been added to the project where the CONSULTANT participated in the design process.

- 9.9 If the services of the CONSULTANT are changed as described in Section 47.2.1 or 47.2.2, the CONSULTANT'S compensation shall be adjusted. Such adjustment shall be computed as a fixed fee on a task-by-task basis, or, in the discretion of the CITY, in an otherwise equitable manner. Adjustments to the CONSULTANT'S compensation may be approved by the Facilities Management Director, providing the compensation adjustment does not exceed the amount specified in the applicable CSA or CPO.
- 9.10 Forty (40) calendar days shall be allowed for the CITY's inspection and approval of the goods and services for which any invoice has been submitted.
- 9.11 No deduction shall be made from the CONSULTANT's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.
- 9.12 If any work designed or specified by the CONSULTANT during any phase of service is abandoned or suspended in whole or in part, the CONSULTANT is to be paid for the service performed on account of it prior to receipt of written notice from the CITY of such abandonment or suspension, together with reimbursements then due and any terminal expense resulting from abandonment or suspension for more than three months.

10.0 **Reimbursable Expense**

10.1 All requests for payment of out-of-pocket expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid receipts, invoices or other documentation acceptable to the CITY's Auditor. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Agreement.

10.2 Reimbursable Expenses are the actual, pre-approved, expenses incurred directly in connection with the applicable Consultant Services Authorization, and include:

Overnight Deliveries
Reproduction
Sub-Consultant
Long Distance Telephone Calls (excluding Florida cities located outside the boundaries of Osceola County)

10.3 Mileage shall be reimbursed in accordance with Section 112.061, Florida Statutes, for pre-approved out-of-county travel (excluding travel from home offices located outside of Osceola County to the Osceola County line).

10.4 Reimbursable Expenses, including sub-consultants, shall be reimbursed at cost.

10.5 Pre-approved travel costs shall be reimbursed in accordance with Section 112.061, Florida Statutes.

10.6 All assets, i.e. durable goods, purchased as reimbursable expenses become the property of the CITY upon completion of the work for which the asset was utilized. All such assets must be surrendered by delivery to the City of Kissimmee Public Works and Engineering Division offices upon demand termination of the Agreement or the conclusion of the project, whichever occurs first.

10.7 The CITY shall reimburse the CONSULTANT for any documents required over and above the number specified in this Agreement per the City's Reimbursable Schedule that is attached hereto as **Exhibit "C"**.

11.0 Project Team

11.1 The Project Team, including the CITY'S Designated Representative and the CONSULTANT'S Designated Representative, shall be as specified in the applicable CSA or CPO.

11.2 The Commission (the "Board") hereby authorizes the CITY'S Designated Representative to act as the Board's agent and execute documents associated with a particular project. Examples of these documents are Notices of Commencements, Certificates of Substantial and Final Completion and permits from applicable agencies.

11.3 The persons or entities, in addition to the CITY'S Designated Representative, who have rights to review the CONSULTANT'S submittals to the CITY, shall be as specified in the applicable CSA or CPO.

11.4 The CITY'S other consultants and the CONSULTANT'S sub-consultants or any other person or entity retained at the CONSULTANT's expense shall be as specified in the applicable CSA or CPO.

12.0 Consultant's Standard of Care

12.1 The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The CONSULTANT shall submit for the CITY'S approval a schedule for the performance of the CONSULTANT'S services which initially shall be consistent with the time periods established in the applicable CSA or CPO and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the CITY'S review, for the performance of the CITY'S consultants, and for approval of submissions by authorities having jurisdiction over the Project. The CONSULTANT or CITY shall not, except for reasonable cause, exceed time limits established by this schedule approved by the CITY.

12.2 The CONSULTANT'S Designated Representative, identified in the applicable CSA or CPO, shall be authorized to act on the CONSULTANT'S behalf with Respect to the Project.

12.3 The CONSULTANT shall maintain the confidentiality of information specifically designated as confidential by the CITY, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the CONSULTANT from establishing a claim or defense in an adjudicatory proceeding. The CONSULTANT shall require of the CONSULTANT'S consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the CITY.

12.4 Except with the CITY'S knowledge and prior express written consent, the CONSULTANT shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the CONSULTANT'S professional judgment with respect to the Project.

12.5 The CONSULTANT shall review laws, codes and regulations applicable to the CONSULTANT'S services. The CONSULTANT shall design the Project to conform to the requirements imposed by governmental authorities having jurisdiction over the Project.

12.6 The CONSULTANT shall be entitled to rely on the accuracy and completeness of services and information furnished by the CITY. The CONSULTANT shall provide prompt written notice to the CITY if the CONSULTANT becomes aware of any errors, omissions or inconsistencies in such services or information.

12.7 The CONSULTANT has represented to the CITY that it has the personnel and experience necessary to perform the work in a professional and workmanlike manner.

12.8 The CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

12.9 The CONSULTANT shall, at no additional cost to CITY, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Agreement.

12.10 The CONSULTANT shall use skilled and competent personnel to perform the services.

13.0 Insurance

13.1 General Provisions

13.1.1 The CONSULTANT shall maintain, at all times, the following minimum levels of insurance and shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverage and amounts of coverage not less than those set forth below and provide the CITY with a certified copy of each policy applicable to this Agreement followed thereafter by an annual Certificate of Insurance satisfactory to the CITY to evidence such coverage before any work commences. Such certificates will provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days prior written notice to the CITY .

13.1.2 The CITY shall be named as an additional insured on all CONSULTANT policies related to the project, excluding professional liability and worker's compensation. The general liability and workers' compensation policies shall contain a waiver of subrogation in favor of the CITY. All insurance coverage shall be written with an insurer having an A.M. Best Rating of at least the "A" category and size category of VIII.

13.1.3 The CONSULTANT's self-insured retention or deductible per line of coverage shall not exceed \$100,000.00 without the permission of the CITY.

13.1.4 Any failure by the CONSULTANT to comply with the requirements of this section to provide insurance, the CITY may, at its option, on notice to the CONSULTANT, suspend the work for cause until there is full compliance;

13.1.5 The CITY may, at its sole discretion, purchase such insurance at CONSULTANT's expense provided that the CITY shall have no obligation to do so and if the CITY shall do so, it shall not relieve CONSULTANT of its obligation to obtain insurance.

13.1.6 The CONSULTANT shall not be relieved of or excused from the obligation to obtain and maintain such insurance amount and coverages.

13.1.7 All CONSULTANT's sub-consultants shall be required to include CITY and CONSULTANT as additional insured on their General Liability Insurance policies.

13.1.8 In the event that sub-consultants used by the CONSULTANT do not have insurance, or do not meet the insurance limits, CONSULTANT shall indemnify and hold harmless the CITY for any claim in excess of the sub-consultants' insurance coverage.

13.1.9 The CONSULTANT shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the CITY.

13.2 Comprehensive Automobile Liability Insurance. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles.

13.3 Commercial General Liability. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:

13.3.1 Premises and Operations:

Broad Form Commercial General Liability Endorsement to include Blanket Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm); Personal Injury (with employment and contractual exclusions deleted); and Broad Form Property Damage coverage.

13.3.2 Independent Contractors:

Delete Exclusion relative to collapse, explosion and underground; Property Damage Hazards; Cross Liability Endorsement; and Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm)

13.4 Professional Liability Insurance. \$3,000,000 for design errors and omissions. The CONSULTANT shall be required to provide continuing Professional Liability Insurance to cover each project for a period of two (2) years after the project is completed. Insurance requirements may vary depending on projects as determined by the CITY Director of Risk Management and Insurance. The CITY may require the CONSULTANT to provide a higher level of coverage for a specific Project and time frame.

13.5 (Removed)

13.6 Worker's Compensation. CONSULTANT shall provide, pay for, and maintain worker's compensation insurance on all employees, its agents or subcontractors as required by Florida Statutes.

13.7 Employers' Liability. \$1,000,000.

14.0 **Indemnification**

14.1 General. Having considered the risks and potential liabilities that may exist

during the performance of the Services and in consideration of the promises included herein, the CITY and the CONSULTANT agree to allocate such liabilities in accordance with this Section 14.0.

14.2 Indemnification.

14.2.1 The CONSULTANT, to the extent permitted by law, shall indemnify, and hold the CITY, and its officers, employees and agents, free and harmless from and against any and all claims, actions, causes of action, liabilities (joint or several), penalties, forfeitures, damages, losses and expenses (including, without limitation, attorneys' fees and costs during negotiation, through litigation and all appeals therefrom), and including, without limitation, any liability or loss resulting from judgments or claims for personal injury, including death, or damage to any property whatsoever, which directly or indirectly result from or arise in connection with (i) the failure of the CONSULTANT to comply with applicable non-conflicting laws, rules or regulations, (ii) the breach by the CONSULTANT of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of the CONSULTANT's performance of this Agreement, or (iv) the negligent act, errors or omissions, or intentional or willful misconduct of the CONSULTANT, its sub-consultants, agents, employees and invitees; provided, however, that the CONSULTANT shall not be obligated to defend or indemnify the CITY with respect to any such claims or damages arising out of the CITY's sole negligence.

14.2.2 The CITY's review, comment and observation of the CONSULTANT's work and performance of this Agreement shall in no manner constitute a waiver of the indemnification provisions of this Agreement.

14.2.3 The CONSULTANT agrees that it bears sole legal responsibility for its work and work product, and the work and work product of sub-consultants and their employees, and/or for CONSULTANT's performance of this Agreement and its work product(s).

14.3 Survival. Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Section 14.0 shall survive as if the Agreement were in full force and effect.

15.0 Independent Contractor

15.1 The CONSULTANT undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance.

15.2 The CITY shall have no right to supervise the methods used, but the CITY shall have the right to observe such performance.

15.3 The CONSULTANT shall work closely with the CITY in performing Services under this Agreement.

15.4 The CONSULTANT shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the CITY in any manner.

15.5 The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

16.0 **Authority to Practice**

16.1 The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

17.0 **Compliance with Laws**

17.1 In performance of the Services, the CONSULTANT will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria and standards.

18.0 **Subcontracting**

18.1 The CITY reserves the right to accept the use of any proposed subcontractor or sub-consultant of the CONSULTANT (for purposes of this Section 18.0 referred to as a “subcontractor”), or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor.

18.2 If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the CITY. Failure of a subcontractor to timely or properly perform its obligations shall not relieve CONSULTANT of its obligations hereunder.

19.0 **Federal and State Taxes**

19.1 The CITY is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the CITY will provide an exemption certificate to the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the CITY, nor shall the CONSULTANT be authorized to use the CITY’s Tax Exemption Number in securing such materials.

20.0 **Public Entity Crimes**

20.1 The CONSULTANT understands and acknowledges that this Agreement with the CITY will be void, in the event the conditions under Section 287.133, Florida Statutes apply to the CONSULTANT, relating to conviction for a public entity crime.

21.0 **CITY’s Responsibilities**

21.1 The CITY shall be responsible for providing access to all CITY project sites, and providing information in the CITY’s possession that may reasonably be required by CONSULTANT, including existing reports, studies, financial information, and other required data that are available in the files of the CITY.

22.0 **Termination of Agreement**

22.1 This Agreement may be terminated by the CONSULTANT upon thirty (30) days prior written notice to the CITY in the event of substantial failure by the CITY to perform in accordance with the terms of the Agreement through no fault of the CONSULTANT.

22.2 This Agreement may be terminated by the CITY with or without cause immediately upon written notice to the CONSULTANT.

22.3 Unless the CONSULTANT is in breach of this Agreement, the

CONSULTANT shall be paid for services rendered to the CITY's satisfaction through the date of termination.

22.4 After receipt of written notice of termination of this Agreement, and except as otherwise directed by the CITY, the CONSULTANT shall:

22.4.1 Stop work on the date and to the extent specified.

22.4.2 Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

22.4.3 Transfer all work in process, completed work, and other material related to the terminated work to the CITY.

22.4.4 Continue and complete all parts of the work that have not been terminated.

22.5 The CONSULTANT shall be paid for services actually rendered to the date of termination.

23.0 **Uncontrollable Forces (Force Majeure)**

23.1 Neither the CITY nor the CONSULTANT shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

23.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch.

23.3 The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an Uncontrollable Force, give written notice to the other party describing the circumstances and Uncontrollable Forces preventing continued performance of the obligations of this Agreement.

24.0 **Governing Law and Venue**

24.1 This Agreement shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Osceola County.

25.0 **Non-Discrimination**

25.1 The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

26.0 **Waiver**

26.1 A waiver by either the CITY or the CONSULTANT of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

27.0 **Severability**

27.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.

27.2 Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

27.3 The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

27.4 The provisions of this Section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

28.0 **Entirety of Agreement**

28.1 The CITY and the CONSULTANT agree that this Agreement sets forth the entire understanding between the parties as to the subject matter contained herein, and that there are no promises or understandings between the parties other than those

stated herein.

28.2 This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the CITY and the CONSULTANT pertaining to the Services, whether written or oral.

29.0 **Modification**

29.1 This Agreement may not be modified, added to, superseded or otherwise altered unless such modifications, additions or other alterations are evidenced in writing signed by both the CITY and the CONSULTANT. Such modifications shall be in the form of a written Amendment executed by both parties.

30.0 **Successors and Assigns**

30.1 The CITY and the CONSULTANT each binds itself and its partners, successors, assigns, executors, administrators and legal representatives to the other party to this Agreement and to their partners, successors, executors, administrators, assigns, and legal representatives.

30.2 The CONSULTANT shall not assign this Agreement without the express written approval of the CITY by executed amendment, which approval may be withheld in the CITY's sole and absolute discretion.

30.3 In the event of a merger, the surviving corporation shall be substituted for the contracting party to this Agreement and such substitution shall be affirmed by the City of Kissimmee Commission by executed amendment.

31.0 **Contingent Fees**

31.1 The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

32.0 **Truth-In-Negotiation Certificate**

32.1 Execution of this Agreement by the CONSULTANT shall act as the execution of a Truth-in-Negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

32.2 The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The CITY shall exercise its rights under this Certificate within one (1) year following payment.

33.0 Ownership of Documents

33.1 The CONSULTANT shall be required to cooperate with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the CITY for its use and/or distribution as may be deemed appropriate by the CITY. The CONSULTANT is not liable for any damages, injury or costs associated with the CITY's use or distribution of these documents for purposes other than those originally intended by the CONSULTANT.

34.0 Access and Audits

34.1 The CONSULTANT shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Agreement. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours at the CONSULTANT's place of business.

34.2 Misrepresentations of billable time or Reimbursable Expenses as determined by the City Auditor to the Commission shall result in the recovery of any resulting overpayments. The CITY's cost of recovery shall be the sole expense of the CONSULTANT, including accounting and legal fees, court costs and administrative expenses.

34.3 Intentional misrepresentations of billable hours and Reimbursable Expenses will be criminally prosecuted to the fullest extent of the law.

34.4 All invoices submitted are subject to audit and demand for refund of overpayment up to three (3) years following completion of all services related to this Agreement.

35.0 Notice

35.1 Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by Federal-Express or by Certified Mail, postage prepaid as follows:

As to City: **City of Kissimmee - Purchasing Division**
101 Church Street
Kissimmee, FL 34741
Attn: Purchasing Director

As to Consultant: Carl Conner, AIA, Principal/Project Director
Baker Barrios Architects, Inc.
189 S. Orange Ave, Suite 1700
Orlando, FL 32801

35.2 Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m., or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

35.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the CONSULTANT and the CITY.

36.0 **Service of Process**

As to City: City Attorney
City of Kissimmee
101 Church Street
Kissimmee, Florida 34741

As to Consultant: Carl Conner, AIA, Principal/Project Director
Baker Barrios Architects, Inc.
189 S. Orange Ave, Suite 1700
Orlando, FL 32801

37.0 **Key Personnel**

37.1 The CONSULTANT shall notify the CITY in the event of key personnel changes which might affect this Agreement. To the extent possible, notification shall be made within ten (10) days prior to any such changes. The CONSULTANT, at the CITY's request, shall remove without consequence to the CITY any subcontractor or employee of the CONSULTANT and replace him/her with another employee having the required skill and experience. The CITY has the right to reject proposed changes in key personnel.

