



**MEETING AGENDA
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, OCTOBER 15, 2024 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 - Orlando Health's Air Care Team 40th Anniversary

3.B Proclamation - Florida City Government Week

3.C Swearing in Ceremony for New Police Officers

3.D Swearing in Ceremony for New Firefighters

3.E Swearing in Ceremony for newly promoted Fire Department Battalion Chiefs, Lieutenants, and Engineers

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second & Final Reading - Proposed Ordinance #24-14 - Amending Land Development Code, Creating a Processing Fee

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA PART II CODE OF GENERAL ORDINANCES, CHAPTER 9 BUILDINGS AND BUILDING REGULATIONS, ARTICLE II ADMINISTRATION; AMENDING DIVISION 5 SECTION 9-126 BUILDING PERMITS; DIVISION 6 SECTION 9-146 MECHANICAL PERMITS; DIVISION 7 SECTION 9-173 PLUMBING PERMITS; DIVISION 8 SECTION 9-193 ELECTRICAL PERMITS; AND PART III LAND DEVELOPMENT CODE CHAPTER 14-3 DEVELOPMENT REVIEW BOARDS AND PROCEDURES SECTION 14-3-19 APPLICATION SUBMITTAL AND REVIEW, BY ADDING A PROCESSING FEE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

5. PUBLIC HEARINGS

5.A Public Hearing - Approval of a Pain Management License for Viva Pharmacy at 1060 North John Young Parkway.

5.B Public Hearing - Approval of a Pain Management License for Central Avenue Pharmacy at 1211 North Central Avenue.

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 October 1, 2024 meeting

- 7.B CentralSquare Technologies annual software maintenance fee for OneSolution Public Safety Software Suite
- 7.C Resolution to accept grant funding from the Florida Department of Transportation
- 7.D Task Order No. 5 for Professional Service Agreement with Avcon Inc
- 7.E Advertising Funding from Experience Kissimmee for Kissimmee Gateway Airport
- 7.F Transient Aircraft Landing Fee Process Agreement With Vector Airport Systems, LLC
- 7.G Authorization to purchase the annual city vehicle requirements for FY2024-25
- 7.H Bid Award for West Oak Street at John Young Parkway Intersection Improvement Project
- 7.I Resolution authorizing the West Oak Street Intersection Improvements and Supplemental Agreement No. 1
- 7.J Ratification of Executive Order 2024-02 for Hurricane Milton

8. DISCUSSION ITEMS

- 8.A UCF Business Incubation Program - Kissimmee Annual Presentation and Approval of the 2024-2025 Agreement

CITY COMMISSION RECESSES AND CONVENES AS THE COMMUNITY REDEVELOPMENT AGENCY BOARD

- 8.B Approval of Agreement with LandDesign, Inc. for Vine Street landscape design services.

COMMUNITY REDEVELOPMENT AGENCY BOARD ADJOURNS AND RECONVENES AS THE CITY COMMISSION

- 8.C Resolution to amend the Rates & Charges Policy for Kissimmee Gateway Airport
- 8.D Social Service and Quality of Life Competitive Funding Awards

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 - Orlando Health's Air Care Team 40th Anniversary****Request**

To present a proclamation to the Orlando Health's Air Care Team, including Nina Hilton-Cannon, Chief Flight Nurse & Assistant Nurse Operations Manager and Ty Campbell, Clinical Assistant Nurse Manager, in celebration of their 40th Anniversary.

Explanation

N/A

Department: City Manager
Presenter: Mike Steigerwald

Attachment(s):

1. Proclamation- 40th Anniversary of Orlando Health's Air Care Team

Proclamation



ORLANDO HEALTH'S AIR CARE TEAM 40TH ANNIVERSARY

WHEREAS, Orlando Health's Air Care Team is Central Florida's only airborne emergency transport unit that provides lifesaving care to the pediatric and adult population; and

WHEREAS, first established on October 13, 1984, with a single aircraft program located on the downtown Orlando campus, the Air Care Team has grown to a four aircraft program strategically positioned around the region servicing more than 15 counties; and

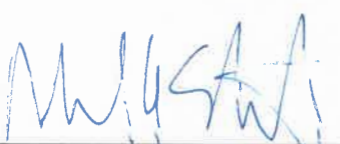
WHEREAS, the Air Care Team ensures safety is top priority and has flown over 2 million accident / incident free miles with their team having an average of 20 years of experience; and

WHEREAS, when every second counts, the Air Care Team provides advanced medical and critical care bedside, on scene, or in flight, and has transported over 45 thousand patients; and

WHEREAS, the Air Care Team consists of over ninety team members; nurses, paramedics, pilots, mechanics, emergency medical technicians, and communication specialists ensuring services are available when called upon; and

NOW, THEREFORE, we, the City Commission for the City of Kissimmee do hereby celebrate the 40th Anniversary of "**Orlando Health's Air Care Team**" in recognition of their dedicated service to the Central Florida Region over the past four decades.

IN WITNESS, THEREOF, this is signed this 13th day of October, 2024.


CITY MANAGER


MAYOR/COMMISSIONER



ITEM 3.B

Proclamation - Florida City Government Week

Request

To present a Proclamation to the City Commission and City Staff in honor of Florida City Government Week.

Explanation

N/A

Department: City Manager
Presenter: Mike Steigerwald

Attachment(s):

1. Proclamation- Florida City Government Week

Proclamation



FLORIDA CITY GOVERNMENT WEEK

WHEREAS, Government Week is celebrated every October in cities across Florida to highlight and engage residents in their local government; and

WHEREAS, city government is the closest level of government to the people and has a direct impact on their daily lives; and

WHEREAS, municipal government provides services, resources, and programs that enhance the quality of life for residents, making their city their home; and

WHEREAS, city government is administered for and by its residents and is dependent upon public commitment to and understanding of its many responsibilities; and

WHEREAS, city government officials and employees share the responsibility to promote understanding of public services and their benefits; and

WHEREAS, Florida City Government Week offers an important opportunity for elected officials and city staff to encourage the community to take an active role in their local government; and

WHEREAS, the Florida League of Cities and its member cities have united to teach residents about municipal government through a variety of activities; and

NOW, THEREFORE, we, the City Commission for the City of Kissimmee do hereby proclaim the week of October 21 - 27, 2024 as **"Florida City Government Week"** in the City of Kissimmee and encourage all residents, city officials, and employees to engage in events that recognize and celebrate the vital role of city government in our community.

IN WITNESS, THEREOF, this is signed this 15th day of October, 2024.


CITY MANAGER


MAYOR-COMMISSIONER



ITEM 3.C

Swearing in Ceremony for New Police Officers

Request

Swearing in and administering of oath for four new Police Officers.

Explanation

Four new Police Officers have been hired as employees by the City of Kissimmee Police Department. Having the Officers sworn in at City Commission meetings serve as a formal introduction to the Mayor, City Commissioners, the citizens and the community. The procedure of swearing in new officers instills formality and professionalism at the start of their careers with the City of Kissimmee.

Department: Police

Presenter: Wilson Munoz

Attachment(s):

1. (s) Swearing Oath New Officers - 10.15.2024



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



October 15, 2024

I, Francisco Lopez, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend, and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Francisco Lopez
Police Officer

ATTEST:

WITNESS:

City Clerk

Wilson Munoz
Deputy Chief



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



October 15, 2024

I, Jomar Lopez Figueroa, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend, and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Jomar Lopez Figueroa
Police Officer

ATTEST:

WITNESS:

City Clerk

Wilson Munoz
Deputy Chief



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



October 15, 2024

I, Michael Manza, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend, and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Michael Manza
Police Officer

ATTEST:

WITNESS:

City Clerk

Wilson Munoz
Deputy Chief



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



October 15, 2024

I, Sasha Sicard, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend, and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Sasha Sicard
Police Officer

ATTEST:

WITNESS:

City Clerk

Wilson Munoz
Deputy Chief

ITEM 3.D

Swearing in Ceremony for New Firefighters

Request

Staff requests that our two (2) new employees be sworn in as City of Kissimmee firefighters.