The following personnel shall be considered key personnel:

Name:

Name:

38.0. **Annual Appropriations**

38.1 The CONSULTANT acknowledges that the CITY, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreements for a period exceeding one year, but any agreement 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. Accordingly, the CITY's performance and obligation to pay under this agreement is contingent upon annual appropriation.

39.0 **(Removed)**

40.0 **Unauthorized Alien(s)**

40.1 The CONSULTANT shall not employ or utilize unauthorized aliens in the performance of the Services. The CITY shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the CITY. The Form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" will be signed by the CONSULTANT and submitted as part of this Agreement.

40.2 To verify employee eligibility, the CONSULTANT may avail itself of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.

41.0 **Limitation of Liability**

IN NO EVENT, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY A PARTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

42.0 **Default and Remedy**

42.1 If the CONSULTANT materially defaults in its obligations under this Agreement and fails to cure the same within fifteen (15) days after the date the CONSULTANT receives written notice of the default from the CITY, then the CITY shall have the right to (i) immediately terminate this Agreement by delivering written notice to the CONSULTANT, and (ii) pursue any and all remedies available in law, equity, and under this Agreement. If the CITY materially defaults in its obligations under this Agreement and fails to cure the same within fifteen (15) days after the date the CITY receives written notice of the default from the CONSULTANT, then the CONSULTANT shall have the right to immediately terminate this Agreement by delivering written notice to the CITY. Upon any such termination, the CITY shall pay the CONSULTANT the full amount due and owing for all Services performed through the date of Agreement termination.

43.0 **Attorneys' Fees and Costs**

43.1 Except as stated in Section 14.2.1, above, in connection with any dispute or any litigation arising out of, or relating to this Agreement, each party shall be responsible for its own legal and attorneys' fees, costs and expenses, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.

44.0 **Public Records Law**

44.1 The CONSULTANT acknowledges the CITY's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request. The CONSULTANT acknowledges that the CITY is required to comply with Article I, Section 24, of the Florida Constitution and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute and constitutional provisions control over the terms of this Agreement. Chapter 119, Florida Statutes, as amended in the wake of certain terrorist activities, provides for an exemption from public-records requirements for a security-system plan or portion thereof, and provides for an exemption from public-meeting requirements for those portions of

any meeting, which would reveal a security-system plan, or portion thereof, which is confidential and exempt. All documentation or communications regarding security measures should be treated as confidential “criminal intelligence information,” as provided for in the revised Statutes. The CONSULTANT will not disclose any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.

45.0 **Americans with Disabilities Act**

45.1 The CONSULTANT shall conform its Drawings and Specifications to the requirements of the Americans with Disabilities Act Accessibility Guidelines (“ADAAG”), but CITY shall be responsible for compliance with the remaining provisions of the Americans with Disabilities Act (“ADA”). CITY and CONSULTANT further recognize that interpretations of ADA by governmental officials and/or courts of law may vary or change. Should such variance or change adopted after the date the 100% Design Development are completed, require the CONSULTANT to make the required modifications, such modifications shall be considered as Contingent Additional Services. Further, CITY acknowledges, that the ADA, including ADAAG, is a new law presenting numerous difficult interpretation issues. Accordingly, the CONSULTANT shall only be liable for gross negligence in connection with any allegation that its design does not properly comply with ADAAG.

46.0 **Additional Definitions**

46.1 **Contract Documents** means this Agreement, any CSA or CPO issued hereunder, the CITY’S contract with the Contractor, the Plans, Specifications, General Conditions and related Construction Documents or any other documents incorporated by reference.

46.2 **Cost of the Work** shall be the total cost or, to the extent the Project is not completed, the estimated cost to the CITY of all elements of the Project designed or specified by the CONSULTANT.

46.2.1 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the CITY and equipment designed, specified, selected or specially provided for by the CONSULTANT, including the costs of management or supervision of construction or installation provided by a separate construction manager or CONSULTANT.

46.2.2 The Cost of the Work does not include the compensation of the CONSULTANT and the CONSULTANT’S sub-consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the CITY.

46.3 **Final Completion** means that the following items have been completed or satisfied:

46.3.1 Construction of the Project is completed, in accordance with the contract documents and certified as such by the CITY and CONSULTANT.

46.3.2 The Project is suitable for full use and occupancy as determined by the CITY and CONSULTANT.

46.3.3 All Punchlist items have been completed or otherwise disposed of or accounted for to the CITY'S satisfaction and approval.

46.3.4 A final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.

46.3.5 All required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, warranties and maintenance books including the Final Completion form have been delivered to the CITY.

46.4 **Punch list** means a list of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance.

46.5 **Schedule of Values** means the schedule to be used as a basis for progress payments to be made to the Contractor by the CITY during performance of the work, based on the then current percentage of progress of construction of the Project, subject to the approval of the CONSULTANT.

46.6 **Substantial Completion** means the Contractor has ascertained that the work or portions thereof is ready for the CITY and CONSULTANT substantial completion inspection. It is understood that the Construction Manager will provide a list of incomplete items to the CITY and CONSULTANT prior to this inspection. After the CITY'S and CONSULTANT's inspection, the Contractor will prepare a schedule for a completion of the list, indicating completion dates for the CITY'S review. The CITY and CONSULTANT will issue a Certificate of Substantial Completion when the work on the Contractor's pre-substantial punch-list has been accomplished, to the best of the Contractor's ability.

46.7 **Substantial Completion Date** means the date, certified by the CONSULTANT, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the CITY can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use.

47.0 **Additional Terms and Conditions**

47.1 INSTRUMENTS OF SERVICE

- 47.1.1 Drawings, specifications and other documents, including those in electronic form, prepared by the CONSULTANT and the CONSULTANT'S sub-consultants are Instruments of Service for use solely with respect to this Project. The CONSULTANT and the CONSULTANT'S sub-consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.
- 47.1.2 Upon execution of this Agreement, the CONSULTANT grants to the CITY a nonexclusive license to reproduce the CONSULTANT'S Instrument of Service and thereafter use the same solely for purposes of constructing, using and maintaining, repairing and making additions and modifications to the Project, provided that the CITY shall comply with all obligations, including prompt payment of all sums when due, under the Agreement. The CONSULTANT shall obtain similar nonexclusive licenses from the CONSULTANT'S sub-consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate the license. Upon such termination, the CITY shall refrain from making further reproductions of Instrument of Service. If and upon the date the CONSULTANT is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the CITY to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.
- 47.1.3 Except for the licenses granted in Section 47.1.2, no other license or right shall be deemed granted or implied under this Agreement. The CITY shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the CONSULTANT. However, the CITY shall be permitted to authorize the Contractor, Subcontractors, and sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service to and for use in their execution of the Work by license granted in Section 47.1.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the CONSULTANT and the CONSULTANT'S sub-consultants. The CITY agrees to pay the CONSULTANT a reasonable, mutually agreed upon amount for any reuse of the designs, drawings or specifications beyond this Agreement. The CITY shall not be responsible to pay the CONSULTANT for the use of the designs, drawings or specifications when used for reference purposes only.

47.1.4 If the CONSULTANT is required to deliver any services hereunder in the form of electronic encoded media, the printed representation of such media furnished by the CONSULTANT shall be the official records of the CONSULTANT'S service provided upon completion of the services and payment in full. The CITY shall have a right to rely on such printed representation in connection with any subsequent modification of such electronic media and agrees to hold the CONSULTANT harmless from all cost and expense, including attorney's fees, from claims which arise out of modification or re-use of such electronic media or printed representation by or on behalf of the CITY without the CONSULTANT'S consent. Under no circumstances shall transfer of drawings and other instruments of service on electronic media for use by the CITY, be deemed a sale by the CONSULTANT, and the CONSULTANT makes no warranties of merchantability or fitness for a particular purpose.

47.2 CHANGE IN SERVICES

47.2.1 Change in Services of the CONSULTANT, including services required of the CONSULTANT'S sub-consultants may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the CONSULTANT'S control, or if the CONSULTANT'S services are affected as described in Section 47.2B-2. In the absence of mutual agreement in writing, the CONSULTANT shall notify the CITY prior to providing such services. If the CITY deems that all or part of such Change in Services is not required, the CITY shall give prompt written notice to the CONSULTANT, and the CONSULTANT shall have no obligation to provide those services. Except for a change due to fault of the CONSULTANT, Change in Services of the CONSULTANT shall entitle the CONSULTANT to an adjustment in compensation pursuant to Section 9.8, and to any Reimbursable Expenses described in Section 10.0.

47.2.2 If any of the following circumstances affect the CONSULTANT'S services for the Project, the CONSULTANT shall be entitled to an appropriate adjustment in the CONSULTANT'S schedule and compensation:

47.2.2.1 Change in the instructions or approvals given by the CITY that constitute material changes to the Project parameters set forth above and which necessitate revisions in Instruments of Service;

47.2.2.2 Enactment or revision of codes, laws or regulations or official interpretations, which necessitate changes to previously prepared Instruments of Service;

47.2.2.3 Significant change in the Project including, but not limited to, size, quality, complexity, the CITY'S schedule or budget, or procurement

method;

47.2.2.4 Preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the CONSULTANT is party thereto.

47.3 ACCELERATED COMPLETION OF DESIGN PACKAGES. In order to minimize construction problems and change orders, the CONSULTANT'S standard practice requires the completion of detailed working drawings, submission for review and comment by reviewing agencies and incorporation of those comments and/or changes prior to bidding and entering into firm construction contracts. However, CITY may choose to accelerate the completion of the Project so that it may be completed in a shorter time period than would normally be required. Should the CITY choose to make this selection, it shall not be considered Fast Track, or in any way relieve the CONSULTANT of its responsibilities and obligations set forth herein.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; THE AGREEMENT CONTINUES ON THE FOLLOWING PAGE WITH THE PARTIES' SIGNATURES.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Attest:

Linda Hansell
CITY CLERK

CITY OF KISSIMMEE,
a Municipal Corporation of the
State of Florida

By: Linda Hansell
City Deputy Clerk

By: _____
Mayor / Chairman
City of Kissimmee Commission

Date Approved by Commission: 8/21/2018

Reviewed as to form and legal sufficiency:

[Signature]
City Attorney's Office

Date 8/21/18

ATTEST: COMPANY, a _____

[Signature]
Corporate Secretary

Tom Baker
Print Name

By: [Signature]

CARLOS BARRIOS
Print Name

CHAIRMAN
Title

Date: 8/15/2018

Date: 8/13/2018



Nancy Reichel
Nancy Reichel
Aug. 15, 2018

EXHIBIT "A"

HOURLY RATE SCHEDULE

EXHIBIT “B”

SCOPE OF SERVICES

In accordance with Sections 2.3 and 8.1 of the Agreement, in addition to any other Services described in the Agreement, the RFQ, and the CONSULTANT’s responsive proposal thereto, the CONSULTANT may also be authorized to perform any or all of those services set forth and further described below. In the event the CITY requests the CONSULTANT to furnish and perform any of the services listed and described in this Exhibit “B”, those services shall be listed and incorporated in the applicable CSA or CPO issued for a particular Project.

ALL PHASES:

1. PROJECT ADMINISTRATION AND MANAGEMENT SERVICES

1.1. Project Administration services consisting of administrative functions including:

- 1.1.1. Project Decision Structure
- 1.1.2. Project Directory
- 1.1.3. Consultation
- 1.1.4. Research
- 1.1.5. Communications; Meeting Minutes, Meeting Agendas (For meetings called by CONSULTANT during the Design phases of the project)
- 1.1.6. Direction of the work of architectural, engineering and other consultant personnel

1.2. Disciplines Coordination/Document Checking consisting of:

- 1.2.1. Coordination between the architectural work and the work of engineering and their disciplines involved in the Project.
- 1.2.2. Review and checking of documents prepared for the Project by the CONSULTANT and the CONSULTANT’s Consultants.

1.3. Agency Consulting/Review/Approval services, including:

- 1.3.1. Agency consultants
 - 1.3.1.1. City agencies
 - 1.3.1.2. Regional agencies
 - 1.3.1.3. State agencies
- 1.3.2. Research of critical applicable regulations.
- 1.3.3. Preparation of written and graphic explanatory materials.

1.4. Owner Coordination, including:

- 1.4.1. Review and coordination of data furnished for the Project as a responsibility of the Owner.

1.5. Schedule Development/Monitoring Services, including:

- 1.5.1. Participate in establishment and updating of design schedule in conjunction with CM for the performance of the CONSULTANT's services throughout the design of the project. Key decision making points will be identified on this schedule.

1.6. Presentation services consisting of presentations and recommendations by the CONSULTANT to the following client representatives:

- 1.6.1. City of Kissimmee Commission
- 1.6.2. Executive Task Force
- 1.6.3. User group(s)
- 1.6.4. Construction Manager

PHASE I PROGRAMMING & MASTER PLANNING

2. NEEDS ASSESSMENT/DATA COLLECTION

2.1. Space Needs Assessments

- 2.1.1. Macro Level Space Requirements Analysis
- 2.1.2. Macro Level Adjacency Requirements
- 2.1.3. Parking Analysis

2.2. Analysis of the site and its surroundings to include the following:

- 2.2.1. Land Utilization
- 2.2.2. Building locations
- 2.2.3. Utility Systems
- 2.2.4. Surface and subsurface conditions (By Owner)
- 2.2.5. Vegetation (By Owner)
- 2.2.6. Survey (By Owner)
- 2.2.7. Land Use Restrictions
- 2.2.8. Historical analysis
- 2.2.9. Stormwater retention/detention areas

3. FUNCTIONAL PROGRAMMING

3.1. Prepare a detailed architectural program based on the scope established in Phase I to include the following services:

- 3.1.1. Functional Requirements Analysis
- 3.1.2. Interior Development Guidelines
- 3.1.3. Space Standards

- 3.1.4. Preliminary Program Space Estimates
- 3.1.5. Space and Equipment Program
- 3.1.6. Special Building System Requirements
- 3.1.7. Micro-Adjacency Requirements
- 3.1.8. Prepare Final Draft Program
- 3.1.9. Prepare Final Program Report

4. MASTER PLANNING

- 4.1** Prepare three different conceptual approaches for housing the space and parking requirements validated in the Needs Assessment. Include the following information, at a minimum:
 - 4.1.1 Existing facility renovation recommendations
 - 4.1.2 Site development planning issues (land utilization, pedestrian and vehicular circulation, parking, areas for expansion, stormwater retention/detention and landscape forms)
 - 4.1.3 Architectural concepts. The architectural concepts will include blocking and stacking diagrams, massing studies and character sketches.

PHASE II: DESIGN/ BIDDING/CONSTRUCTION ADMINISTRATION SERVICES

5. DESIGN SERVICES

5.1. Architectural Design/Documentation:

- 5.1.1. During the Schematic Design Phase, responding to program requirements and preparing:
 - 5.1.1.1. Conceptual Planning/Massing Options
 - 5.1.1.2. Final Conceptual Site and Building Plans
 - 5.1.1.3. Preliminary Sections and Elevations
 - 5.1.1.4. Preliminary Selection of Building Systems and Materials
 - 5.1.1.5. Development of Approximate Dimensions, Areas and Volumes
 - 5.1.1.6. Perspective sketch – eye level
 - 5.1.1.7. Study model
- 5.1.2. During the Design Development Phase consisting of continued development and expansion of architectural Schematic Design Documents to establish the final scope, relationships, forms, size and appearance of the Project through:
 - 5.1.2.1. Plans, sections and elevations
 - 5.1.2.2. Typical construction details
 - 5.1.2.3. Three-dimensional sketch
 - 5.1.2.4. Study model
 - 5.1.2.5. Final materials selection
 - 5.1.2.6. Equipment layouts

- 5.1.3. During the Contract Documents phase consisting of preparation of Drawings and Specifications based on approved Design Development documents setting forth in detail the architectural construction requirements for the Project.

5.2. Structural Design/Documentation:

- 5.2.1. During the Schematic Design Phase consisting of recommendations regarding basic structural materials and systems, analyses, and development of conceptual design solutions for:
 - 5.2.1.1. A structural system
 - 5.2.1.2. Alternate structural systems, if required
- 5.2.2. During the Design Development phase consisting of continued development of the specific structural system and Schematic Design documents in sufficient detail to establish:
 - 5.2.2.1. Basic structural system and dimensions
 - 5.2.2.2. Final structural design criteria
 - 5.2.2.3. Foundation design criteria
 - 5.2.2.4. Preliminary sizing of major structural components
 - 5.2.2.5. Critical coordination clearances
- 5.2.3. During the Contract Documents phase consisting of preparation of final structural engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the structural construction requirements for the Project.

5.3. Mechanical Design/Documentation:

- 5.3.1. During the Schematic Design phase, prepare a narrative, consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for:
 - 5.3.1.1. Energy source(s)
 - 5.3.1.2. Energy conservation and controls system concepts
 - 5.3.1.3. Heating and ventilating (systems selections and conceptual sizing and configuration analysis.)
 - 5.3.1.4. Air conditioning (systems selections and conceptual sizing and configuration analysis.)
 - 5.3.1.5. Plumbing
 - 5.3.1.6. Fire protection
 - 5.3.1.7. General space requirements
- 5.3.2. During the Design Development phase consisting of continued development and expansion of mechanical Schematic Design documents and development of outline Specifications or materials lists to establish:
 - 5.3.2.1. Approximate equipment sizes and capacities

- 5.3.2.2. Preliminary equipment layouts
- 5.3.2.3. Required space for equipment
- 5.3.2.4. Required chases and clearances
- 5.3.2.5. Acoustical and vibration control
- 5.3.2.6. Visual impacts
- 5.3.2.7. Energy conservation measures

- 5.3.3. During the Contract Documents phase consisting of preparation of final mechanical engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the mechanical construction requirements for the Project.

5.4. Electrical Design/Documentation

- 5.4.1. During the Schematic Design Phase, prepare a narrative, consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analyses, and development of conceptual solutions for:
 - 5.4.1.1. Power service and distribution
 - 5.4.1.2. Lighting
 - 5.4.1.3. Communication and data outlet location systems
 - 5.4.1.4. Fire detection and alarms
 - 5.4.1.5. General space requirements
 - 5.4.1.6. Audio/Visual systems
- 5.4.2. During the Design Development phase consisting of continued development and expansion of electrical Schematic Design documents and development of outline Specifications or materials lists to establish:
 - 5.4.2.1. Criteria for lighting, electrical and communications systems
 - 5.4.2.2. Approximate sizes and capacities of major components
 - 5.4.2.3. Preliminary equipment layouts
 - 5.4.2.4. Required space for equipment
 - 5.4.2.5. Required chases and clearances
- 5.4.3. During the Contract Documents phase, consisting of preparation of final electrical engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the electrical requirements for the Project.

5.5. Civil Design/Documentation:

- 5.5.1. During the Schematic Design phase consisting of consideration of alternate materials and systems and development of conceptual design solutions for:
 - 5.5.1.1. On-site utility systems
 - 5.5.1.2. Fire protection systems
 - 5.5.1.3. Drainage systems

5.5.1.4. Paving

- 5.5.2. During the Design Development phase consisting of continued development and expansion of civil Schematic Design documents and development of outline Specifications or materials lists to establish the final scope of and preliminary details for on-site civil engineering work.
- 5.5.3. During the Contract Documents phase, consisting of preparation of final civil engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the civil construction requirements for the Project.
- 5.5.4. Permit applications required for Water Distribution, Sewage Collection and Stormwater/Environment Management (Local, State, and Federal) shall be prepared for execution by the Owner. Permit applications to be paid by Owner. All necessary reports and drawings will be prepared to accompany the permit applications. Two meetings per agency as required to secure permits is included in services. City shall designate individual who has authority to sign permit applications.

5.6. Landscape Design/Documentation:

- 5.6.1. During the Schematic Design phase, prepare narrative conceptual design solutions, which will be developed for land forms, hardscape, lawns and plantings based on program requirements, physical site characteristics, design objectives and environmental determinants.
- 5.6.2. During the Design Development phase, Schematic Design documents will be further developed including outline Specifications and materials lists to establish final scope and preliminary details for landscape work.
- 5.6.3. During the Contract Documents phase, the Drawings and Specifications based on approved Design Development documents, setting forth in detail the landscape and hardscape construction requirements for the Project will be prepared.

5.7. Interior Design/Documentation:

- 5.7.1. During the Schematic Design phase consisting of space allocation and departmental utilization plans based on functional relationships:
 - 5.7.1.1. Types and qualities of finishes and materials for furniture, furnishings, and equipment.
- 5.7.2. During the Design Development phase consisting of continued development and expansion of interior Schematic Design documents and development of

outline Specifications or materials lists to establish final scope and preliminary details relative to:

- 5.7.2.1. Interior construction of the Project
- 5.7.2.2. Special interior design features
- 5.7.2.3. Space planning
- 5.7.2.4. Materials, finishes and colors
- 5.7.2.5. Furniture and equipment layouts

5.7.3. During the Contract Documents phase consisting of preparation of Drawings, Specifications and other documents based on approved Design Development documents, setting forth in detail the requirements for interior construction and furniture, furnishings and equipment for the Project.

5.8. Environmental Graphic Design Services: The scope shall include interior and exterior sign types and graphic elements to provide a comprehensive and cohesive signage and wayfinding system for users of the facility.

5.8.1. Design Development:

5.8.1.1. Consider design approaches; determine elements needed for identity, information and wayfinding.

5.8.1.2. Begin development of sign prototypes.

5.8.1.3. Develop preliminary location plans.

5.8.2. Construction document preparation.

5.8.3. Construction observation and submittal review.

5.8.4. Interior sign types to include:

5.8.4.1. Primary room ID (changeable name inserts in some locations).

5.8.4.2. Restroom ID.

5.8.4.3. Stairway ID and stairway level ID.

5.8.4.4. Building Code required ID.

5.8.4.5. Fire exit plan.

5.8.4.6. Building directories.

5.8.5. Exterior sign types include:

5.8.5.1. Main entrance identification.

5.8.5.2. Vehicular directional.

5.8.5.3. Regulatory / Warning identification.

5.8.5.4. Parking areas; handicap parking, authorized vehicles, visitor parking, etc.

5.8.6. Donor Recognition / Dedication Plaques – Prepare conceptual designs illustrating a graphic solution to recognize a significant donor for the facility.

5.9. Materials Research/Specifications:

5.9.1. During the Schematic Design phase consisting of:

5.9.1.1. Identification of potential materials, systems and equipment and their criteria and quality standards consistent with the conceptual design.

- 5.9.1.2. Investigation of availability and suitability of alternative materials, systems and equipment.
- 5.9.2. During the Design Development phase consisting of activities by in-house personnel in:
 - 5.9.2.1. Development of architectural and engineering project specific draft Specifications or itemized lists and brief form identification of significant architectural materials, systems and equipment, including their criteria and quality standards.
 - 5.9.2.2. Coordination of similar activities of other disciplines.
 - 5.9.2.3. Production of design manual including design criteria and outline specifications or material lists.
- 5.9.3. During the Contract Documents phase consisting of activities of in-house architectural personnel in:
 - 5.9.3.1. Review of the development and preparation of bidding and procurement information prepared by the Construction Manager.
 - 5.9.3.2. Assistance to the Owner and their agents in review of the Conditions of the Contract (General, Supplementary and other Conditions).
 - 5.9.3.3. Development and preparation of architectural Specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.
 - 5.9.3.4. Coordination of the development of Specifications by other disciplines.
 - 5.9.3.5. Compilation of Project Manual including Conditions of the Contract, bidding and procurement information and Specifications.
- 5.10. At the conclusion of each Design Phase (Schematic Design, Design Development and Construction Document) the Architect/Engineer shall provide the Owner with two (2) sets of drawings and specifications. At the conclusion of Construction Documents one set of reproducibles will also be made available to the City for printing of Bid Documents by the City or the Construction Manager.

6. BIDDING OR NEGOTIATION SERVICES

- 6.1. **Bidding Materials services** consisting of organizing and handling Bidding Documents for:
 - 6.1.1. Coordination
 - 6.1.2. Reproduction by Owner
 - 6.1.3. Completeness review
- 6.2. **Addenda services** consisting of preparation and distribution of Addenda as may be required during bidding or negotiation and including supplementary Drawings,

Specifications, instructions and notice(s) of changes in the bidding schedule and procedures.

6.3. Bidding/Negotiation services consisting of:

6.3.1. Responses to questions from Bidders and clarifications or interpretations of the Bidding Documents.

6.4. Analysis of Alternates/Substitutions consisting of consideration, analyses, comparisons, and recommendations relative to alternates or substitutions proposed by Bidders or proposers either prior to or subsequent to receipt of Bids or proposals.

7. CONSTRUCTION ADMINISTRATION

7.1. Submittal Services consisting of:

7.1.1. Processing of submittals, including receipt, review of, and appropriate action on Shop Drawings, Product Data, Samples and other submittals required by the Contract Documents.

7.1.2. Distribution of submittals to Construction Manager.

7.1.3. Related communications.

7.2. Observation services consisting of periodic visits by the Project Manager or Project CONSULTANT to the site at intervals appropriate to the state of the work or as otherwise agreed by the Owner and CONSULTANT in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work when completed will be in accordance with Contract Documents; preparing related reports and communications, and attendance at progress review meetings at the site.

7.2.1. Periodic site visits by other staff to observe the progress of the project.

7.3. Responses to Requests for Information (RFI)

7.3.1. Responding to requests for clarifications or additional information related to the Contract Documents.

7.4. Supplemental Documentation services consisting of:

7.4.1. Preparation, reproduction and distribution of supplemental Drawings, Specifications and interpretations in response to requests for clarification by Construction Manager or the Owner.

7.4.2. Providing guidance to the Construction Manager in conjunction with the Owner -relative to changed requirements and schedule revisions.

7.5. Quotation Requests/Change Orders consisting of:

- 7.5.1. Preparation, reproduction and distribution of Drawings and Specifications to describe Work to be added, deleted or modified. Changes shall be clearly defined.
- 7.5.2. Review of proposals from Construction Manager for reasonableness of quantities and costs of labor and materials.
- 7.5.3. Review and recommendations relative to changes in time for Substantial Completion.
- 7.5.4. Review on Owner's behalf relative to costs of Work proposed to be added, deleted or modified.
- 7.5.5. Assisting in the preparation of appropriate Modifications of the Contract(s) for Construction.
- 7.5.6. Coordination of communications, approvals, notifications and record-keeping relative to changes in the Work.

7.6. Contract Cost Accounting services consisting of:

- 7.6.1. Review of records of payments on account of the Contract Sum and all changes thereto.
- 7.6.2. Evaluation of Applications for Payment and certification thereof.
- 7.6.3. Review and evaluation of expense data submitted by the Construction Manager for Work under cost-plus-fee arrangements.

7.7. Interpretations and Decisions consisting of:

- 7.7.1. Review of claims, disputes, or other matters between the Owner and Construction Manager relating to the execution or progress of the Work as provided in the Contract Documents.
- 7.7.2. Rendering written decisions.

7.8. Project Closeout services initiated upon notice from the Construction Manager that the Work, or a designated portion thereof which is acceptable to the Owner, is sufficiently complete in accordance with the Contract Documents to verify the list submitted by the Construction Manager of items to be completed or corrected.

- 7.8.1. Review with the Owner's representative for conformity of the Work to the Contract Documents to verify the list submitted by the Construction Manager of items to be completed or corrected.
- 7.8.2. Recommendation of the amounts to be withheld until final completion.
- 7.8.3. Securing and receipt of consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment(s).
- 7.8.4. Issuance of Certificate(s) of Substantial Completion.
- 7.8.5. Inspection(s) upon notice by the Construction Manager that the Work is ready for final inspection and acceptance.
- 7.8.6. Final inspection with the Owner's representative to verify final completion of the Work.

- 7.8.7. Securing and receipt of consent of surety or sureties, if any, to the making of final payment(s).
- 7.8.8. Issuance of final Certificate(s) for Payment.
- 7.8.9. Final inspection of Water Distribution, Sewage Collection and Stormwater/ Environmental Management Facilities. Preparation of certifications to agencies along with record documents prepared based upon record information supplied by the Construction Manager. Services include one final inspection for each certification.

8. POST-CONSTRUCTION SERVICES

8.1. Record Drawing services consisting of:

- 8.1.1. Making arrangements for obtaining from Construction Manager information in the form of marked-up prints, drawings and other data certified by them on changes made during performance of the Work, including Change Directives, RFI's, ASI's, etc.
- 8.1.2. Review of general accuracy of information submitted and certified by the Construction Manager.
- 8.1.3. Preparation of record drawings electronically based on certified information furnished by the Construction Manager.
- 8.1.4. Transmittal one set of full-size reproducible record drawings and general data, appropriately identified, to the Owner and others as directed. Two copies of all electronic data including CADD drawings on CD.

8.2. Warranty Review consisting of:

- 8.2.1. Consultation with and recommendation to the Owner during the duration of warranties in connection with inadequate performance of materials, systems and equipment under warranty.
- 8.2.2. Inspection(s) prior to expiration of the warranty period(s) to ascertain adequacy of performance of materials, systems and equipment.
- 8.2.3. Documenting defects or deficiencies and assisting the Owner in preparing instructions to the Construction Manager for correction of noted defects.

9. ADDITIONAL SERVICES/EXPENSES (not included in the base fee):

9.1. Owner-Provided Services:

- 9.1.1. Environmental assessment of site, if necessary.
- 9.1.2. Environmental assessment of existing facilities to be renovated and/or demolished, and the removal of any hazardous material, if necessary.
- 9.1.3. Printing of all Contract Documents issued for bidding and construction.
- 9.1.4. Distribution of Contract Documents to Construction Manager for estimating and bidding purposes.

- 9.2. Mock-Up Services** relating to any space for study during the design phases and consisting of:
- 9.2.1. Design and documentation for the required mock-up.
 - 9.2.2. Construction administration of mock-up construction activities.
 - 9.2.3. Arrangements for testing performance of mock-up.
 - 9.2.4. Review, analysis and reporting of results.
- 9.3. Prepare an Inventory** of existing furniture and equipment that will be placed in the new facilities.
- 9.4. Value Engineering** – Value engineering is the detailed, systematic review of the design concepts, construction techniques, materials and building types associated with a project solely in terms of life cycle costs in an attempt to obtain optimum value for every dollar spent. If Owner chooses to engage in value engineering, Owner shall either retain the services of an independent Value Engineer (“VE”) to perform the above review services to be complete at a stage no later than the completion of schematic design, or may pay a mutually negotiated sum “at the time the services are requested” to CONSULTANT to perform the above review services at a stage later than the completion of schematic design, Owner acknowledges that schedule and cost impacts may occur.
- 9.4.1. If Owner chooses to retain an independent VE, all recommendations of the VE shall be given to CONSULTANT for its review and adequate time will be provided for CONSULTANT to respond to these recommendations. CONSULTANT may be compensated as an additional service for time spent to review the recommendations of the VE and to incorporate those accepted by both Owner and CONSULTANT. Objections to any recommendations made by the VE shall be stated in writing. Owner agrees that CONSULTANT shall not be responsible for any damage, cost or liability which arises in connection with or as a result of the incorporation of such design changes.
- 9.5. Commissioning** – The performance of a functional and operational check of all systems and equipment to verify the installation is performing to the design criteria. CONSULTANT would prepare this service in conjunction with an independent contractor experienced in such activities.
- 9.6. Structural Blast Resistance** - Analysis of building structural systems to resist loads imposed by blast forces on exterior of facility. This would require an additional blast consultant to be obtained.
- 9.7. Security Systems:** The Security portion of the project will include the design and documentation of Electronic Security System from Schematic Design through Construction Administration Services. The Electronic Security System will include intrusion detection, access control, electronic door control and monitoring,

operational intercom, fixed duress alarms, monitoring and control panels, CCVE systems, control room layouts, rough-ins for x-ray screening/magnetometer at entry lobby, and parcel screening. As part of the overall security plan CONSULTANT will provide a site analysis to determine passive security measures to be incorporated for the facility. Deliverables for the above scope for each task are as listed below.