Explanation

The Fire Department hired two (2) firefighters on September 19, 2024, to fill current openings.

The Fire Department requests that these employees be sworn in before the City Commission to reflect the professionalism and respect their jobs deserve. This will also allow the Commissioners to meet the new firefighters who will be serving this city.

The firefighters to be sworn in are:

Firefighter Mitchell Soberon
Firefighter Virginia Lewis

Department: Fire
Presenter:

Attachment(s):

1. Swearing in Ceremony for Mitchell Soberon - Oath
2. Swearing in Ceremony for Virginia Phillips - Oath

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Mitchell Soberon, having been appointed to the position of Firefighter, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Mitchell Soberon

A handwritten signature in blue ink, which appears to read "J. Walls", is written over a horizontal line.

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Virginia Lewis, having been appointed to the position of Firefighter, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Virginia Lewis

Attest (City Clerk)

Jim Walls, Fire Chief

ITEM 3.E

Swearing in Ceremony for newly promoted Fire Department Battalion Chiefs, Lieutenants, and Engineers

Request

Staff requests that our newly promoted employees be sworn into their newly appointed position.

Explanation

On September 28, 2024, the following employees were promoted:

Stephen Gonnella was promoted to the position of Battalion Chief

Ryan Appleman was promoted to the position of Battalion Chief

Michael Taylor was promoted to the position of Lieutenant

Logan Broberg was promoted to the position of Lieutenant

Steven Cole was promoted to the position of Engineer

Victor Garza was promoted to the position of Engineer

Department: Fire

Presenter: James Walls

Attachment(s):

1. Swearing in Ceremony for Stephen Gonnella - Oath
2. Swearing in Ceremony for Ryan Appleman - Oath
3. Swearing in Ceremony for Michael Taylor - Oath
4. Swearing in Ceremony for Victor Garza - Oath
5. Swearing in Ceremony for Logan Broberg - Oath
6. Swearing in Ceremony for Steven Cole - Oath

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Stephen Gonnella, having been appointed to the position of Battalion Chief, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Stephen Gonnella

A handwritten signature in blue ink, which appears to read "J. Walls", is written over a horizontal line.

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Ryan Appleman, having been appointed to the position of Battalion Chief, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Ryan Appleman

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Michael Taylor, having been appointed to the position of Lieutenant, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Michael Taylor

A handwritten signature in blue ink, appearing to read 'Taylor', is written over a horizontal line.

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department
101 Church St.
Suite 200
Kissimmee, Florida 34741-5054
(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Victor Garza, having been appointed to the position of Engineer, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Victor Garza

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Logan Broberg, having been appointed to the position of Lieutenant, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Logan Broberg

A handwritten signature in blue ink, appearing to read "Logan Broberg", written over a horizontal line.

Attest (City Clerk)

Jim Walls, Fire Chief

City of Kissimmee Fire Department

101 Church St.

Suite 200

Kissimmee, Florida 34741-5054

(407) 518-2222 • FAX (407) 933-8604



October 15, 2024

I, Steven Cole, having been appointed to the position of Engineer, do hereby solemnly swear and affirm that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; and the Rules and Regulations of the Kissimmee Fire Department to the best of my ability. So help me God.

Seal

Steven Cole

A handwritten signature in blue ink, appearing to read 'J. Walls', is written over a horizontal line.

Attest (City Clerk)

Jim Walls, Fire Chief

ITEM 4.A

Public Hearing - Second & Final Reading - Proposed Ordinance #24-14 - Amending Land Development Code, Creating a Processing Fee

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA PART II CODE OF GENERAL ORDINANCES, CHAPTER 9 BUILDINGS AND BUILDING REGULATIONS, ARTICLE II ADMINISTRATION; AMENDING DIVISION 5 SECTION 9-126 BUILDING PERMITS; DIVISION 6 SECTION 9-146 MECHANICAL PERMITS; DIVISION 7 SECTION 9-173 PLUMBING PERMITS; DIVISION 8 SECTION 9-193 ELECTRICAL PERMITS; AND PART III LAND DEVELOPMENT CODE CHAPTER 14-3 DEVELOPMENT REVIEW BOARDS AND PROCEDURES SECTION 14-3-19 APPLICATION SUBMITTAL AND REVIEW, BY ADDING A PROCESSING FEE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Request

Request approval to amend the Land Development Code by creating a processing fee that will be applied to all credit card and e-check transactions conducted within the Development Services Department.

Explanation

When an applicant applies for a project or permit within the Development Services Department and pays by credit card or e-check (electronic), not all the fees are paid by that individual. When a credit card is used, credit card companies charge a percentage, better known as a surcharge, to conduct these transactions. In some instances, this can be tens of thousands of dollars monthly. When this occurs, the City has to pay this surcharge.

Due to the overwhelming amount of customers now paying by credit card or e-check, these surcharges are averaging \$25,000 monthly, which the City has to pay. Because the City is not recouping surcharge costs, it has to pay these surcharges at the taxpayers' expense. Therefore, this amendment will create a processing fee to require all customers to pay their payment processing costs when applying for a proposed project or permit within the Development Services Department.

All customers will still have the option to pay in cash or non-e-check (in person) and not pay surcharges.

The City will not be making revenue off this fee, it will simply pay for a cost currently not covered by fee revenues.

Recommendation

Approval of the Second & Final Reading of Proposed Ordinance #24-14, amending the Land Development Code, creating a processing fee.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter: Doug Etheredge

Attachment(s):

City of Kissimmee

1. CC Final Reading Ad
2. (S) Proposed Ordinance 24-14

Published Daily in
Orange, Seminole, Lake, Osceola & Volusia Counties, Florida

Sold To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL 34741

Bill To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL 34741

**State Of Florida
County Of Orange**

Before the undersigned authority personally
appeared
Rose Williams, who on oath says that he or
she is a duly authorized representative of the
ORLANDO SENTINEL, a DAILY
newspaper published in ORANGE County,
Florida; that the attached copy of
advertisement, being a Legal Notice in:

The matter of 11150-Public Hearing Notice
Was published in said newspaper by print in
the issues of, or by publication on the
newspaper's website, if authorized on Sep
24, 2024.

Affiant further says that the newspaper
complies with all legal requirements for
publication in Chapter 50, Florida Statutes.



Signature of Affiant

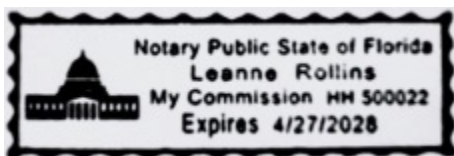
Rose Williams

Name of Affiant

Sworn to and subscribed before me on this 25 day of September, 2024,
by above Affiant, who is personally known to me (X) or who has produced identification ().



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

7701186

**CITY OF KISSIMMEE NOTICE OF PUBLIC
HEARING**

The City of Kissimmee proposes to adopt the following ordinance as described below. A public hearing on this proposal will be held by the City of Kissimmee City Commission to consider the Second and Final Reading of the proposed ordinance on Tuesday, October 15, 2024 at 6:00 p.m. or as soon thereafter as possible, in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida.

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#24-14
Processing Fee Ordinance: AN
ORDINANCE AMENDING THE CODE
OF THE CITY OF KISSIMMEE,
FLORIDA PART II CODE OF
GENERAL ORDINANCES, CHAPTER
9 BUILDINGS AND BUILDING
REGULATIONS, ARTICLE II
ADMINISTRATION; AMENDING
DIVISION 5 SECTION 9-126 BUILDING
PERMITS; DIVISION 6 SECTION 9-146
MECHANICAL PERMITS; DIVISION
7 SECTION 9-173 PLUMBING
PERMITS; DIVISION 8 SECTION
9-193 ELECTRICAL PERMITS; AND
PART III LAND DEVELOPMENT
CODE CHAPTER 14-3
DEVELOPMENT REVIEW BOARDS
AND PROCEDURES SECTION 14-
3-19 APPLICATION SUBMITTAL
AND REVIEW, BY ADDING A
PROCESSING FEE; REPEALING
ALL ORDINANCES IN CONFLICT
HEREWITH AND PROVIDING AN
EFFECTIVE DATE.