- 9.7.1. **Schematic Design (SDs):** CONSULTANT will provide a written security narrative describing the Electronic Security System, reflecting the design approach based on program requirements. In addition, CONSULTANT will provide two people for a one day on site Security Workshop to validate the security program and establish the design intent.
- 9.7.2. **Design Development (DDs):** CONSULTANT will provide job specific draft specifications of the Electronic Security System including plans indicating device locations, and outline specifications, and equipment selections reflecting design approach. CONSULTANT will provide one person for 1 day to attend an on-site design review with the Owner and Design Team members to review the Electronic Security System Design Development documents.
- 9.7.3. **Construction Documents (CDs):** Upon completion of this review, CONSULTANT will provide completed biddable documents including plans, details, schedules, riser diagrams, and specifications required to fully document the Electronic Security System. In addition, CONSULTANT will provide, at the completion of the Construction Documents phase, two (2) copies of a Design Information Manual (DIM) outlining major equipment selections utilized as the basis of design for the Electronic Security Systems. CONSULTANT will conduct mid-point design review with Owner and Design Team members to review the Electronic Security Construction Documents.
- 9.7.4. **Bidding:** CONSULTANT will review all questions related to the Electronic Security System submitted, and provide answers in written addendum as required.
- 9.7.5. **Construction Administration (CA):** CONSULTANT will provide one person for four, one day intermediate site visits during construction. In addition, upon written notification of substantial completion CONSULTANT will provide two persons for one day (16 hours total) to review and test the Electronic Security System.
 - 9.7.5.1. Included in this phase of work is the review of security shop drawing submittals and written responses to security RFI from the contractor.
 - 9.7.5.2. Deliverable for this phase of work will include a written field report for the intermediate site visits, and a final report and punch list of the site visit made following written notice of substantial completion.

9.7.6. **Expanded Security System Design** - The following systems and services can be provided in addition to the Electronic Security Design defined in previous sections:

9.7.6.1. Assistance Stations

9.7.6.2. Parking Area Equipment (cameras, card access control)

9.7.6.3. Wireless Duress

9.7.6.4. Hydraulic Barriers

9.7.6.5. Biometrics

9.7.6.6. Perimeter protection systems

9.7.6.7. Post Construction Services: CONSULTANT will provide two people for one day (16 hours total) to conduct a pre-warranty expiration review of the electronic security system. The review will focus on inspection of equipment, operational functions, defects or deficiencies within the system and will be documented in report form and issued to the owner.



EXHIBIT C

SCHEDULE OF REIMBURSABLES

1. Reproduction Cost
 - A. Regular Copying

		Single Side	Double
Sided			
8 ½ x 11 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 11 (color)	\$ 0.30/page	\$ 0.40/sheet	
8 ½ x 14 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 14 (color)	\$ 0.30/page	\$ 0.40/sheet	
11 x 17 (black & white).....	\$ 0.25/page	\$ 0.35/sheet	
11 x 17 (color)	\$ 0.40/page	\$ 0.50/sheet	
9 ½ x 24 Single Side Only.....	\$ 1.00/page		
17 x 22 Single Side Only.....	\$ 2.00/page		
18 x 24 Single Side Only.....	\$ 2.00/page		
24 x 36 Single Side Only.....	\$ 3.00/page		
30 x 30 Single Side Only.....	\$ 5.00/page		
32 x 34 Single Side Only.....	\$ 5.00/page		
Other sizes-per square inch	\$ 0.03/page		
Compact Digital Disk.....	\$ 6.00/disk		
B. Blueprint Copy.....		\$10.00/page	
2. Subcontractor Services

	Actual Costs
--	--------------
3. Special Consultants

	Actual costs
--	--------------
4. Telecommunications

A. Local	Non-reimbursable
B. Non-Local	Actual Costs
5. Computer Services

	Non-reimbursable
--	------------------
6. Travel Expenses

	In accordance with Chapter 112.061, F.S.;
	and further defined in the City of
	Kissimmee
	Employee Handbook
7. Postage, Fed Express, UPS

	Actual Costs
--	--------------
8. Pre-approved Equipment

(includes purchase and rental of equipment used in project)	Actual Costs
---	--------------

EXHIBIT D

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

SOLICITATION NO.: RFP2018-009 PROJECT NAME: Architectural and Engineering Services

THE CITY OF KISSIMMEE, a MUNICIPAL CORPORATION OF THE STATE OF FLORIDA (CITY), WILL NOT INTENTIONALLY AWARD CITY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

THE CITY MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY THE CITY.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: Baker Barrios Arch, Inc.
Signature: [Signature] Title: CHAIRMAN Date: 8/13/2018

STATE OF: Florida

COUNTY OF: Orange

The foregoing instrument was signed and acknowledged before me this 13th day of

August, 2018, by Carlos Barrios who has produced
(Print or Type Name)

Florida Driver's License as identification.
(Type of Identification and Number)

Nancy Reichel
Notary Public Signature

Nancy Reichel
Printed Name of Notary Public



Notary Commission Number/Expiration

ITEM 8.A

Proposed Contract with Freebee to Provide a New Micro-Mobility Transit Service with an Accompanying Resolution

Request

Request consideration of a proposed micro-mobility solution for downtown and surrounding areas to be provided by Freebee, and approval of the service contract and accompanying resolution.

Explanation

As a result of direction from the Commission, staff negotiated a contract with Freebee, a micro-mobility point-to-point transportation provider who submitted a proposal earlier this year following a procurement process. A Request for Letters of Interest (RFLOI) was published and of the responses received, Freebee was the only respondent that met the criteria requested by the RFLOI. Freebee is not a fixed route service, but instead provides free on-demand point to point service using an all-electric vehicle fleet, providing flexibility in service and lower cost of operation. If the contract is approved, the Freebee service is expected to begin mid-January 2023.

The contract is for \$402,390 and includes 12 months of the microtransit service using four Teslas, one van compliant with the American's with Disabilities Act (ADA), and access to Freebee's online app. A map of the service area is included at the end of the contract.

Due to hurricane Ian, the North Kissimmee neighborhood is currently without a grocery store due to damage to the local Save-a-Lot. Staff is requesting approval of a Resolution delegating authority to the City Manager to amend the service area map and extend the time period of the contract per the master agreement. This will allow staff the opportunity to work with Freebee on getting the service started while exploring the best solutions to mitigate the situation in the North Kissimmee neighborhood. In the future, it will also allow for minor amendments to the service area map, as necessary, to accommodate special events or other emergency situations.

It should be noted,

- The grocery store located in the North Kissimmee Neighborhood is being renovated and will reopen. As of this time, staff does not have a concrete estimate of Sav-a-Lot's expected reopening, but work to repair the store is progressing swiftly.
- Both Lynx and the Osceola Council on Aging provide transportation services that can assist residents of North Kissimmee get to shopping opportunities in the meantime.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
00125103-503434		Decrease	\$540,000	\$402,390

Financial Summary:

There is adequate funding budgeted for the Freebee contract. This proposed solution is approximately \$137,000 lower in cost than the fixed-route Kissimmee Connector service.

Recommendation

Recommending approval of the contract and resolution.

REQUESTED CITY COMMISSION ACTION:

Approve

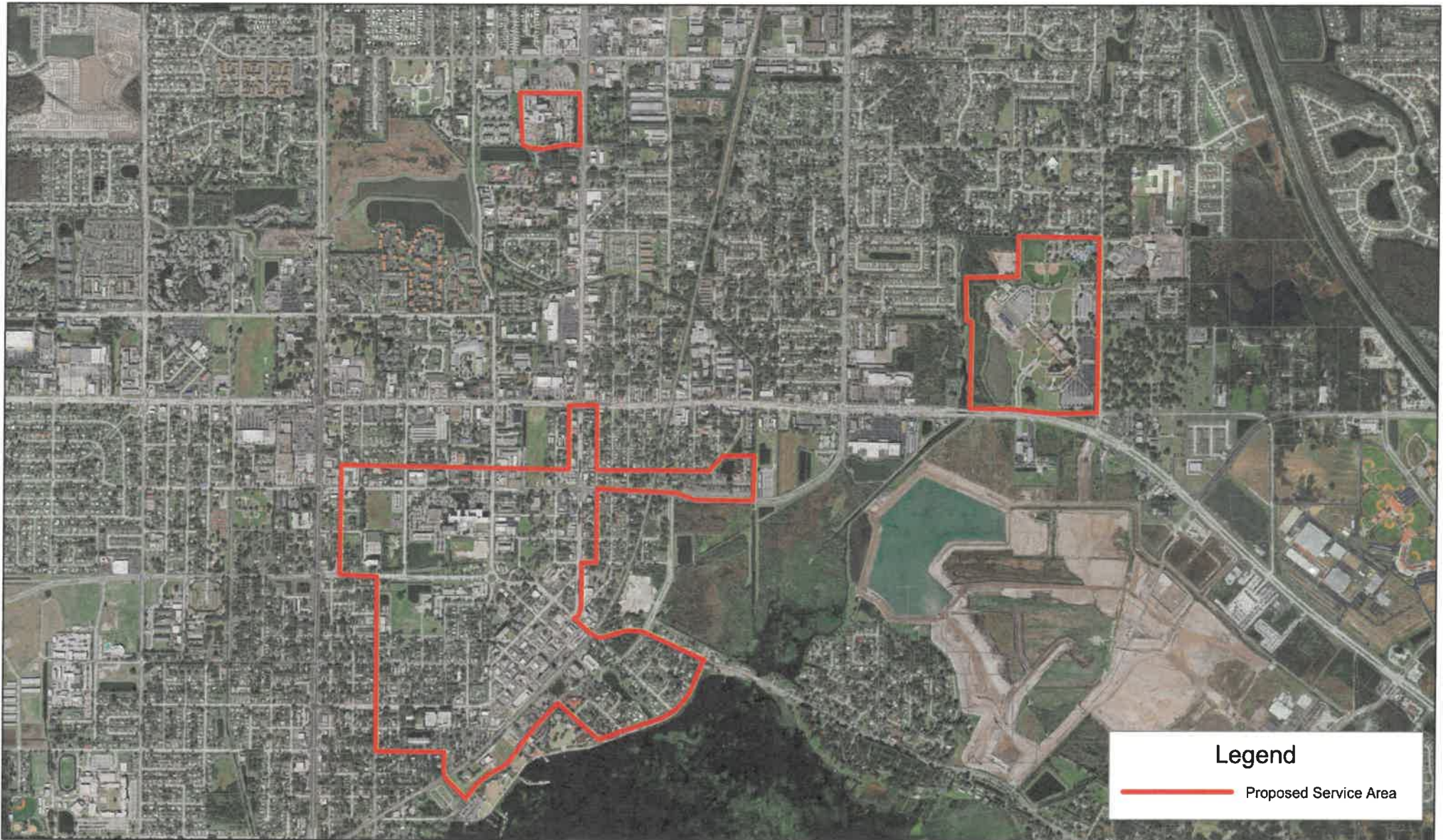
Department: Development Services

Presenter: Ashley Cornelison

Attachment(s):

1. Proposed Microtransit Service Area
2. (S) - Resolution City Manager Authorization
3. (S) Kissimmee Complete Freebee Contract (Piggyback)_FREEBEE Signed

Proposed Microtransit Service Map



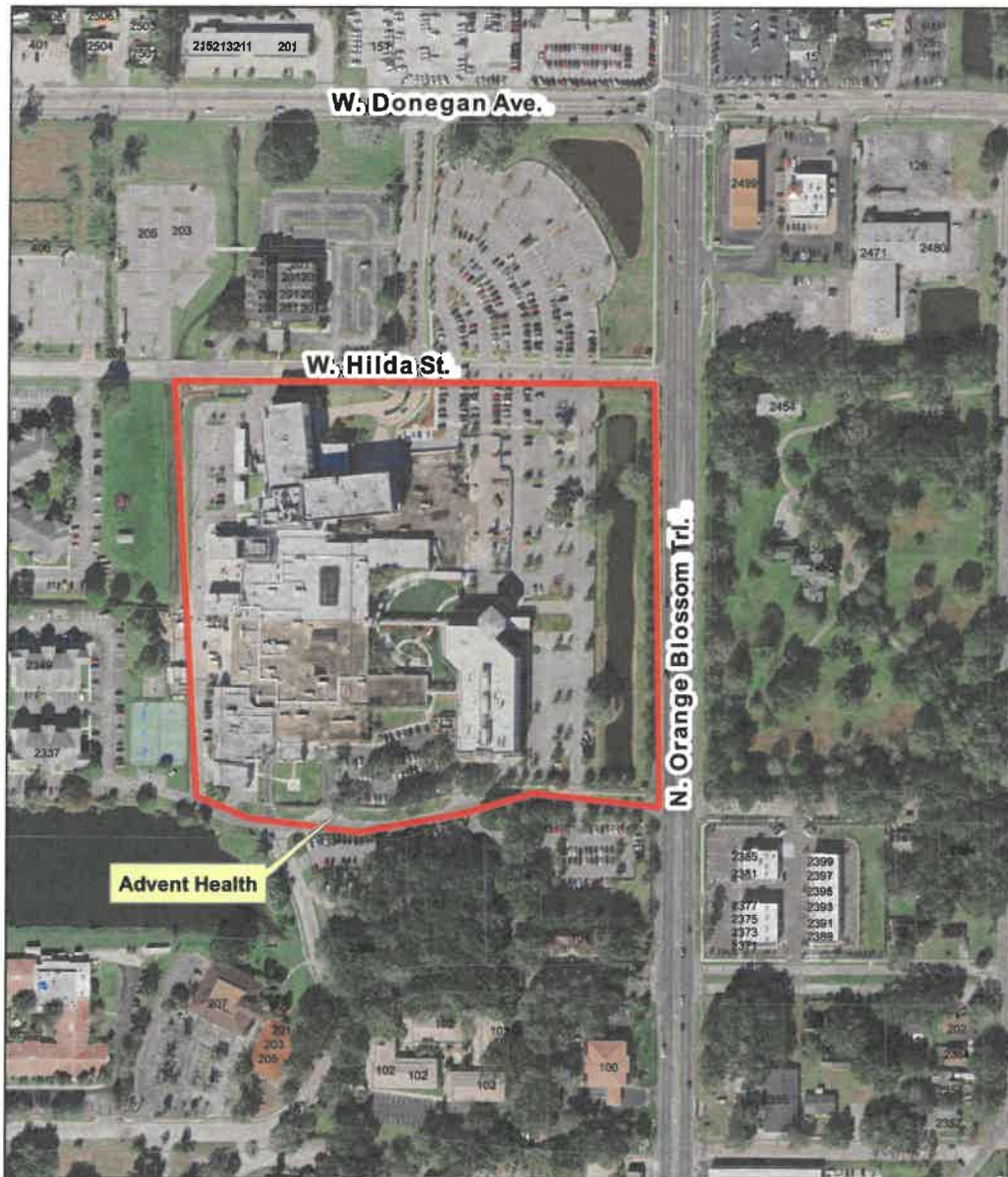
Updated: 08/11/2022

Proposed Microtransit Service Map



Updated: 08.11.2022

Proposed Microtransit Service Map



Updated: 08/11/2022

RESOLUTION No. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA DELEGATING AUTHORITY TO THE CITY MANAGER TO APPROVE THE FREEBIE CONTRACT AMENDMENTS ON BEHALF OF THE CITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING AUTHORITY TO THE CITY MANAGER, OR THEIR DESIGNEE TO MODIFY THE SERVICE BOUNDARY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kissimmee, Florida, a Florida municipal corporation (the "City"), published letter of interest seeking alternative options to standard fixed-route bus line to provide daily, on demand and app-driven, microtransit service to users within a designated area; and

WHEREAS, Pursuant to Competitive bidding and selection process of the City of Aventura, Florida, as Lead Public Agency entered into the Master Agreement with BEEFREE LCC d/b/a Freebee, hereinafter "Contractor" which will expire on February 2, 2023; and

WHEREAS, The City of Kissimmee has entered into a Cooperative Purchase Agreement based on the terms and conditions of the Master Agreement with BEEFREE LCC d/b/a Freebee for the in-city on-demand busing professional services; and

WHEREAS, as part of the Cooperative Purchase Agreement the City Commission has identified and approved a service boundary for the initial launch of the service: and

WHEREAS, this project serves the public interest and provides a public benefit to the community, particularly residents that experience transportation challenges; and

NOW, THEREFORE, BE IT RESOLVED by the City Commissioners of the City of Kissimmee, Florida, as follows:

SECTION 1. RECITALS.

The above recitals are true, correct and incorporated herein as legislative findings.

SECTION 2. DELEGATION OF AUTHORITY.

- a. The City Commission hereby delegates plenary authority to the City Manager to negotiate and execute an Amendment to this Agreement between the City and Contractor, upon the expiration of the City of Aventura Master Agreement in February. The City Manager has the authority to extend the term to reflect the term period of the Master Agreement and any subsequent Amendments thereto, or may determine it is in

the best interest of the City to enter into a Cooperative Agreement from a competitively procured Master Agreement from a different government entity.

- b. The City Commission further delegates authority to the City Manager, or their designee to modify the service boundary to reflect the needs of the community which may change over time.

SECTION 3. CONFLICTS. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 4. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph of this Resolution is found to be invalid by any court of competent jurisdiction, such phrase, portion or part shall be deemed a separate, distinct and independent provision such holding shall not affect any other word, clause, sentence or paragraph hereof.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effective immediately upon its adoption.

DONE AND RESOLVED this ____ day of December, 2022.

CITY OF KISSIMMEE, FLORIDA

By: _____
Mayor - Commissioner

ATTEST:

City Clerk

Approved as to form and legal sufficiency:

City Attorney

AGREEMENT between CITY OF KISSIMMEE

and

BEEFREE, LLC, d/b/a/ FREEBEE

THIS AGREEMENT is made this 6 day of December, 2022 by and between the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741, hereinafter “CITY” and Beefree, LLC, d/b/a/ Freebee whose address is 2312 N. Miami Avenue, Miami, FL 33127 hereinafter “CONTRACTOR” and each represents as follows:

WITNESSETH

WHEREAS, CITY is in need of professional services of CONTRACTOR to provide competitive pricing for the provision of in-city busing services; and

WHEREAS, Chapter 287, Florida Statutes, grants government entities the authority to purchase goods and services as a form of inter-governmental cooperative purchasing in order to reduce administrative time and costs involved in the procurement process (i.e., cost of preparing bid specifications, advertising, etc.); and

WHEREAS, pursuant to 4.3.1.1 of the CITY’s Purchasing Code, CITY may procure goods and services from bids or proposals from any government subdivisions when it proves to be in the best interest of the CITY of Kissimmee; and

WHEREAS, pursuant to a competitive bidding and selection process of the City of Aventura, Florida, as the Lead Public Agency, entered into the “**Agreement Between CITY OF AVENTURA and BEEFREE LLC**” (the “Master Agreement”), adopted by Resolution on February 2, 2021, with CONTRACTOR, as the lowest, responsive bidder in accordance with said Master Agreement attached hereto as **Exhibit “A”** and a made a binding part hereof; and

WHEREAS, CITY has determined that the specifications in the Master Agreement are similar in nature to the services required by CITY, and therefore it is economically advantageous and in the best interest of the CITY to enter into this Agreement with CONTRACTOR, who is certified and qualified to provide the necessary services required by CITY.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and value considerations, the receipt and sufficiency of which is hereby acknowledged, each party hereby promises to the other as follows:

1. **RECITALS.** The foregoing recitals are true and correct and specifically incorporated herein.

2. **MASTER AGREEMENT.** The Parties hereto agree that the terms and conditions of the “**Agreement Between CITY OF AVENTURA and BEEFREE LLC**” entered into by City of Aventura, Florida and CONTRACTOR on February 2, 2021, are binding to the Parties hereto, unless otherwise agreed to herein, by this Agreement. The portions of the Master Agreement not expressly modified by this Agreement shall have full force and effect upon the Parties hereto. As such, the following modifications to the Master Agreement shall apply:
- a. “City of Aventura” or “City” in the Master Agreement shall refer to the CITY.
 - b. Section 3.0 of the Master Agreement is rescinded in its entirety.
 - c. EXHIBIT “A” of the Master Agreement “**BEEFREE, LLC d/b/a FREEBEE “RATES AND SERVICES ADDENDUM”**” shall be rescinded and replaced in its entirety with the attached Exhibit “B,” attached hereto and incorporated by reference.
 - d. ARTICLE 5 (CONTRACTOR’S INSURANCE) of the Master Agreement shall be rescinded and replaced with the following insurance provisions: CONTRACTOR is required to submit to the CITY Certificates of Insurance naming the CITY of Kissimmee as an additional insured. During the term of this Agreement and any renewals, CONTRACTOR at their sole cost and expenses shall maintain insurance coverage as follows:
 - A. **Workers Compensation:** CONTRACTOR will provide Worker’s Compensation coverage for all of CONTRACTOR’s employees at the site location and shall be in accordance with Chapter 440, Florida Statutes, and any other applicable law requiring workers’ compensation.
 - B. **Comprehensive General Liability:** CONTRACTOR will provide coverage for all owned and non-owned vehicles utilized for the provision of services hereunder for limits of not less than \$1,000,000.00.
 - C. **Comprehensive Automobile Liability:** CONTRACTOR will provide coverage for all owned and non-owned vehicles utilized for the provision of services hereunder for limits of not less than \$1,000,000.00.
 - E. **Business Automobile Liability:** CONTRACTOR shall maintain Business Automobile Liability Insurance with a limit not less than \$1,000,000.00 each accident for owned, non-owned and hired automobiles utilized for the provision of services hereunder.
 - e. ARTICLE 13 (CONTRACT DOCUMENTS), Subsection 14.3 (RECORDS) of the Master Agreement shall be rescinded and replaced with the following:

1. CONTRACTOR acknowledges CITY's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, CONTRACTOR shall keep and maintain public records required by the CITY to perform the service.
 - a. **If CONTRACTOR has questions regarding the application of Chapter 119, Florida Statutes, to CONTRACTOR's duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov and 101 Church Street, Kissimmee, Florida 34741.**
 - b. If CITY's Custodian of Records requests records from CONTRACTOR, CONTRACTOR shall provide the City's Custodian of Records with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost charged by CITY, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.
 - c. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the agreement term and following completion of the agreement if the CONTRACTOR does not transfer the records to CITY.
 - d. Upon completion of the contract, CONTRACTOR shall transfer, at no cost, to CITY all public records in possession of CONTRACTOR or keep and maintain public records required by CITY to perform the service for a period of four (4) years following completion of the contract. If CONTRACTOR transfers all public records to CITY upon completion of the Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records. 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 CITY. Unless otherwise directed by CITY, all records will be transferred at the conclusion of the Agreement.
 - e. Upon notice to CONTRACTOR of a request to inspect or copy public records relating to CITY's agreement for services, CONTRACTOR shall provide the records to CITY or allow the records to be inspected or copied within a reasonable time.

- f. If CONTRACTOR does not comply with CITY's request for records, such failure shall constitute a material breach and the Agreement shall terminate upon notice by the CITY.
 - g. If the CONTRACTOR fails to provide the public records to CITY within a reasonable time may be subject to penalties under Florida Statutes §119.1
 - h. Notwithstanding any of the foregoing, CITY shall maintain the confidentiality of any records or information that constitutes CONTRACTOR's trade secrets or proprietary information and is exempt from disclosure, pursuant to Section 815.045, Florida Statutes. In the event CITY determines that the exemption from disclosure does not apply or that it is required by law or court order to disclose any records which may contain CONTRACTOR's trade secrets or proprietary information, CITY will provide written notice to CONTRACTOR of its determination and the legal basis for its determination prior to disseminating or publicly disclosing such records.
- f. Section 14.6 of the Master Agreement is amended to reflect the following CITY and CONTRACTOR representatives for purposes of Notice:

City: Craig Holland
Development Services Director
City of Kissimmee, FL
101 Church Street
Kissimmee, FL 34741

Copy To: City Attorney's Office
City of Kissimmee, FL
101 Church Street
Kissimmee, FL 34741

Contractor: Beefree, LLC d/b/a Freebee
Attn: Jason Spiegel
2312 N. Miami Avenue
Miami, FL 33127

Copy to: Bradley F. Zappala, Esq.
407 Lincoln Road, PH SE
Miami Beach, FL 33139

3. ADDITIONAL OBLIGATIONS OF CONTRACTOR. Obligations of CONTRACTOR shall include, but not be limited to, the following:

A. PURCHASE ORDERS. CITY may issue subsequent modifications to the Purchase Order(s) for additional work that was not known or included in the Scope of Services that is found to be needed during the work to be performed and above the anticipated Agreement amount. CONTRACTOR shall not be obligated to perform additional work pursuant to a modification to the Purchase Order unless and until it has executed a copy of such modification. CONTRACTOR must seek approval from the CITY before performing any additional work. CITY must provide the CONTRACTOR written documentation of the modification to the Purchase Order within three (3) business days of verbal approval. CONTRACTOR is not obligated to perform additional work until written modification has been received from CITY and executed by CONTRACTOR, but may commence work based upon a reasonable assumption that written modification will be issued. Incidental additional work performed by the CONTRACTOR without CITY consent will be evaluated and considered for payment based upon the work's merit. If CITY determines the incidental additional work was not included in the original Scope of Services and are required for the CONTRACTOR's uninterrupted performance in fulfillment of this Agreement, then CITY will approve the CONTRACTOR's request for payment for incidental additional work.

B. APPLICABLE LAWS. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida.

C. JURY TRIAL WAIVER/VENUE/WAIVER OF ATTORNEY FEES. CONTRACTOR agrees to waive the right to a jury trial in any action, proceeding, or counterclaim. Venue shall be Osceola County, Florida. Each party waives the right to attorney fees in any action to enforce or interpret this Agreement.

(Signature page to follow)

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives,
have executed this Agreement effective _____ day of _____, 2022.

BEEFREE LLC, d/b/a FREEBEE

By: _____

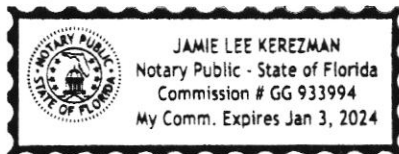
Title: **CEO Beefree**

Date: **11/2/22**

STATE OF FLORIDA)
COUNTY OF Miami Dade)

The foregoing instrument was acknowledged before me this 2 day of Nov, 2022,
by means of ☒ physical presence or ☐ online notarization, by Jason Spiegel, as
Managing Partner for Beefree LLS, d/b/a Freebee, a Florida corporation, who is
personally known to me OR has produced Florida Drivers as identification.

Notary Seal:



Notary: _____

Print Name: Jamie Kerezman

My Commission Expires: Jan 3, 2024

CITY OF KISSIMMEE

By: _____

Mayor - Commissioner

Date: _____

ATTEST:

Linda Hansel, City Clerk

Approved as to form and legal sufficiency:

City Attorney

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives,
have executed this Agreement effective the 6th day of December, 2022.

BEEFREE LLC, d/b/a FREEBEE

By: _____

Title: **CEO Beefree**_____

Date: **11/2/22**_____

CITY OF KISSIMMEE

By: _____
Mayor - Commissioner

Date: _____

ATTEST:

City Clerk

Approved as to form and legal sufficiency:

City Attorney

EXHIBIT “A”
MASTER AGREEMENT

CITY OF AVENTURA RESOLUTION NO. 2021-10

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AWARDING AND LETTING A BID/CONTRACT FOR RFP NO. 20-07-23-3, CITY OF AVENTURA ON-DEMAND TRANSPORTATION SERVICES TO BEEFREE LLC D/B/A FREEBEE IN ACCORDANCE WITH THE RFP DOCUMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED ASSOCIATED CONTRACT; AUTHORIZING THE CITY MANAGER TO TAKE NECESSARY AND EXPEDIENT ACTION TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Aventura, Florida has, pursuant to the various laws of the State of Florida and the Code of the City of Aventura, properly solicited and accordingly accepted proposals for **RFP NO. 20-07-23-3 CITY OF AVENTURA ON-DEMAND TRANSPORTATION SERVICES**; and

WHEREAS, sealed proposals have been submitted to and received by the City pursuant to the City's RFP notice, solicitation, specifications, proposals, and requirements for the services as cited above; and

WHEREAS, staff has determined that **BEEFREE LLC d/b/a FREEBEE** has submitted the most responsible and responsive proposal for said services; and

WHEREAS, the City Commission, upon the recommendation of the City Manager, is therefore desirous of awarding said RFP/contract to said lowest responsible and responsive proposer.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA:

Section 1. That proposal/contract for **RFP NO. 20-07-23-3, CITY OF AVENTURA ON-DEMAND TRANSPORTATION SERVICES** is hereby awarded to BEEFREE LLC d/b/a FREEBEE, subject to the City obtaining and executing any required Miami-Dade County Interlocal Agreement pertaining to the service.

Section 2. That the City Manager is hereby authorized to execute, on behalf of the City, the attached contract by and between the parties embodying the terms, conditions, and specifications as set forth in the subject RFP notice, solicitation, specifications, proposal and requirements.

Section 3. That the City Manager is hereby authorized and requested to take all necessary and expedient action to carry out the aims of this Resolution in awarding this RFP/contract, including but not limited to, the execution of any required Interlocal Agreement.

Section 4. That this Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Vice Mayor Shelley, who moved its adoption. The motion was seconded by Commissioner Friedland, and upon being put to a vote, the vote was as follows:

Commissioner Jonathan Evans	<u>Yes</u>
Commissioner Rachel S. Friedland	<u>Yes</u>
Commissioner Denise Landman	<u>Yes</u>
Commissioner Dr. Linda Marks	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Vice Mayor Robert Shelley	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

PASSED AND ADOPTED this 2nd day of February, 2021.


ENID WEISMAN, MAYOR



ATTEST:


ELLISA L. HORVATH, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:


CITY ATTORNEY

AGREEMENT

THIS IS AN AGREEMENT, dated the 2nd day of February, 2021, between:

CITY OF AVENTURA
a Florida municipal corporation, hereinafter "CITY,"

and

BEEFREE, LLC,
a limited liability company d/b/a FREEBEE, authorized to do
business in the State of Florida, hereinafter "CONTRACTOR."

WITNESSETH:

In consideration of the mutual terms and condition, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

ARTICLE 1 **PREAMBLE**

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 The CITY seeks to have an independent contractor provide on-demand transportation services to residents and visitors within the CITY and as a result, on June 23, 2020 issued RFP # 20-07-23-3 On-Demand Transportation Services.

1.2 On August 6, 2020 CONTRACTOR was one (1) of two (2) firms to submit proposals for consideration of the requested services. The CITY received a proposal from CONTRACTOR to provide a mobile application-based transportation and marketing services to CITY residents and visitors via CONTRACTOR's 100% electric and customized low-speed vehicles known as "Freebees" (the "Services").

1.3 On September 22, 2020, the Evaluation Committee interviewed both firms and ranked CONTRACTOR highest.

1.4 At the October 16, 2020 Commission Workshop, City staff and CONTRACTOR made a presentation to the City Commission and it was the consensus of the Commission for staff to negotiate a twelve (12) month contract (trial period) with CONTRACTOR for future consideration.

1.5 CONTRACTOR has developed a service to provide free local transportation utilizing electric carts ("Freebee") and has implemented the environmentally friendly transit service in several South Florida communities.

1.6 CITY and CONTRACTOR desire to enter into an Agreement for a twelve (12) month trial period for the provision of the Services as set forth herein. The trial period for CONTRACTOR's service will terminate twelve (12) months from the first date of when the on-demand transportation services become available to the CITY's residents and visitors.