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
9/24/2025 7701186

7701186

PROPOSED ORDINANCE NO. 24-14
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA PART II CODE OF GENERAL ORDINANCES, CHAPTER 9 BUILDINGS AND BUILDING REGULATIONS, ARTICLE II ADMINISTRATION; AMENDING DIVISION 5 SECTION 9-126 BUILDING PERMITS; DIVISION 6 SECTION 9-146 MECHANICAL PERMITS; DIVISION 7 SECTION 9-173 PLUMBING PERMITS; DIVISION 8 SECTION 9-193 ELECTRICAL PERMITS; AND PART III LAND DEVELOPMENT CODE CHAPTER 14-3 DEVELOPMENT REVIEW BOARDS AND PROCEDURES SECTION 14-3-19 APPLICATION SUBMITTAL AND REVIEW, BY ADDING A PROCESSING FEE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA AS FOLLOWS:

SECTION 1. The City's Code of Ordinances, Part II, Chapter 9, Building and Building Regulations, Article II, Administration, Division 5, Building Permits is hereby amended to add the following sections:

For purposes of changes to the text of the Code of Ordinances as set forth below, underlined words indicate additions to existing text, and stricken words include deletions from existing text.

§9-126 RESERVED PROCESSING FEE

A processing fee in accordance with the below table shall be applied to all credit card and echeck transactions conducted within the Development Services department.

<u>Use</u>	<u>Fee</u>	<u>Service %</u>	<u>Minimum</u>
<u>Payer Credit Card¹</u>		<u>3.95%</u>	<u>\$2.50</u>
<u>Payer eCheck Cost²</u>	<u>\$1.95</u>		
<u>eCheck Rejects³</u>	<u>\$5.00</u>		
<u>Credit Card Chargebacks⁴</u>	<u>\$15.00</u>		

¹Payer Credit Card Cost = Per card transaction with Visa, Mastercard, Discover and American Express.

²Payer eCheck Cost = Per electronic check transaction.

³eCheck Rejects = When an eCheck transaction is declined by the financial institution(.

⁴Credit Card Chargebacks = If a cardholder disputes a transaction with the card issuer (e.g. stolen card).

§9-146 RESERVED PROCESSING FEE

A processing fee in accordance with the below table shall be applied to all credit card and echeck transactions conducted within the Development Services department.

<u>Use</u>	<u>Fee</u>	<u>Service %</u>	<u>Minimum</u>
<u>Payer Credit Card¹</u>		<u>3.95%</u>	<u>\$2.50</u>
<u>Payer eCheck Cost²</u>	<u>\$1.95</u>		
<u>eCheck Rejects³</u>	<u>\$5.00</u>		
<u>Credit Card Chargebacks⁴</u>	<u>\$15.00</u>		

¹Credit Card Holder Cost = Per card transaction with Visa, Mastercard, Discover and American Express.

²eCheck Cost = Per electronic check transaction.

³eCheck Rejects = When an eCheck transaction come back as declined (e.g. bounced check).

⁴Credit Card Chargebacks = If a cardholder disputes a transaction at the card issuing bank (e.g. stolen card).

§9-173 RESERVED PROCESSING FEE

A processing fee in accordance with the below table shall be applied to all credit card and echeck transactions conducted within the Development Services department.

<u>Use</u>	<u>List Price</u>	<u>Service %</u>	<u>Minimum</u>
<u>Payer Credit Card¹</u>		<u>3.95%</u>	<u>\$2.50</u>
<u>Payer eCheck Cost²</u>	<u>\$1.95</u>		
<u>eCheck Rejects³</u>	<u>\$5.00</u>		
<u>Credit Card Chargebacks⁴</u>	<u>\$15.00</u>		

¹Payer Credit Card Cost = Per card transaction with Visa, Mastercard, Discover and American Express.

²Payer eCheck Cost = Per electronic check transaction.

³eCheck Rejects = When an eCheck transaction come back as declined (e.g. bounced check).

⁴Credit Card Chargebacks = If a card payer disputes a transaction at the card issuing bank (e.g. stolen card).

§9-193 RESERVED PROCESSING FEE

A processing fee in accordance with the below table shall be applied to all credit card and echeck transactions conducted within the Development Services department.

<u>Use</u>	<u>List Price</u>	<u>Service %</u>	<u>Minimum</u>
<u>Payer Credit Card¹</u>		<u>3.95%</u>	<u>\$2.50</u>
<u>Payer eCheck Cost²</u>	<u>\$1.95</u>		
<u>eCheck Rejects³</u>	<u>\$5.00</u>		
<u>Credit Card Chargebacks⁴</u>	<u>\$15.00</u>		

¹Payer Credit Card Cost = Per card transaction with Visa, Mastercard, Discover and American Express.

²Payer eCheck Cost = Per electronic check transaction.

³eCheck Rejects = When an eCheck transaction come back as declined (e.g. bounced check).

⁴Credit Card Chargebacks = If a card payer disputes a transaction at the card issuing bank (e.g. stolen card).

SECTION 2. The City's Code of Ordinances, Part III, Land Development Code, Chapter 14-3, Development Review Boards and Procedures, is hereby amended to add the following section:

§14-3-19 APPLICATION SUBMITTAL AND REVIEW.

A. *Fees.*

1. Development review fee schedule. A separate document containing the city's development application fees shall be approved by city commission.
2. Processing Fee. A processing fee in accordance with the below table shall be applied to all credit card and echeck transactions conducted within the Development Services department.

<u>Use</u>	<u>Fees</u>	<u>Service %</u>	<u>Minimum</u>
<u>Payer Credit Card¹</u>		<u>3.95%</u>	<u>\$2.50</u>
<u>Payer eCheck Cost²</u>	<u>\$1.95</u>		
<u>eCheck Rejects³</u>	<u>\$5.00</u>		
<u>Credit Card Chargebacks⁴</u>	<u>\$15.00</u>		

¹Payer Credit Card Cost = Per card transaction with Visa, Mastercard, Discover and American Express.

²Payer eCheck Cost = Per electronic check transaction.

³eCheck Rejects = When an eCheck transaction come back as declined (e.g. bounced check).

⁴Credit Card Chargebacks = If a card payer disputes a transaction at the card issuing bank (e.g. stolen card).

3. 2. Impact/mobility fees. The following impact/mobility fees will be required prior to the issuance of a building permit:
 - a. Recreation impact fees (see chapter 28, article III, division 2 of the Code of Ordinances);
 - b. Mobility fees (see chapter 9, article IX);
 - c. Educational system impact fees per the educational facilities interlocal agreement.
4. 3. Developer financing of public facilities. As specified in section [14-3-57](#), under certain circumstances where the public facility level of service would be exceeded, the applicant may be directly responsible for public facility improvements. Similarly, all development must be connected to central sewer and water; which may necessitate developer financing of trunk line extensions. If the applicant is required to construct improvements to meet

concurrency that would otherwise be covered by a required impact fee for that facility, the impact fee will be adjusted accordingly. This does not apply to site improvements.

SECTION 3. Severability. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. Inclusion in the Code. It is the intention of the City Commission, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of this Code of Laws and Ordinances of the City of Kissimmee, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish this intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 5. Scrivener's Errors. The City Attorney may correct the scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this 15th day of October, 2024 .

Mayor - Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

ITEM 5.A

Public Hearing - Approval of a Pain Management License for Viva Pharmacy at 1060 North John Young Parkway.

Request

Approval of a Pain Management License for Viva Pharmacy located at 1060 North John Young Parkway.

Explanation

The City adopted the Pain Management License Ordinance at the June 26, 2012 City Commission meeting. The Ordinance included exemptions to the license requirement for pharmacies that meet any one of the exemption criteria. If a pharmacy does not meet any of the exemptions, a pain management license is required to prescribe or dispense any Schedule II controlled substances.