1.7 On February 2, 2021, the City Commission of Aventura, adopted Resolution No. 2021-____, thereby accepting the proposal from CONTRACTOR and authorizing the City Manager to execute this Agreement with CONTRACTOR for the proposed on-demand transportation services.

1.8 The City Manager is authorized to execute an Agreement with CONTRACTOR for services related to the scope of work set forth in the Rates and Services Addendum attached hereto as EXHIBIT "A" and as more particularly described herein.

ARTICLE 2 SCOPE OF WORK

2.1 The CONTRACTOR shall furnish all of the materials, tools, supplies and labor necessary to perform all of the work described in the Rates and Services Addendum, a copy of which is attached hereto and specifically made a part of this Agreement as EXHIBIT "A".

2.2 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.3 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with applicable recognized professional standards.

2.4 None of the work or services under this contract shall be subcontracted, unless CONTRACTOR obtains prior written consent from the CITY. Approved subcontractors shall be subject to each provision of this contract and CONTRACTOR shall be responsible and indemnify the CITY for all subcontractors' acts, errors or omissions.

2.5 CONTRACTOR shall comply with any and all laws, statutes, ordinances, rules, regulations, and procedural requirements whether federal, State, County or local and of any agency or such government, which relate to or in any manner affect the performance of this Agreement. This includes compliance with any existing or future drug policies, the Americans with Disabilities Act (ADA), Florida Department of Children and Family State Statutes, and any laws and regulations issued by Local, County, State or Federal agencies.

CONTRACTOR shall be licensed and certified by all appropriate County, State and Local agencies. CONTRACTOR shall procure at its own expense, all necessary licenses and permits. CONTRACTOR shall conform to all applicable laws, regulations or ordinances of the State, County and City. CONTRACTOR shall furnish a copy of all licenses, certificates of competence or other licensor requirements necessary to provide their services

as required by Florida State Statutes.

2.6 CONTRACTOR personnel performing services pursuant to this Agreement must present a neat appearance, and must wear distinct clothing bearing the CONTRACTOR'S name for easy identification. All CONTRACTOR employees must wear a distinctive and neat uniform that is acceptable to the CITY. Any color or color combination may be used for the uniforms. The Department Director or designee may request the removal of any employee not properly uniformed.

2.7 The CONTRACTOR'S employee personnel shall undergo background screening and a drug screening prior to providing Services pursuant to this Agreement. The background screening shall comply with CITY protocols and shall include both criminal and driving record components. The Background Check Process will be conducted by Contractor, at Contractor's sole cost. The Personnel shall not be permitted to perform Services under this Agreement until such time as the Background Check Process has been completed and the Personnel cleared by the CITY to perform duties under this Agreement. If any Personnel is away from the job for a period of 45 or more days, a new Background Check Process shall be performed.

The CONTRACTOR must maintain satisfactory standards of employee competency, conduct, appearance and integrity, and must take such disciplinary action against their employees, as necessary, to the extent permitted by law. Each CONTRACTOR employee is expected to adhere to standards of conduct that reflect credit on themselves, their employer, the community, and the CITY. Being that the CONTRACTOR will be visible at all times to the public during the performance of its duties under this Agreement, the CONTRACTOR should ensure its employees continue to adhere to standards of conduct while on breaks. CONTRACTOR'S employees must not sleep or lay down in public view at any time during the performance of duties. If any of CONTRACTOR'S employees are found sleeping or lying down in public view by CITY staff, or if such activity is reported by the public and verified by the CITY, the CITY may impose a performance penalty of \$250 per occurrence assessed to the CONTRACTOR.

2.8 The CONTRACTOR'S employees must not possess, distribute, consume, use or cause to be used, any controlled substance or alcohol during the performance of such services. Any CONTRACTOR employee under the influence of alcohol or a controlled substance must not be permitted to perform any services under this Agreement. Any CONTRACTOR or CONTRACTOR employee found to be in violation of this requirement will be permanently prohibited from performing any services under this Agreement. Actions taken under this Section must not relieve the CONTRACTOR of the obligation to provide sufficient personnel to perform adequate and timely services as required in this Agreement.

2.9 The CONTRACTOR agrees that any complaints received by the CITY concerning misconduct on the part of the CONTRACTOR, such as poor services, discourtesy to the public, damage to vehicles, etc., will be referred to the office of the Public Works/Transportation Department for appropriate action. The CONTRACTOR agrees to make any complaints concerning the City of Aventura available to the City Manager or his designee for action as required, and the decision of the CITY shall be final and binding.

ARTICLE 3 PROJECT TIMETABLE

3.1 The CONTRACTOR shall commence work as directed by CITY and in accordance with a project implementation timeline to be provided to CONTRACTOR by the CITY. CONTRACTOR shall complete all work in a timely manner in accordance with the project timeline and as stated in EXHIBIT "A" to this Agreement.

3.2 Anything to the contrary notwithstanding, minor adjustment to the timetable for completion approved by CITY in advance, in writing, will not constitute a delay by CONTRACTOR. Furthermore, a delay due to an Act of God, war, fire, theft, epidemic, pandemic, hurricane, tropical storm, inclement weather, earthquake, lockout, strike or labor dispute, riot or civil commotion, act of public enemy or other cause beyond the control of CONTRACTOR shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by CONTRACTOR for which liquidated damages are due.

ARTICLE 4 CONTRACT SUM

4.1 The CITY hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, for services rendered in accordance with the Rates and Services Addendum attached hereto as EXHIBIT "A". Prices for work completed by the CONTRACTOR shall be as reflected in CONTRACTOR's Rates and Services Addendum attached hereto and made a part hereof as EXHIBIT "A". A total contract price hereto is referred to as Contract Sum and shall not exceed **Three Hundred Twenty-Two Thousand Nine Hundred Fifty-Three Dollars and 80 cents (\$322,953.80)**.

4.2 The CITY will make payments to CONTRACTOR for completed and proper services rendered and in the amounts stated in EXHIBIT "A".

4.3 CONTRACTOR is prohibited from placing a lien on the CITY's property. This prohibition applies to; *inter alia*, all sub-CONTRACTORS and subcontractors, suppliers and labors.

ARTICLE 5 CONTRACTOR'S INSURANCE

5.1 The CONTRACTOR shall purchase and maintain, in full force and effect for the life of the Agreement, at CONTRACTOR'S sole expense, the following insurance policies:

1. A business automobile policy which covers any vehicles used in connection with this Agreement, regardless of whether the vehicle is owned, rented, hired or borrowed by the CONTRACTOR. Minimum limits for bodily/property damage liability shall be one million dollars (\$1,000,000.00) per occurrence.
2. A comprehensive general liability policy with minimum coverage limits of three million dollars (\$3,000,000.00) for bodily injury and property damage per occurrence.

3. A workers' compensation and employer's liability policy which covers all of the CONTRACTOR'S employees to be engaged in work on this contract as specified by and in accordance with F.S.S. 440.

The City of Aventura shall be named as additional insured on policies listed as 1–2 of the CONTRACTOR'S above required policies of insurance except for the Workers' Compensation insurance. The form and types of coverage and sufficiency of insurer shall be subject to approval of the City Manager.

Copies of all policies or certificates of such insurance shall be delivered to the CITY, and said documentation shall provide for the CITY to be notified a minimum of thirty (30) days prior to any cancellation, termination, reduction or non-renewal of any required insurance policy.

The CONTRACTOR shall also, upon request by the CITY, provide copies of all official receipts and endorsements as verification of CONTRACTOR'S timely payment of each insurance policy premium as required by this Agreement.

ARTICLE 6 PROTECTION OF PROPERTY

6.1 At all times during the performance of this Contract, the CONTRACTOR shall protect the CITY's property and all properties served from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

ARTICLE 7 CONTRACTOR'S INDEMNIFICATION

7.1 The CONTRACTOR shall indemnify and hold harmless and defend the CITY and its officers, agents, employees and instrumentalities from any and all liability, claims, liabilities, losses, and causes of action, including attorneys' fees and costs of defense which the CITY or its officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind of nature arising out of, or relating to or resulting from any willful misconduct, reckless act, or negligent act or omission by the CONTRACTOR and/or its officers, employees, agents or independent contractors in the provision of services hereunder. The CONTRACTOR shall be required to pay all claims and losses in connections therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorneys' fees which may issue thereon. For any matters in which CONTRACTOR is obligated to pay for the CITY's legal defense hereunder, CONTRACTOR shall be permitted to retain counsel of its choosing for both CONTRACTOR and the CITY, provided that such legal counsel is reasonably acceptable to the CITY, which consent shall not be unreasonably withheld. The CONTRACTOR expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the CONTRACTOR shall in no way limit the responsibility of CONTRACTOR to indemnify, keep and save harmless and defend the CITY and its officers, employees, agents or instrumentalities as herein pro-

vided. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify.

ARTICLE 8 INDEPENDENT CONTRACTOR

8.1 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder provided. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

ARTICLE 9 RESERVED

ARTICLE 10 RESERVED

ARTICLE 11 CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

11.1 The CITY or CONTRACTOR may request changes that would increase, decrease or otherwise modify the Scope of Services/Basic Services to be provided under this Agreement as described in ARTICLE 2 of this Agreement. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY and must be contained in a written amendment, mutually executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. It is recognized that if the CITY decides to add additional vehicle(s), which would operate during the same service days and times under the initial scope to those initially provided, that the monthly cost shall be increased proportionally as computed by the CITY'S Finance Director, and mutually agreed upon by both parties. Each amendment shall at a minimum include the following information on each project:

PROJECT NAME
PROJECT DESCRIPTION
ESTIMATED PROJECT COST
ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT CONTRACT
ESTIMATED PROJECT COMPLETION DATE

11.2 In no event will the CONTRACTOR be compensated for any additional work which has not been described in a separate written agreement executed by the parties hereto.

ARTICLE 12
TERM AND TERMINATION

12.1 The initial Agreement shall be for a trial period of Twelve (12) months in a limited area of the CITY, and shall take effect as set forth in the Rate and Services Addendum, set forth in EXHIBIT "A" hereto. If the service is successful, the CITY may wish to expand these services to other parts of the CITY, and subject to approval by the City Manager and CONTRACTOR, the CITY and CONTRACTOR may by mutual agreement, agree to extend the Agreement for two (2) additional (1) one-year periods, at the same or substantially similar terms, conditions and specifications.

In the event services are scheduled to end either by contract expiration or by termination by the CITY (at the CITY'S discretion), it shall be incumbent upon the CONTRACTOR to continue the service, if requested by the CITY, until new services can be completely operational, provided that the CITY compensates CONTRACTOR for such continued service at the same monthly rate as provided hereunder. At no time shall this transition period extend more than ninety (90) days beyond the expiration date of the existing Agreement.

12.2 Either the CITY or CONTRACTOR may terminate this Agreement any time and for any reason upon giving thirty (30) days' notice to the other party.

1. If this Agreement should be terminated for convenience as provided herein, the CITY will be relieved of all obligations under this Agreement. The CITY will only be required to pay that amount of the contract actually performed to the date of termination. Upon such payment, both parties shall be relieved of any further obligations under this Agreement.
2. This Agreement may also be terminated by the City Manager, or designee upon such notice as the City Manager, or designee deems appropriate under the circumstances in the event the City Manager or designee determines that termination is necessary to protect the public health, safety or welfare.

12.3 In case of default by the CONTRACTOR, the CITY may cancel the Agreement, procure the services from other sources and hold the CONTRACTOR responsible for any excess costs occasioned or incurred thereby.

ARTICLE 13
CONTRACT DOCUMENTS

13.1 CONTRACTOR and CITY hereby agree that the following Specification and Contract Documents, which are attached hereto and made a part thereof, are fully incorporated herein and made a part of this Agreement, as if written herein word for word: this Agreement; CONTRACTOR's Rates and Services Addendum for transportation services to residents and visitors within the CITY as set forth in and made a part of this Agreement as EXHIBIT "A"; and all other exhibits thereto.

ARTICLE 14
MISCELLANEOUS

14.1 Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.

14.2 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY, which shall not be unreasonably withheld. For purposes of this Agreement, any change of majority ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. In the event that the majority ownership or control of the CONTRACTOR changes hands, CONTRACTOR shall promptly notify CITY in writing pursuant to the Notice Section herein of such change in ownership or control at least 30 days prior to such change, and CITY shall have the right to terminate this Agreement upon 30 days written notice, at CITY'S sole discretion. However, this Agreement shall run to the CITY and its successors and assigns.

14.3 Records. CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by CITY upon reasonable notice to CONTRACTOR, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.

PUBLIC RECORDS

1. CONTRACTOR agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Agreement. CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the CITY.

2. Upon request from the CITY custodian of public records, CONTRACTOR shall provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
3. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created exclusively in connection with this Agreement are and shall remain the property of the CITY.
4. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the CITY MANAGER, at no cost to the CITY, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the CITY in a format that is compatible with the CITY'S information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
5. Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.
6. CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CITY.

Section 119.0701(2)(a), Florida Statutes

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.

Custodian of Records:	City Clerk's Office
Mailing address:	19200 W. Country Club Drive
	Aventura, FL 33180
Telephone number:	(305) 466-8901
Email:	<u>horvathe@cityofaventura.com</u>

14.4 Ownership of Documents. Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of CITY, except to the extent that such items constitute CONTRACTOR's trade secrets or proprietary information, which are and shall remain the exclusive property of CONTRACTOR.

14.5 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For

the breach or violation of this provision, the CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

14.6 Notice. Whenever any party desires to give notice unto any other party, 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 and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the CITY designate the following as the respective places for giving of notice:

City: Mr. Ronald J. Wasson
City Manager
City of Aventura
19200 W. Country Club Drive
Aventura, FL 33180

Copy To: Mr. David M. Wolpin
City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Blvd., Suite 1900
Ft. Lauderdale, FL 33301

Contractor: Mr. Jason Spiegel
Managing Partner
Beefree, LLC d/b/a Freebee
2312 N. Miami Avenue
Miami, FL 33127

14.7 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that they have full legal power to execute this Agreement on behalf of the party for whom they are signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

14.8 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

14.9 Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

14.10 Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

14.11 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Miami-Dade County, Florida. The parties hereby voluntarily waive any right to trial by jury in any litigation between the parties which, in any way, arises out of or concerns this Agreement or the course of dealing between the parties.

14.12 Venue. Any litigation arising out of this Agreement shall be litigated in the Eleventh Judicial Circuit Court in and for Miami-Dade County.

14.13 Attorney's Fees. In the event of a dispute or litigation brought to enforce the terms this Agreement, each party shall be solely responsible for its own attorneys' fees and costs.

14.14 Extent of Agreement. This Agreement together with Contract Documents, attached as an Exhibit hereto, as amended herein above represents the entire and integrated agreement between the CITY and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

14.15 Waiver. Failure of the CITY or CONTRACTOR to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right but the same shall remain in full force and effect.

14.16 Scrutinized Companies.

- A. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- B. If this Agreement is for more than one million dollars (\$1,000,000.00), the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- C. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the

above-stated contracting prohibitions then they shall become inoperative.

14.17 Discriminatory Practices. The CONTRACTOR shall not deny service, deny access, or deny employment to any person on the basis of race, color, creed, sex, sexual orientation, religion or national origin. The CONTRACTOR will strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the State of Florida, or the Federal Government.

Anti-BDS Clause: By responding to the, RFP, CONTRACTOR certifies and agrees that it is not currently engaged in, nor will it engage in during the term of this Agreement, the boycott of a person or business based in or doing business with a member of the World Trade Organization or any country with which the United States has free trade.

ARTICLE 15 DISPUTES

15.1 If any dispute concerning a question of fact arises under this Agreement, other than termination for default or convenience, the CONTRACTOR and the CITY's Administration shall make a good faith effort to resolve the dispute.

ARTICLE 16 RESERVED

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature: The CITY, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same, and by CONTRACTOR, by and through its _____, duly authorized officer to execute same.