Viva Pharmacy requests approval of a pain management license (CU-24-0011) for its business located at 1060 North John Young Parkway. The Development Review Committee (DRC) review of the license confirmed that the pharmacy use is a permitted use under the property's Mixed Use Urban Corridor (T5-U) Zoning designation. The staff recommendation for approval include the general conditions established from the Ordinance.

FINDINGS AND REASONS:

1. Compliance with Chapter 10, Article VIII of the City's Code of Ordinances for Pain Management Establishments and Pharmacies.
2. Compliance with the review criteria for pain management licenses in Section 10-464 of the Pain Management Establishments and Pharmacies Ordinance.
3. Compliance with the allowable uses as outlined in Table 5-1, Section 14-5-6A of the Land Development Code.
4. Compliance with Comprehensive Plan Future Land Use Element Policy 1.2.9.3, the Mixed Use Vine (MU-V) Future Land Use designation.

Recommendation

Approve a Pain Management License for Viva Pharmacy subject to conditions.

The Development Review Committee (DRC) recommended approval of this license request on August 20, 2024, subject to conditions.

CONDITIONS:

1. A criminal background check of all owners, operators, or any other party with a proprietary interest in the establishment is required in order to provide assurances that such persons have no criminal convictions, including, but not limited to, convictions under F.S. Ch. 893, within the last 10 years.
2. The pharmacy shall only dispense any Schedule II substances, as defined in Section 10-408 of the Pain Management Ordinance, between the hours of 9:00 a.m. to 7:00 p.m.
3. Each pain management clinic or pharmacy shall be registered separately for each location within the City regardless of whether each clinic or pharmacy is operated under the same business name or management as another clinic or pharmacy.

4. Each application for a pain management clinic or pharmacy shall disclose each owner and operator of such clinic or pharmacy, and individual principals of any entity that owns such clinic or pharmacy.
5. The pain management clinic or pharmacy shall not limit the form of payment for goods or service to cash only.
6. The pain management clinic or pharmacy shall not accept cash for payment of goods and services associated with the prescribing or dispensing of Schedule II substances except for insurance co-pays, coinsurance, or deductibles.
7. The pharmacy shall have a state licensed pharmacist physically on-premises at all times during all hours of operation.
8. The pharmacy shall post a copy of all licensed pharmacists' licenses.
9. The pharmacy shall require a valid state/federal photo identification or passport to identify the patient or, in the case of a minor, parent or legal guardian's similar identification, prior to the dispensing of any Schedule II substances.
10. The pharmacy shall not dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state of Florida. For any patient whose valid identification is outside the state, the pharmacy shall not dispense more than a 72-hour supply of any Schedule II substances.
11. A pharmacy may also dispense up to a 30-day supply of any Schedule II substances provided the patient presents a valid photo identification and a utility bill that is not older than 3 months, that is in the name of the patient or patient's spouse and that shows a city address.
12. The pharmacy shall maintain a legible copy of the prescriptions for Schedule II substances as defined by Section 10-408 of the Pain Management Ordinance, the patient's photo identification for each prescription dispensed or delivered, and the utility bill, if applicable. The records must be maintained for a minimum of 2 years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by F.S. § 893.07, for a minimum of 2 years.
13. The delivery, including mail order delivery, of all Schedule II substances shall be prohibited except to any facility licensed under F.S. Ch. 400 or 429; any address located within the City boundaries and listed on the patient's valid photo identification; or an address listed within the City boundaries on the utility bill for the patient or the patient's spouse, if applicable.
14. Provide a monthly summary report to the Kissimmee Police Department for all Schedule II substances, as defined in Section 10-408 of the Pain Management Ordinance, that have been dispensed by this facility. The monthly report shall be provided by the 7th day of each month for the previous month.
15. The pain medication license shall be issued for a period of 1 year. This license must be renewed annually, subject to a \$200 fee, and approved by the City Manager or designee. The amount of the renewal fee may be modified by resolution of the City Commission after a public hearing.
16. A pain management license shall not be transferable. Any change in ownership shall require the new owner to reapply for a new license prior to prescribing, storing or dispensing Schedule II substances.
17. If, at any time, the City Manager or designee determines that any pain medication license holder has failed to comply with any applicable conditions of its license, or is operating in a manner harmful to the public health, safety or welfare and not in compliance with the terms of this chapter, the City Manager may place on the City Commission public hearing agenda an item to determine whether the pain medication license should be revoked. The City Manager or designee shall prepare a report with analysis showing the noncompliance.

REQUESTED CITY COMMISSION ACTION:

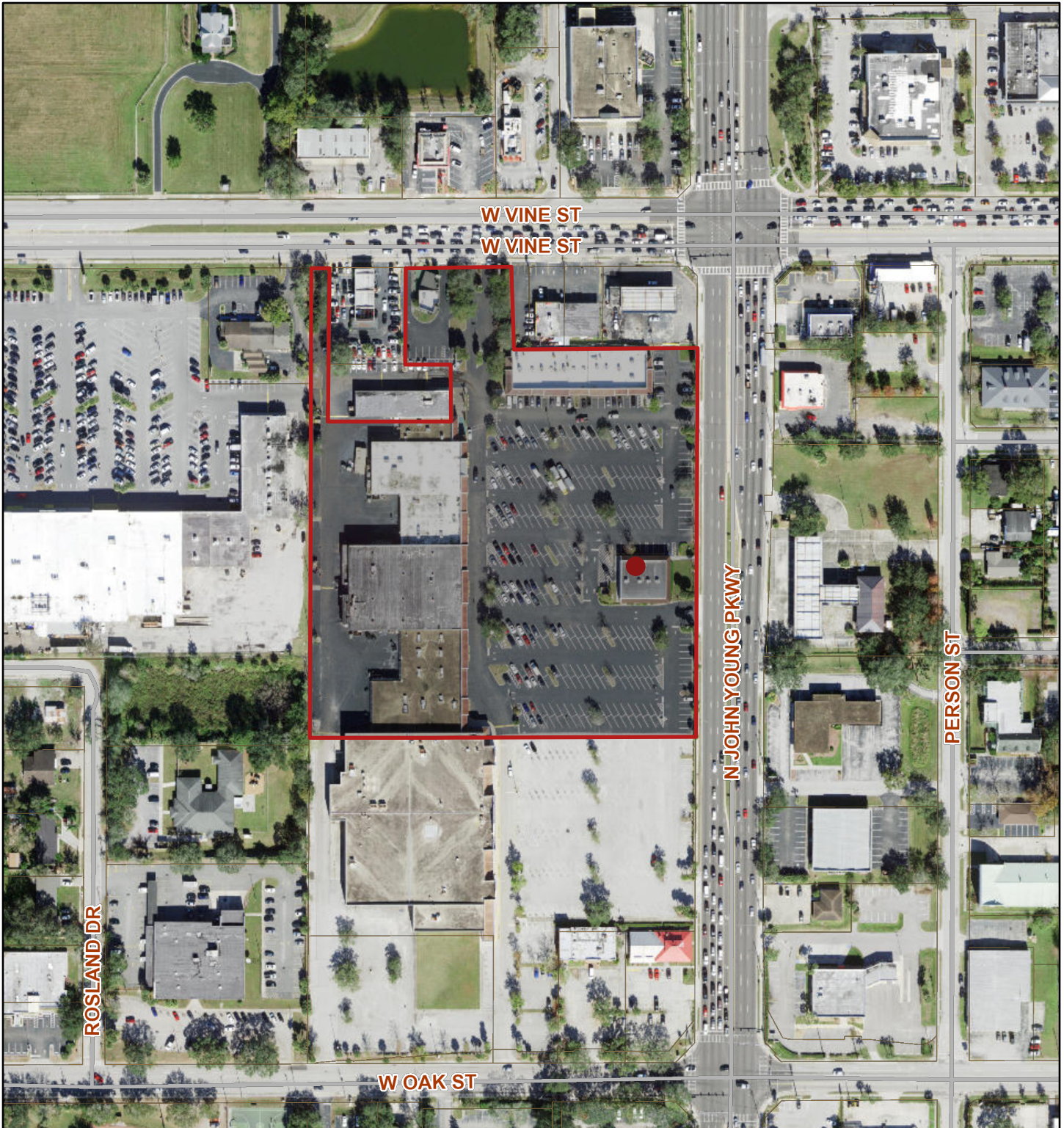
Approve w/Conditions

Department: Development Services

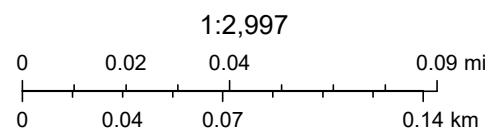
Presenter: Brenda Ryan

Attachment(s):

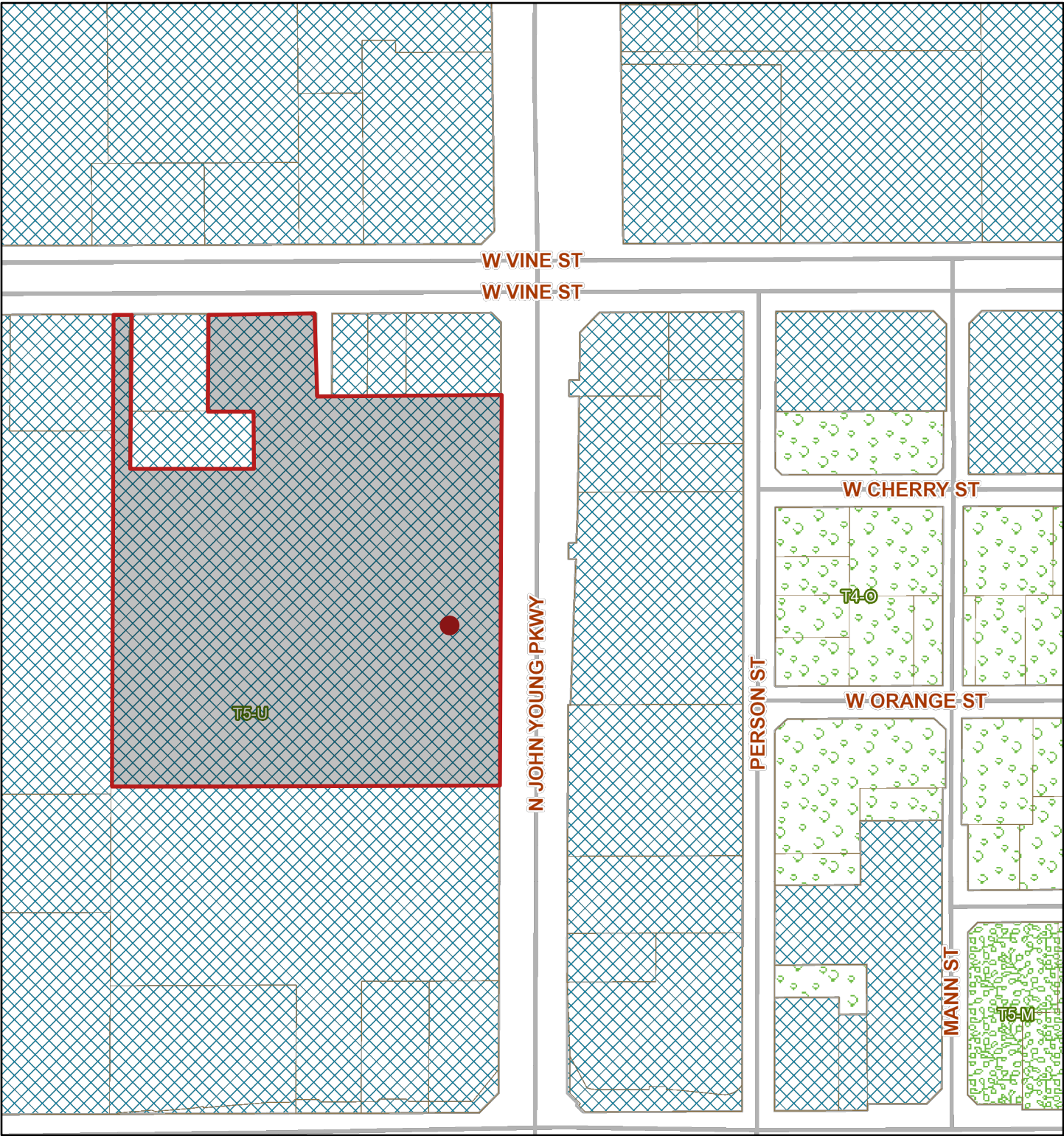
1. CU-24-0010 Aerial Map
2. CU-24-0010 Vicinity Map
3. CU-24-0010 Planning Comments & Pain Mgt. Ordinance
4. CU-24-0010 Viva Pharmacy DRC Powerpoint Presentation
5. CU-24-0010 City Commission Ad
6. CU-24-0010 DRC Application Documents



October 4, 2024

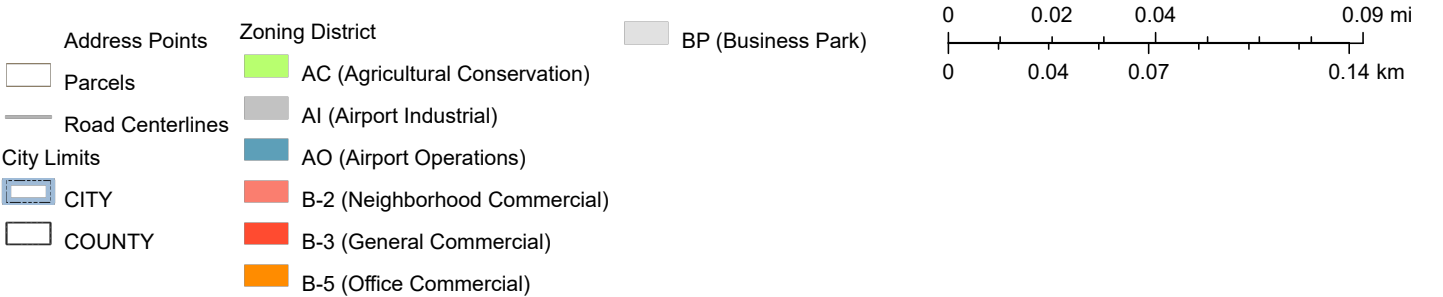


State of Florida, Maxar



October 4, 2024

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

ADDRESS: 1060 N John Young Pkwy.

DATE: 8/16/2024

PLAN NUMBER: CU-24-0010

PROJECT NAME: Pain Management License

REVIEW VERSION NUMBER: V1

**Review Status:
REVISE & RESUBMIT.**

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

1. There are no prior records that a stand-alone pharmacy has been previously established at this location or on this parcel (Town Corral Shopping Center – DRC#91-132, DRC#10-077)
2. A Business License (BL-000572-2024) is on hold until a Pain Management License review has been completed that will determine if the pharmacy is exempt from the Pain Management License or must obtain approval.
3. It was indicated that this pharmacy fills prescriptions from the emergency room from Osceola Regional Medical Center. The filling of prescriptions from the emergency room of a hospital does not meet the criteria to exempt this pharmacy from the City's Pain Management Establishments and Pharmacies Article VIII, Chapter 10, Businesses and Business Regulations, Part II, Code of Ordinances. The pharmacy would need to be located at the hospital in order to consider an exemption. Please refer to Section 10-409 of the Pain Management standards included with these comments for a full list of exemptions. Please provide additional information and documentation if the pharmacy qualifies for one of the exemptions listed.
 - a. A facility, office, building, or other establishment that engages in the dispensing of prescription substances, and which meets one of the following criteria:
 - i. The facility, office, or building **is located in an establishment where physicians provide surgical services;** 10-409(1)
4. If the pharmacy does not qualify for an exemption, the Pain Management License requires final approval by City Commission and will be subject to the conditions and standards in Sections 10-464 through Section 10-466 which is attached as reference.