CITY

CITY OF AVENTURA, FLORIDA



By: _____
Ronald J. Wasson, City Manager

AUTHENTICATION:



Ellisa L. Horvath, MMC
City Clerk

(SEAL)



APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF CITY OF AVENTURA, FLORIDA, ONLY



David M. Wolpin, City Attorney

CONTRACTOR

BEEFREE, LLC d/b/a FREEBEE

WITNESSES:

By: _____

Jason Spiegel on behalf of BEEFREE, LLC d/b/a FREEBEE

ATTEST: _____

SECRETARY _____

STATE OF FLORIDA)

) SS

COUNTY OF MIAMI-DADE)

Sworn to (or affirmed) and subscribed before me by means of ✓ physical presence
or — online notarization, this 26 day of Feb, 2021, by

Jason Spiegel

(Name of person making statement)

Personally known to me ✓ or has produced Identification —, type of identifica-
tion produced W/A

(NOTARY SEAL HERE)

SIGNATURE OF NOTARY PUBLIC

PRINT, TYPE/STAMP NAME OF NOTARY

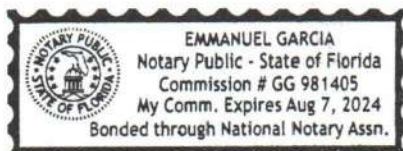


EXHIBIT "A"

BEEFREE, LLC d/b/a FREEBEE "RATES AND SERVICES ADDENDUM"

(Rates and Services Addendum for "Freebee" Transportation Services)

This Rates and Services Addendum ("Addendum") supplements the Agreement between BEEFREE, LLC d/b/a FREEBEE ("FREEBEE") and CITY OF AVENTURA ("CITY"), made and entered into on February 2, 2021 (the "Agreement"). This Addendum is subordinate to, and fully incorporates the terms and conditions of the Agreement, unless expressly stated otherwise herein. In consideration of the promises and covenants contained herein, and for good and valuable consideration, FREEBEE and CITY (collectively, the "Parties"), intending to be legally bound, hereby agree as follows:

1. **Term.** The term of the Services set forth under this Addendum shall commence upon delivery and deployment of the vehicles within the CITY as set forth in Section 2 below but no later than on a date mutually agreed upon, and shall remain in full force and effect for twelve (12) months from the commencement date (the "Term"), unless terminated sooner pursuant to the terms of the Agreement.
2. **Services.** This Addendum is limited in scope to the following services (the "Services"), which FREEBEE agrees to provide to CITY at the rates specified herein (the "Rates"):
 - a) FREEBEE will provide two (2) "Freebee" vehicles dedicated to CITY (the "Vehicles") for the duration of the Term. Both Vehicles dedicated to CITY will be wheelchair accessible, and FREEBEE will otherwise use its best efforts to be and remain in compliance with all Americans with Disabilities Act ("ADA") requirements. FREEBEE shall be responsible for providing appropriate training to its drivers who will be operating the wheelchair accessible Vehicle, including but not limited to, training as to the operation of the ramping system and securing of wheelchairs.
 - b) FREEBEE will operate the Vehicles within the CITY's designated service area at all times during CITY's operating hours (weather and conditions permitting) as reflected in Section 5 herein, with the exception being when a driver takes their thirty (30) minute meal break. At such times during a driver break, one (1) vehicle will be in operation and FREEBEE will try to limit this to downtime in service. FREEBEE agrees that, to the extent feasible, at all times during CITY's operating hours, both wheelchair-accessible vehicles will be available to accommodate passengers, upon request, and FREEBEE will operate the ramping system and secure any wheelchairs to the vehicle should such accommodations be requested.
 - c) Prior to the beginning of the Term, FREEBEE will deliver to CITY at least one (1) fast charger for charging the Vehicles. The fast charger will remain property of FREEBEE but will remain in the CITY for purposes of charging the Vehicle throughout the Term. At the conclusion of the Term, FREEBEE shall be entitled to retake possession of the fast charger. FREEBEE shall be solely responsible for all electricity fees, costs and expenses.
 - d) Prior to the beginning of the Term, FREEBEE will add CITY as an additional insured on FREEBEE's automobile insurance policy of at least one million dollars (\$1,000,000.00), and on FREEBEE's general liability policy of at least three million dollars (\$3,000,000.00). CITY will remain as an additional

- insured on said policies throughout the Term. FREEBEE must also otherwise comply with the insurance requirements as set forth in the Agreement.
- e) FREEBEE will assist CITY in developing a marketing plan to encourage ridership on the Vehicles during the Term.
 - f) Beginning with the second month of the Term and continuing for each month of the Term thereafter, FREEBEE will provide CITY with a monthly report showing data and analytics related to ridership in the Vehicles for the preceding month(s). FREEBEE will provide these reports within ten (10) business days of the last day of each month, unless another time frame is agreed to between the Parties.
 - g) FREEBEE agrees that any questions, complaints, or concerns reported to FREEBEE (through its drivers or otherwise) regarding ADA issues will be reported to the CITY within one (1) business day.
 - h) FREEBEE shall utilize its best efforts to assist CITY with the related Miami-Dade County Interlocal Agreement and with all related County requirements.
3. **Rates.** As consideration for the Services listed above, CITY shall pay FREEBEE at the following Rates:
- a) The total payment for the Services to be provided under this Addendum shall not exceed **Three Hundred Twenty Two Thousand Nine Hundred Fifty-Three Dollars and 80 cents (\$322,953.80)** with the ability to subsidize total payment with advertising revenue, as stipulated under Section 5(d) herein.
 - b) The breakdown for the Services charge is as follows:
 - i. Two (2) XL Vehicles
 - ii. Service: Monday through Sunday 7:00 am – 11:00 pm.
 - iii. Ninety-Eight (98) Hours of labor per vehicle weekly (weather and conditions permitting)
 - iv. Cost: **\$322,953.80 Annually**
4. **Payment Terms.** CITY agrees to pay the Rates in monthly installments, as follows:
- a) Twelve (12) payments of approximately \$26,912.82 per month, payable on or before the 15th of each month, beginning upon delivery and deployment of the vehicles as set forth in Section 2 above.
5. **Additional Terms.**
- a) CITY's operating hours, as contemplated in Section 2.b. above, shall be as follows: Monday through Sunday 7:00 am – 11:00 pm. These hours may be modified by mutual written agreement of the Parties as ridership data becomes available throughout the Term.
 - b) CITY shall be responsible for installation and maintenance of the fast charger(s) and any costs associated therewith at all times after acceptance of the delivery described in Section 2.c. above.
 - c) FREEBEE will operate the Vehicles in CITY'S designated service area map as delineated in EXHIBIT "B" (Subject to Revision as Necessary).
 - d) Should local law allow for FREEBEE to sell advertising space on the Vehicles at any time during the Term, and provided FREEBEE is able to sell such advertising space, FREEBEE may enter into separate agreements with advertisers for the placement of advertising on the Vehicles. All advertising shall be subject to CITY's approval prior to placement on the Vehicles. Any advertising revenue generated from the sale of advertising on the Vehicles during the Term shall be divided equally between FREEBEE and CITY, with each entitled to

50% of advertising revenue that is generated and actually received. CITY shall be permitted to apply its share of such revenue, if any, towards subsidizing the Rates it has agreed to pay hereunder. Nothing in this section should be deemed to constitute a guarantee that FREEBEE will sell such advertising space or generate any revenue by selling advertising on the Vehicles during the Term, and CITY expressly acknowledges that no such guarantee has been made by FREEBEE.

EXHIBIT "B"
DESIGNATED SERVICE AREA MAP
(Subject to Revision as Necessary)

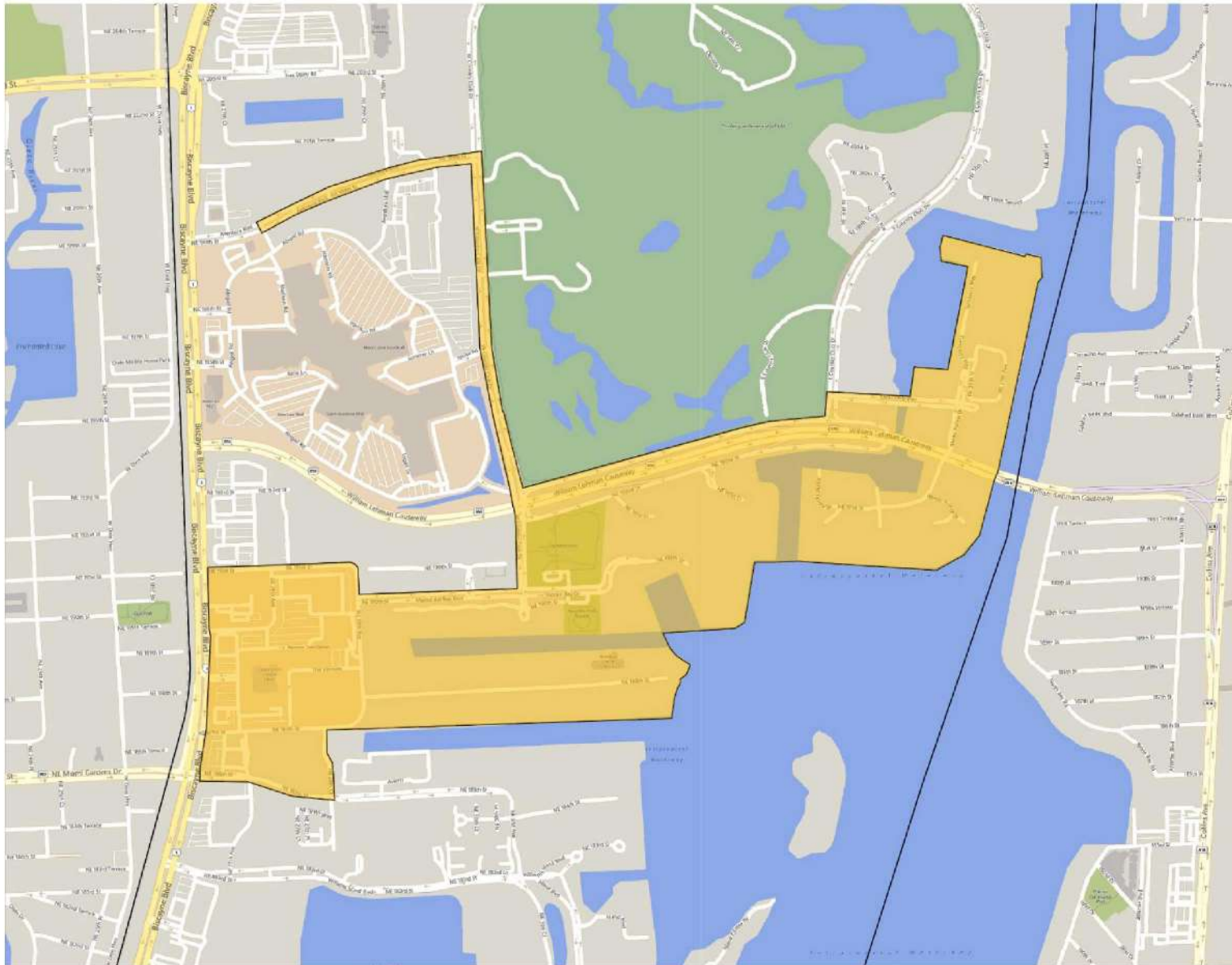


EXHIBIT “B”
RATES AND SERVICES ADDENDUM

EXHIBIT "B"

BEEFREE, LLC d/b/a FREEBEE

"RATES AND SERVICES ADDENDUM"

(Rates and Services Addendum for "Freebee" Transportation Services)

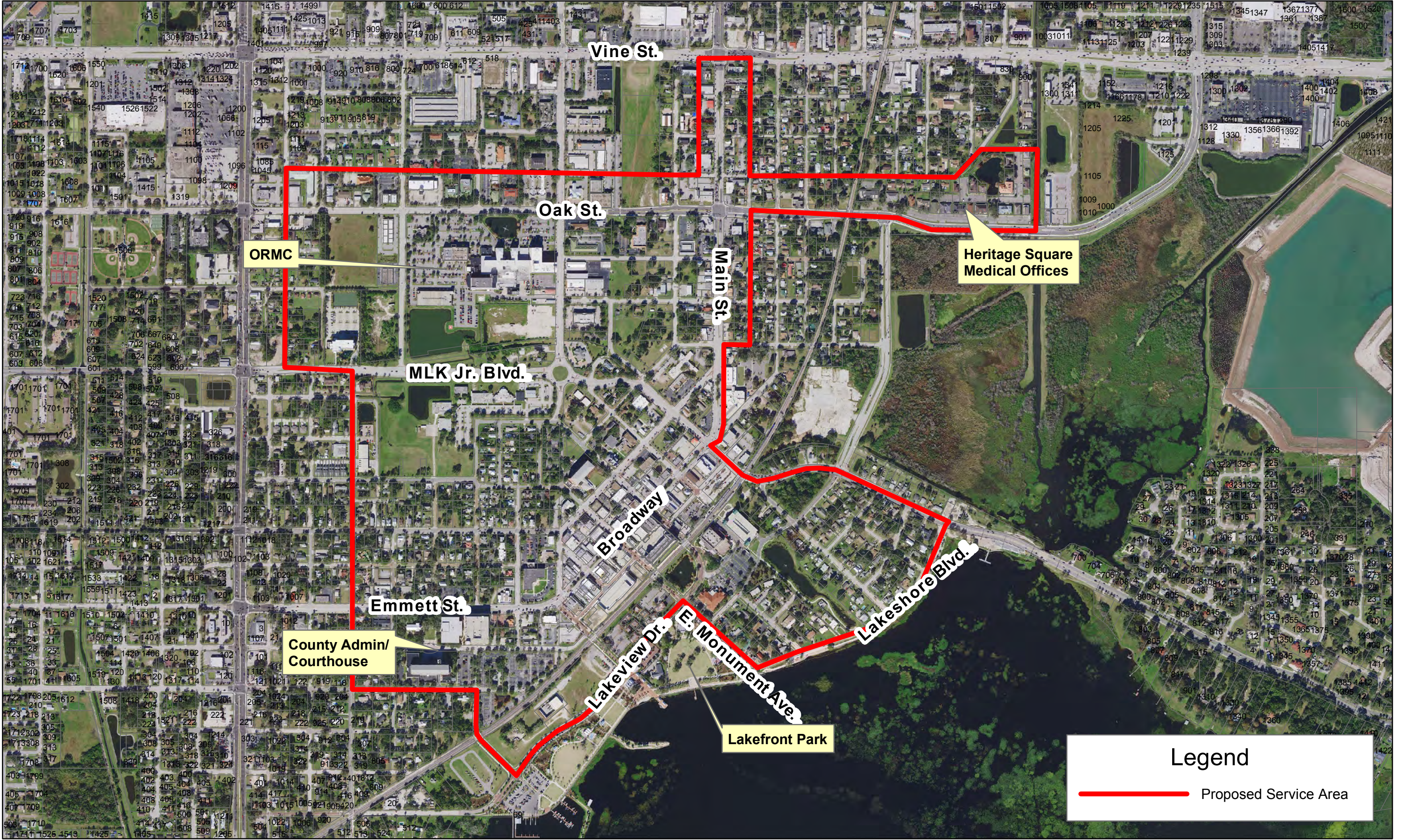
This Rates and Services Addendum ("Addendum") supplements the Agreement between BEEFREE, LLC d/b/a FREEBEE ("FREEBEE") and CITY OF KISSIMMEE ("CITY"), made and entered into December 6 2022 (the "Agreement"). This Addendum is subordinate to, and fully incorporates the terms and conditions of the Agreement, unless expressly stated otherwise herein. In consideration of the promises and covenants contained herein, and for good and valuable consideration, FREEBEE and CITY (collectively, the "Parties"), intending to be legally bound, hereby agree as follows:

1. Term. The term for the performance of services set forth under this Addendum shall commence upon delivery and deployment of the vehicles within the CITY as set forth in Section 2 below but no later than on a date mutually agreed upon by the Parties, and shall remain in full force and effect for twelve (12) months from the commencement date (the "Term"), unless terminated earlier pursuant to any additional clause(s) in this Agreement. –The Term shall be in effect for a twelve (12) month period pending the renewal of the Master Agreement by the City of Aventura in February 2023.
2. Services. This Addendum is limited in scope to the following services (the "Services"), which FREEBEE agrees to provide to CITY at the rates specified herein (the "Rates"):
 - a) FREEBEE will provide four (4) "Freebee" vehicles dedicated to CITY (the "Vehicles") for the duration of the Term. Three Vehicles dedicated to CITY will be Tesla vehicles and one Vehicle will be a wheelchair-accessible van. Beyond those identified Vehicles, FREEBEE will otherwise use its best efforts to remain in compliance with all Americans with Disabilities Act ("ADA") requirements as they may pertain to vehicle brands and types. FREEBEE shall be responsible for providing appropriate training to its drivers of wheelchair accessible Vehicle(s), including but not limited to, training as to the operation of the ramping system and securing of wheelchairs.
 - b) FREEBEE will utilize the Ride Freebee mobile app to provide free advertising opportunities for local businesses.
 - c) With the exception of the wheelchair-accessible van, which shall operate as needed to accommodate passenger requests, FREEBEE will operate the Vehicles within the CITY's designated service area at all times during CITY's operating hours (weather and conditions permitting) as reflected in Section 5 below, with the exception of a forty-five (45) minute daily meal break afforded to Freebee drivers. During driver meal breaks, at least one (1) Vehicle will be in operation and FREEBEE will try to limit breaks to downtimes in service. FREEBEE agrees that, to the extent feasible, at all times during CITY's operating hours, a wheelchair-accessible vehicle will be available to accommodate passengers upon request, and FREEBEE will operate the ramping system and secure any wheelchairs to the Vehicle should such an accommodation be requested.
 - d) Prior to commencement of the Term, FREEBEE will provide CITY with at minimum, one (1) fast charger for charging the Vehicles. The fast charger will be retained as FREEBEE's private property but will be available for use by CITY for purposes of charging the Vehicles throughout the duration of this Agreement. At the conclusion of the Term, FREEBEE shall be entitled to retake possession of the fast charger- FREEBEE shall be solely responsible

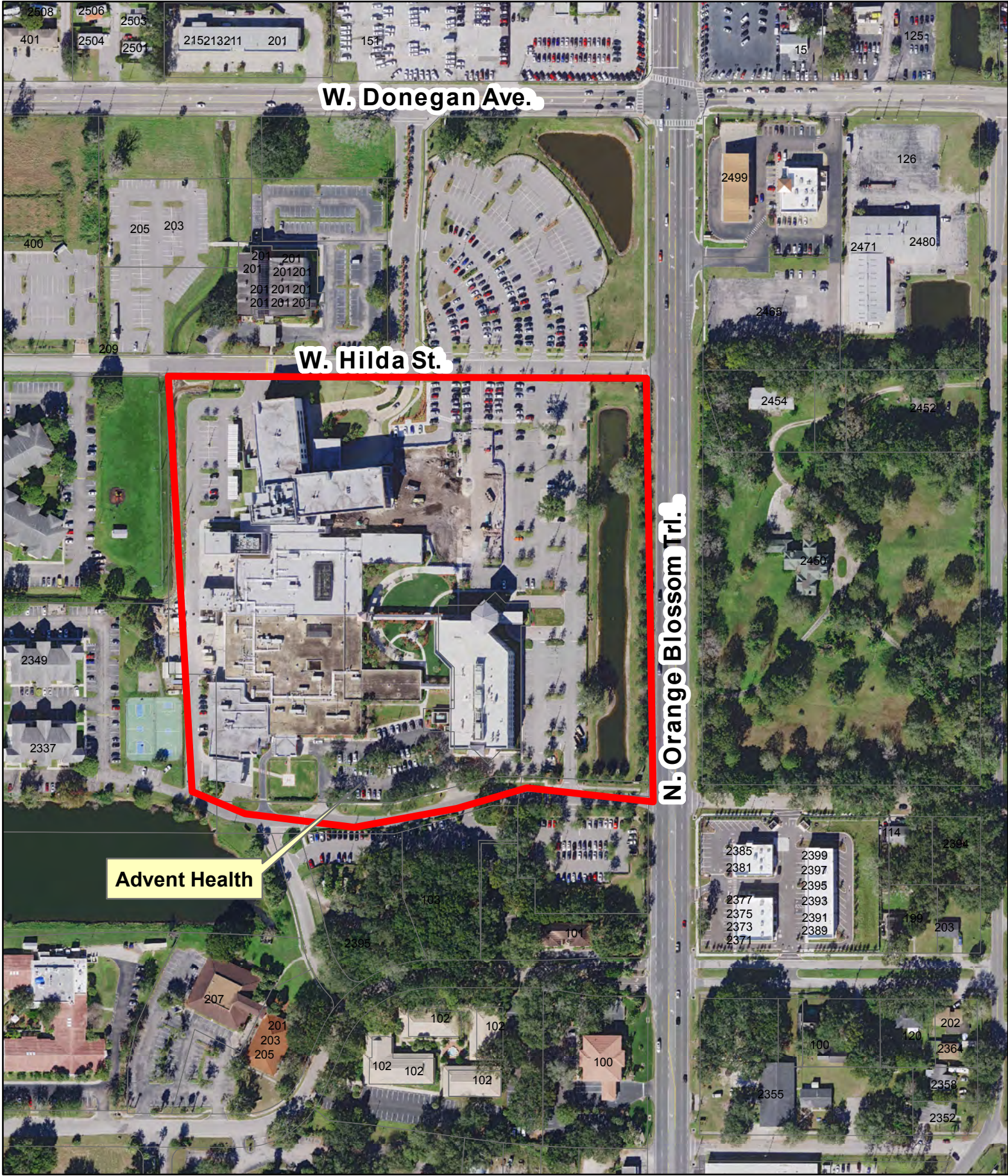
- for costs and expenses associated with installing and maintaining any and all charging equipment necessary for operation of the Vehicles.
- e) FREEBEE will assist CITY in developing a marketing plan to encourage Vehicle ridership.
 - f) Beginning in the second month of the Term and continuing each month thereafter, FREEBEE will provide CITY with a monthly report showing data and analytics related to ridership for the preceding month(s). FREEBEE will provide these reports within ten (10) business days of the last day of each month, unless another time frame is agreed upon by the Parties.
 - g) FREEBEE agrees that any questions, complaints, or concerns reported to FREEBEE (through its drivers or otherwise) regarding ADA issues will be reported to the CITY within one (1) business day.
 - h) CITY will provide four (4) dedicated parking spaces within the designated service area for charging and storage of Vehicles at no cost to FREEBEE. CITY shall further ensure that FREEBEE is permitted to install and utilize the fast charger in proximity to the parking spaces in order to efficiently charge the Vehicles.
3. Rates. As consideration for the services listed above, CITY shall pay FREEBEE at the following rates:
- a) The total charge for the services provided under this Addendum shall not exceed payment for the services to be provided under this Addendum shall not exceed Four Hundred Five Thousand Three Hundred Ninety Dollars (\$405,390.00), with the stipulation that a portion of that outstanding balance may be paid out of advertising revenue, as further described below in Section 5(d).
 - b) The breakdown for the service charges are as follows:
 - i Three Tesla Vehicles;
 - ii Operating Hours: Monday through Friday from 6:00 AM to 9:00 PM;
 - iii Seventy (70) hours per week of operation for each Vehicle in the fleet (weather and conditions permitting);
 - iv Wheelchair Accessible Van shall not have minimum hours requirement but shall be available upon request and on an as-needed basis during regular operating hours.
4. Payment Terms. CITY agrees to pay for the services rendered in monthly installments, as follows:
- a) Twelve (12) payments of approximately \$33,782.50 per month, payable on or before the 5th of each month, beginning upon delivery and deployment of the Vehicles as set forth in Section 2 above.
 - b) The first payment shall be delivered to FREEBEE immediately after City Commission approval and execution of the Agreement, which shall be applied towards the anticipated first month of service to the CITY.
- 5 Additional Terms-
- a) FREEBEE will operate the Vehicles in CITY's designated service area map as delineated in this Exhibit. This service area may be modified or revised revision upon mutual, written consent of the Parties.
 - b) Should state and local law permit FREEBEE to sell advertising space on the Vehicles, and provided FREEBEE is able to sell such advertising space, FREEBEE may enter into separate agreements with advertisers for the placement of advertising on the Vehicles. All advertising shall be subject to CITY's approval prior to its placement on the Vehicles. Any advertising revenue generated from the sale of advertising on the Vehicles during the

Term shall be divided equally between FREEBEE and CITY, with each entitled to 50% of advertising revenue that is generated and actually received. CITY shall be permitted to apply its share of said revenue, if any, towards its monthly payment to FREEBEE for services rendered. Nothing in this section shall not be interpreted as an obligation on FREEBEE to sell any advertising space or generate any revenue by selling advertising on the Vehicles, and CITY hereby expressly acknowledges that no such obligation has been created by enacting this Section.

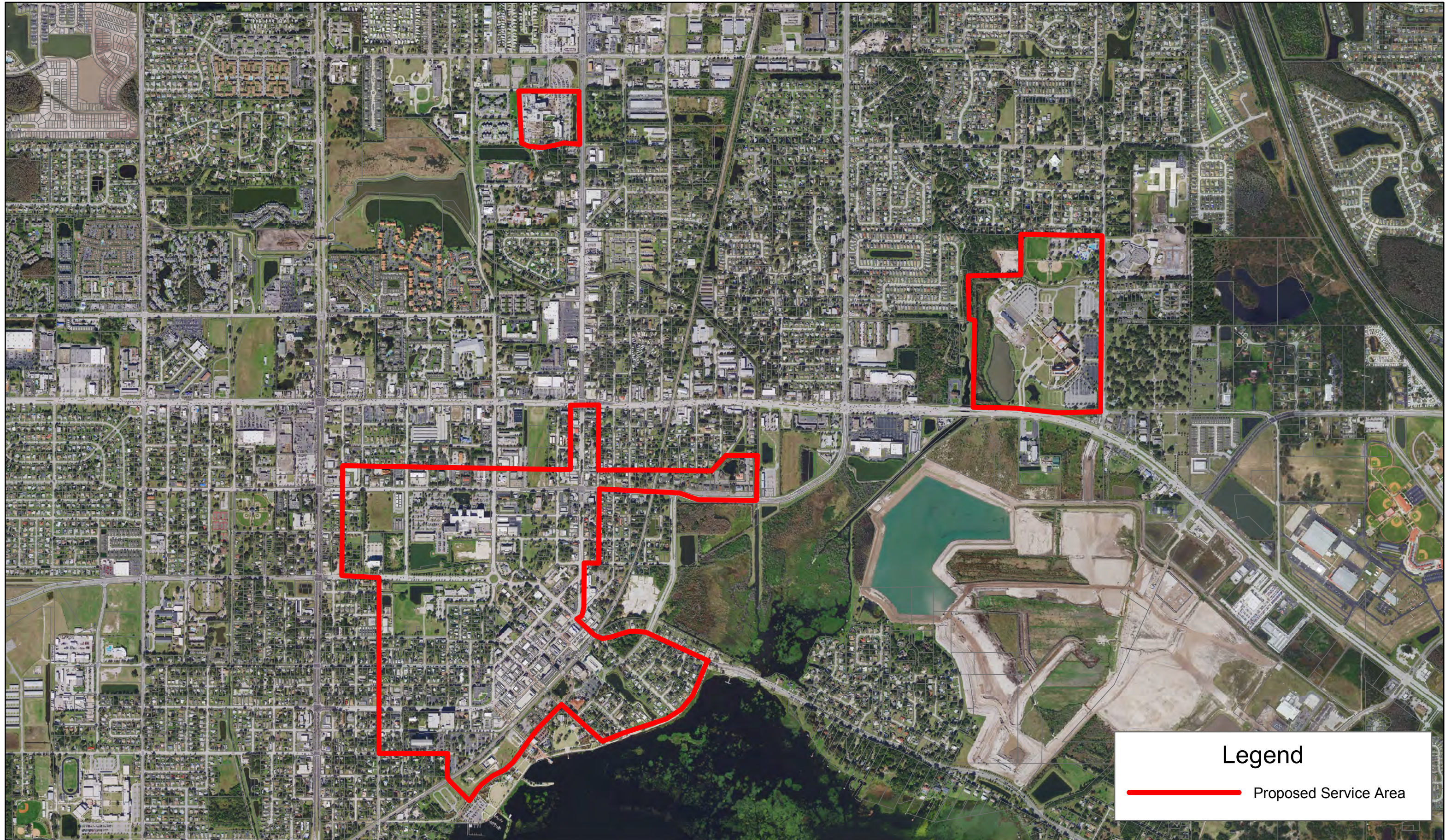
Proposed Microtransit Service Map



Proposed Microtransit Service Map



Proposed Microtransit Service Map



ITEM 8.B

Legislative Priorities for 2022-2023

Request

Commission review and consideration of the 2023 Legislative Priorities

Explanation

Each year, the City establishes legislative priorities featuring requests to be considered for funding and/or legislative support at the state and federal level. These priorities will serve as the work program for our lobbying teams for the upcoming 2023 Legislative Session and are based on the City's Strategic Plan and Commission Goals. The details of the items below are being finalized and will be provided prior to the meeting for Commission review.

As the Commission is aware, the City joined OLE (Osceola Legislative Effort) and can select one or more of the priorities for inclusion on their list.

The list will include the following priorities and may be amended to support the Commission's goals:

LEGISLATIVE FUNDING REQUESTS (State):

1. Affordable Housing Initiative: Homeless Shelter and Affordable Housing Project
2. Shingle Creek Trail Security and Protection Project
3. Citywide Master Stormwater Study and Flood Mitigation Plan
4. Water Quality and Drainage Improvement Projects:
 - Hill Street Drainage Improvement Project, Phase 3
 - Lake Toho Capacity and Water Quality Improvements Initiative

LEGISLATIVE SUPPORT (State):

1. Vine Street CRA: Local Bill for Liquor Licenses for Small Restaurants
2. FDOT Aviation Funding

LEGISLATIVE SUPPORT (Federal):

1. Kissimmee Gateway Airport Tower
2. Funding for Affordable Housing

Recommendation

Staff recommends Commission direction on the Legislative Priorities for 2022-23

REQUESTED CITY COMMISSION ACTION:

Commission Direction

City of Kissimmee

Department: City Manager
Presenter: Mike Steigerwald

Attachment(s):
None

ITEM 8.C

Advisory Board Vacancy - Board of Adjustment

Request

The Commission is requested to make an appointment to fill a vacancy on the Board of Adjustment.

Explanation

Commissioner Castano appointed Jeniffer Salas to the Board of Adjustment on October 18, 2022, pending review of an application that was to be filed. Ms. Salas' application was received, but upon review she did not qualify for the position. She was notified and submitted a second application with changes but she still did not qualify for the position on the grounds she is not a City resident and does not own or operate a business in the City.

Seat #1 was originally assigned the Board of Adjustment vacancy, but it is being reassigned to Seat #1 due to the applicant not qualifying for appointment.

The Commissioner will have 30 days to make the appointment or an extension will be necessary. If no extension is requested, the appointment will automatically roll over to the next Commissioner in the rotation.

Commissioner Rotation:	Date Assigned:	Advisory Board:	Appointment Expires:	Requirements:
Seat #1 - Castano <i>*No applications currently on file*</i>	09/13/2022 12/06/2022 (reassigned) Assignment Expires: 1/17/2023	Board of Adjustment	05/31/2023	City Resident and must have a Florida License as an Engineer, Architect, Surveyor or Contractor. Members may be a resident or non-City resident; non-residents must either own real property or maintain a business office within the City.

Recommendation

Staff recommends the Commission make an appointment to fill a vacancy on the Board of Adjustment.

REQUESTED CITY COMMISSION ACTION:

Appoint/Reappoint

Department: City Manager

Presenter: Mike Steigerwald

Attachment(s):

None

City of Kissimmee