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.

ARTICLE VIII. PAIN MANAGEMENT ESTABLISHMENTS AND PHARMACIES¹

DIVISION 1. GENERALLY

Sec. 10-406. Findings.

- (a) Pursuant to article VIII, section 2 of the state constitution and F.S. ch. 166, the city is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law.
- (b) The public health, safety and welfare is a legitimate public purpose recognized by the courts of the state.
- (c) The city commission has been made aware by law enforcement and news reports that a pattern of illegal prescription drug use, diversion and distribution of oxycodone, OxyContin and other Schedule II prescription narcotic drugs resulting in deaths associated with such abuse and criminal activity that have been associated with pain management clinics and pharmacies.
- (d) Many municipalities within central Florida have experienced an influx of pain management clinics.
- (e) The city commission has been made aware by law enforcement of the significant amount of Schedule II substances that are obtained from pain management clinics and pharmacies in the county and distributed out of the state.
- (f) The city commission finds it in the best interest of the citizens of the city to mitigate the negative effects of these businesses by adopting appropriate regulations relating thereto.
- (g) On May 3, 2011, the city commission approved Ordinance No. 2799 authorizing a moratorium on the issuance of business tax receipts for the operation of pain management clinics, in order to research the nature and scope of possible measures to mitigation and regulation of pain management clinics and pharmacies involved in the dispensing of prescription substances.
- (h) The state and federal laws have not done enough to curb the proliferation of pain management clinics and pharmacies that do not follow the medical standard of care.
- (i) Based on all of the foregoing, the city commission deems it necessary and in the best interest of the city to enact an ordinance regulating such businesses and further desires to extend the pain clinic and pharmacy moratoriums to coincide with the effective date of the ordinance from which this article is derived.

(Code 1995, § 5-13-1; Ord. No. 2828, 6-26-2012)

¹State law reference(s)—Pain management clinics, F.S. §§ 458.3265, 459.0137 et seq.; authority to adopt provisions for administrative adjudication of violations and abatement of drug related public nuisances, F.S. § 893.138.

Sec. 10-407. Purpose and intent.

The purpose and intent of this article is to create a procedure for licensing for any pain management clinics or pharmacies that intend to prescribe or dispense or which are presently prescribing or dispensing any Schedule II substances, as defined herein.

(Code 1995, § 5-13-2(A); Ord. No. 2828, 6-26-2012)

Sec. 10-408. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In those cases wherein a term is not defined, its definition shall be as found in Black's Law Dictionary, latest edition, or in American Heritage College Dictionary, latest edition.

Operator means a person who engages or participates in any activity that is necessary to or that facilitates the operation of an establishment that is a pharmacy or pain management clinic.

Pain management clinic means a privately owned pain management clinic, facility, or office which advertises in any medium for any type of pain management services or engages a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and which is required to register pursuant to F.S. § 458.3265 or 459.0137, as amended. A physician that is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of pain shall also be defined as a pain management clinic. The term "pain management clinic" shall not include any clinic or medical practitioner's office that is affiliated with a hospital, hospice or other facility for the treatment of the terminally ill in Osceola or Orange County, nor shall it include a pain management clinic or practice which is conducted within a facility licensed under F.S. ch. 395 or any successor statute.

Pharmacy means a facility, office, building, or other establishment which engages in the dispensing of prescription substances. An exempt pharmacy shall not be required to obtain a pain medication license.

Schedule II means a substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence and as defined in F.S. § 893.03, as amended from time to time. For the purposes of this article, the following substances are exempted from the definition of Schedule II substances and shall not be counted in the monthly or annual aggregate unit doses: Nabilone, Phenylclidine, 1-Phenylcyclohexylamine, 1-Piperidinocyclohexanecarbonitri le, Amobarbital, Amphetamine, Glutethimide, Methamphetamine, Methylphenidate, Pentobarbital Phenmatrazine, Phenylacetone, and Secobarbital.

(Code 1995, § 5-13-2(B); Ord. No. 2828, 6-26-2012)

Sec. 10-409. Exempt pharmacy.

A facility, office, building, or other establishment that engages in the dispensing of prescription substances, and which meets one of the following criteria:

- (1) The facility, office, or building is located in an establishment where physicians provide surgical services;
- (2) The facility, office, or building is owned or leased by a publicly held corporation whose shares are traded on a national exchange and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50,000,000.00;

-
- (3) The facility, office, or building is affiliated with an accredited medical school where training is provided for medical students, medical residents, or fellows;
 - (4) The facility, office, or building is owned by a corporate entity exempt from federal taxation under 26 USC 501(c)(3);
 - (5) The facility, office, or building is licensed as a facility pursuant to F.S. ch. 395;
 - (6) The facility, office, or building is owned or operated by a public agency;
 - (7) The facility, office, building, or pharmacist:
 - a. Does not purchase, store or dispense more than an aggregate of 5,000 unit doses of Schedule II substances as defined herein on a monthly basis. The pharmacy may exceed the monthly aggregate by up to ten percent provided the pharmacy's annual aggregate of Schedule II substances does not exceed 60,000 unit doses;
 - b. Has no principals, officers and/or pharmacists with criminal convictions under F.S. ch. 893 within the last ten years;
 - c. Executes an agreement for pain medication license exemption in substantially the format as adopted by the city commission that will result in the revocation of the certificate of use and local business tax receipt and inability of the facility, office, building or pharmacist, or any successor entity or person, to apply for any certificate of use or local business tax receipt within the city for the next 24 months upon determination by the city manager or his designee based on the recommendation of the police chief of any violation of the agreement;
 - d. Files a monthly affidavit by the seventh day of each month for the previous month with the police chief identifying the types and quantities of Schedule II substances as defined herein:
 1. That were purchased during the reporting period;
 2. That were sold during the reporting period; and
 3. That were stored during the reporting period; and
 - e. The owners and operators of the facility, office, or building have not had a pain medication license suspended, revoked, non-renewed or denied in the previous 24 months; or
 - (8) The facility, office, building or pharmacist is located within a retail store that has a minimum of 40,000 square feet of retail and that maintains more than 20 locations within the state.

(Code 1995, § 5-13-2(B); Ord. No. 2828, 6-26-2012)

Secs. 10-410—10-429. Reserved.

DIVISION 2. PAIN MANAGEMENT LICENSING PROCEDURE²

Sec. 10-430. License required.

It shall be unlawful for any pain management clinic or pharmacy to prescribe or dispense any Schedule II controlled substance without first obtaining a pain medication license from the city.

²State law reference(s)—Pain management clinics, F.S. §§ 458.3265, 459.0137.

(Code 1995, § 5-13-3(A); Ord. No. 2828, 6-26-2012)

Sec. 10-431. Pain medication licensing procedure.

Any pain management clinic or pharmacy holding a license duly granted by the state to prescribe or dispense Schedule II controlled substances may apply for a pain medication license. The applicant shall pay a fee for the review and processing of the application as set forth in section 10-463. The application shall be processed using the procedures and criteria listed in this article. In the event that such an establishment is under contract for sale, the current owner and the potential future owner, under contract, must submit a joint application for a pain medication license. The fee for the issuance of the pain medication license shall be the same as for a new license and shall be paid prior to issuance of the license. A pain medication license granted to a duly licensed establishment shall allow the pain management clinic or pharmacy to lawfully prescribe and/or dispense Schedule II substances within the city. Pain medication licenses are hereby deemed to be a privilege granted by the city commission, and are declared to be and are regulatory in nature, and revocable pursuant to the procedures set forth in this article.

(Code 1995, § 5-13-3(B); Ord. No. 2828, 6-26-2012)

Sec. 10-432. Revocation of existing pain medication licenses and approvals, and establishment of pain medication licensing procedure.

The ability to prescribe and/or dispense Schedule II substances within the city is hereby declared to be and is a privilege subject to review and approval, suspension, termination, and the imposition of conditions as provided below, and no person may reasonably rely upon the granting of or the continuation of that privilege. Pain management clinics and pharmacies, as defined under section 10-408, that do not fall under an exemption and that wish to prescribe or dispense Schedule II substances after July 1, 2012, including any pain management clinic or pharmacy to whom an authorization or approval for prescribing or dispensing has previously been granted by the city or which was not previously required to obtain any city approval, shall be required to make an application and receive approval for a pain medication license no later than July 1, 2012.

(Code 1995, § 5-13-3(C); Ord. No. 2828, 6-26-2012)

Secs. 10-433—10-462. Reserved.

DIVISION 3. PAIN MEDICATION LICENSING PROCEDURE

Sec. 10-463. Application; public notice; public hearing; determination.

- (a) *Application.* One application per location for a pain medication license shall be submitted, on a form furnished by the city, to the city manager or his designee, along with a nonrefundable application fee of \$500.00 per location. The amount of the application fee may be modified by resolution of the city commission.
- (b) *Public notice.* All owners of property located within 500 feet of the parcel for which a new pain medication license is requested shall be notified of the application. The letter of notification will set forth a description of the request and a date, time and place of the hearing before the city commission. Letters will be mailed by the city to said property owners by first class. The required notification shall be postmarked at least 15 days

prior to the hearing date at which the application will be heard before the city commission. Staff is authorized to charge the applicant a reasonable fee for the city's cost of preparing and mailing notices.

- (c) *Public hearing.* The city commission, in accordance with the procedures of this article, shall conduct a public hearing on the application for a pain medication license, during which staff and the licensee may address the city commission.
- (d) *Determination.* The city commission shall approve, approve with conditions, or deny the request for a pain medication license in accordance with the procedures of this article.
 - (1) *Approval.* The city commission may approve an application for a pain medication license upon a determination that the subject application is consistent with the health, safety, and welfare of the city and pursuant to the criteria and conditions set forth in this section and section 10-464.
 - (2) *Conditional approval.* The city commission may require, as a condition of the privilege of granting of a pain medication license, compliance with any reasonable condition deemed to be necessary to mitigate or eliminate the potential adverse effects of such dispensing and prescribing Schedule II substances, in addition to the conditions provided in section 10-464. These conditions may include, without being limited to, provision by the owner or operator at his expense measures designed for security, crowd control, noise attenuation, crime prevention or reduction, and other similar protections designed to mitigate the effects of the operation of the pain management clinic or pharmacy.
 - (3) *Denial.* An application which is determined by the city commission to be inconsistent with the public health, safety, and welfare or the review criteria set forth herein, shall be denied. Any applicant who makes an application which is denied, after any appeal therefrom, shall be precluded from making another application for 24 months from the date of such denial of the application or conclusion of the appeal.

(Code 1995, § 5-13-4; Ord. No. 2828, 6-26-2012)

Sec. 10-464. Review criteria for pain medication licenses.

An application for a pain medication license shall be submitted to the city manager or his designee. The development review committee shall review the application, based on the criteria of this article and consistency of the application with the public health, safety, and welfare of the city, and shall make a recommendation to the city manager or his designee. The city manager or his designee shall prepare a report to the city commission recommending approval, approval with conditions, or denial, based upon the following criteria:

- (1) The amount and degree of law enforcement activities generated by the operation of any such establishment, by previous similar establishments in the same location or at any location involving any of the same owners or operators. Consideration will be given as to whether the calls are initiated by the pain medication license holder and what efforts have been taken to reduce unlawful activity at establishments owned or operated by the applicant;
- (2) A criminal background check of all owners or operators or any other party with a proprietary interest in such establishment shall be conducted in order to provide assurances that such persons have no criminal convictions, including, but not limited to, convictions under F.S. ch. 893, within the last ten years;
- (3) The adverse effects of prescribing, storing, and/or dispensing Schedule II substances shall not place an undue burden on the nearby properties in proximity to the establishment, especially with respect to patron activities and effects of noise, traffic, parking, and vehicular use; and

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- (4) The amount and degree of security measures in place, including, but not limited to, impact resistant glass, exterior lighting, security cameras, video recordings, alarm and panic system, Crime prevention through environmental design ("CPTED") standards, principals, and signage.

(Code 1995, § 5-13-5; Ord. No. 2828, 6-26-2012)

Sec. 10-465. Mandatory conditions for pain medication license.

All pain medication licenses shall require compliance with the following conditions:

- (1) During all hours of operation, the pain management clinic or pharmacy shall comply with the following conditions:
 - a. Each pain management clinic or pharmacy shall be registered separately for each location within the city regardless of whether each clinic or pharmacy is operated under the same business name or management as another clinic or pharmacy;
 - b. Each application for a pain management clinic or pharmacy shall disclose each owner and operator of such clinic or pharmacy, and individual principals of any entity that owns such clinic or pharmacy;
 - c. The pain management clinic or pharmacy shall not limit the form of payment for goods or service to cash only;
 - d. The pain management clinic or pharmacy shall not accept cash for payment of goods and services associated with the prescribing or dispensing of Schedule II substances except for insurance co-pays, coinsurance, or deductibles; and
 - e. Such other conditions as the city commission determines are reasonably related to the public health, safety and welfare.
- (2) Pharmacies. During all hours of operation, the pharmacy shall comply with the following conditions:
 - a. The pharmacy shall have a state licensed pharmacist physically on-premises at all times during all hours of operation;
 - b. The pharmacy shall post a copy of all licensed pharmacists' licenses;
 - c. The pharmacy shall require a valid state or federal photo identification, or passport, to identify the patient or, in the case of a minor, his parent or legal guardian's similar identification, prior to the dispensing of any Schedule II substances;
 - d. The pharmacy shall only dispense any Schedule II substances as defined in section 10-408 between the hours of 9:00 a.m. to 7:00 p.m.;
 - e. The pharmacy shall not dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state. For any patient whose valid identification is outside the state, the pharmacy shall not dispense more than a 72-hour supply of any Schedule II substance except that a pharmacy may dispense up to a 30-day supply of any Schedule II substance provided the patient presents a valid photo identification, in accordance with this section, and a utility bill that is not older than three months, that is in the name of the patient or the patient's spouse, and that shows a city address;
 - f. The pharmacy shall maintain a legible copy of the prescription for Schedule II substances as defined by section 10-408, the patient's photo identification for each prescription dispensed or delivered, and the utility bill, if applicable. The records must be maintained for a minimum of two

years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by F.S. § 893.07, for a minimum of two years;

- g. The delivery, including mail order delivery, of all Schedule II substances shall be prohibited except:
 - 1. To any facility licensed under F.S. ch. 400 or 429;
 - 2. While fully complying with this article to any address located within the city boundaries and listed on the patient's valid photo identification; or
 - 3. While fully complying with this article to the address listed within the city boundaries on the utility bill for the patient or the patient's spouse, if applicable;
 - h. Provide a monthly summary report to the police department for all Schedule II substances as defined in section 10-408 that have been dispensed by this facility. The monthly report shall be provided by the seventh day of each month for the previous month. At a minimum, the report shall include the following:
 - 1. A list of all physicians that have prescribed Schedule II substances and the business address of the prescribing physician;
 - 2. The number of prescriptions written by each physician or physician's office;
 - 3. The number of prescriptions associated with each type of Schedule II substances;
 - 4. Certification from the applicant that the pain management clinic or pharmacy is in compliance with all provisions of the pain medication license; and
 - 5. A current listing of all suppliers/wholesalers for all Schedule II substances.
- (3) Pain management clinics. During all hours of operation, the pain management clinic shall comply with the following conditions:
- a. The pain management clinic shall only operate between the hours of 9:00 a.m. to 6:00 p.m.;
 - b. Prior to prescribing or dispensing any Schedule II substances, the licensed physician shall perform a physical examination of a patient on the same day at the same location that he dispenses or prescribes any Schedule II substance. The physical exam shall be performed by the licensed physician and shall not be performed by a nurse or physician's assistant. A written report of the physical examination shall be placed in the patient record;
 - c. The physician shall require a valid state or federal photo identification, or passport, to identify the patient or, in the case of a minor, his parent or legal guardian's similar identification, prior to the prescribing or dispensing of any Schedule II substances;
 - d. A physician shall not prescribe or dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state. For any patient whose valid identification is outside the state, the physician shall not prescribe or dispense more than a 72-hour supply of any Schedule II substance except that a physician may prescribe or dispense up to a 30-day supply of any Schedule II substance provided the patient presents:
 - 1. A valid photo identification in accordance with this section; and
 - 2. A utility bill that is not older than three months, that is in the name of the patient or the patient's spouse, and that shows a city address;
 - e. The physician shall maintain a legible copy of the prescription for Schedule II substances as defined by section 10-408, the patient's photo identification for each prescription, and the utility bill required by this section, if applicable. The records must be maintained for a minimum of two

years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by law, for a minimum of two years;

- f. Each prescription must be clearly documented in the patient record. All written prescriptions must include the name, address, substance name, amount prescribed, and detailed instructions;
- g. The pain management clinic shall establish and submit to the city as part of the pain medication license application written policies and procedures governing the management of pain that are reviewed every year and revised more frequently as needed. The written policies and procedures shall include at least the following:
 - 1. A written procedure for systematically conducting periodic assessment of patient's pain;
 - 2. Criteria for the assessment of pain, including, but not limited to, pain intensity or severity, pain character, pain frequency or pattern, or both; pain location, pain duration, precipitating factors, responses to treatment and the personal, cultural, spiritual, and/or ethnic benefits that may impact an individual's perception of pain;
 - 3. A written procedure for the monitoring of a patient's pain;
 - 4. A written procedure to ensure the consistency of pain rating scales across the pain management clinic;
 - 5. Requirements for documentation of a patient's pain status on the medical record;
 - 6. A procedure for educating patients and, if applicable, their families about pain management when identified as part of their treatment;
 - 7. A written procedure for systematically coordinating and updating the pain treatment plan of patient in response to documented pain status;
 - 8. Whether or not the pain management clinic requires patients to enter into a narcotic medication agreement, and, if so, whether the agreement addresses the risks associated with taking Schedule II substances; requirements for the patient to use one pharmacy to fill all Schedule II prescriptions; a requirement that the patient not utilize illegal or illicit drugs or obtain additional prescriptions for Schedule II substances; a requirement that prescriptions not be transferred, shared, traded or sold; authorization for the pain management clinic to contact other physicians and pharmacies to validate compliance; indicators of patient misuse, abuse or diversion that may result in noncompliance or violation of the agreement; and the consequences for noncompliance or violation of the agreement, including, but not limited to, patient authorization for referral to law enforcement; and
 - 9. Whether or not the physician requires random drug screening.
- (4) Each pain management clinic shall develop, revise as necessary and implement a written plan for the purpose of annual training and educating staff on pain management policies and procedures. The plan shall be submitted and reviewed as part of the application for pain medication license. The plan shall include mandatory educational programs that address at least the following:
 - a. Orientation of new staff to the pain management clinic's policies and procedures on pain management;
 - b. Training of non-clerical staff on the dangers of prescription drug diversion, the signs of misuse and abuse, and the importance of patient compliance with prescribed regimens;
 - c. Patient rights; and

-
- d. Implementation of the plan shall include records of attendance of each program for each member of the pain management clinic's staff.
- (5) Provide a monthly summary report to the police department for all Schedule II substances as defined in section 10-408 that have been prescribed or dispensed by this facility. The monthly report shall be provided by the seventh day of each month for the previous month. At a minimum, the report shall include the following:
- a. List of all physicians that have prescribed Schedule II substances, with their business addresses;
 - b. The number of prescriptions written by each physician or physician's office; and
 - c. The number of prescriptions associated with each type of Schedule II substances.

(Code 1995, § 5-13-6; Ord. No. 2828, 6-26-2012)

Sec. 10-466. Issuance, revocation, and renewal of pain medication license.

- (a) *Approval and issuance.* Following consideration of the application for a pain medication license by the development review committee, the committee shall forward its recommendation for approval, denial, or conditional approval of the license to the city manager or his designee and the city manager or his designee shall place the application, with recommendations, on the next available city commission agenda, for public hearing. Upon approval or conditional approval of an application for a pain management license by the city commission, based on the criteria of this article, the pain medication license shall be issued, for a period of one year.
- (b) *Revocation, suspension, or imposition of additional conditions and/or restrictions.*
 - (1) If, at any time, the city manager or his designee determines that any pain medication license holder has failed to comply with any applicable conditions of its license, or is operating in a manner harmful to the public health, safety or welfare and not in compliance with the terms of this chapter he may place on the city commission public hearing agenda an item to determine whether the pain medication license should be revoked. The city manager or his designee shall prepare a report with analysis showing the compliance or noncompliance with the following criteria:
 - a. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not complied with all conditions imposed at the time of license issuance;
 - b. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not taken all reasonable precautions to discourage unlawful activity, including vandalism, crimes against property or persons, disturbances, loitering of patrons, narcotics use or distribution, excessive noise, vehicular use by impaired patrons, and illegal activity of any kind by employees, patrons or others associated with the establishment;
 - c. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not taken all reasonable efforts to prevent nuisances and/or criminal activity both inside and outside the establishment;
 - d. During the hours of operation, the pain medication license holder has or has not exceeded the number of occupants set by the city building and fire officials as the maximum capacity (persons) for the establishment; or
 - e. The pain medication license holder is in compliance with public health, safety or welfare.
 - (2) The city manager or his designee, on the recommendation of the police chief, shall have the power to enter an order immediately revoking a pain medication license or suspending the operation of said facility.

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(Supp. No. 3)

-
- (3) Within 30 days of the suspension of the operation of the facility, as noted above, a public hearing on said revocation, suspension, or imposition of additional conditions shall be conducted in the manner described in division 2 of this article. The city commission will consider the matter de novo, and will determine whether the city manager or his designee was justified in revoking and/or suspending the pain medication license. The presumption of the correctness of the decision may be overcome by the license holder, upon a showing of competent substantial evidence that the finding of the city manager or his designee was not correct. The burden of proof will be on the applicant seeking the reinstatement of a revoked license.
- (4) After consideration of the matter, the city commission may revoke or suspend the pain medication license or allow the licensee to continue operating with the prescribing or dispensing of Schedule II substances, subject to any reasonable additional conditions deemed necessary to mitigate or eliminate the adverse effects of such operation.
- (5) Should the pain medication license be revoked, no reapplication for a pain medication license by the owners or operators shall be considered for any location within a 24-month period following the date of final revocation. After the expiration of the 24-month period, a new application and corresponding fee must be submitted.
- (c) *Renewal of pain medication license.* Each pain medication license shall be required to be renewed no later than one year following the date of initial granting of the license. The annual renewal of any pain medication license shall be processed by the city manager or his designee and reviewed based upon the criteria of this article. If the city manager or his designee approves the renewal, the license shall be renewed upon payment of the nonrefundable annual fee in the amount of \$200.00 per registered address. The amount of the renewal fee may be modified by resolution of the city commission after a public hearing. If the city manager or his designee denies the renewal, the licensee shall have ten days from the date of the notice of denial to appeal the decision to the city commission in accordance with division 2 of this article. The notice of appeal shall be timely submitted to the city manager and the city shall schedule a public hearing within 30 days of the receipt of the notice. The city commission shall consider the appeal and make a decision with reasons stated using the provisions, terms and criteria set forth in this article. At the time of the requested license renewal, the city manager or his designee may, based on the criteria of section 10-463 recommend the imposition of additional conditions upon the pain medication licensee. If additional conditions are recommended by the city manager or his designee, the renewal shall be placed on the city commission agenda for public hearing on the proposed imposition of additional conditions, in accordance with division 2 of this article. If a license is non-renewed or the commission denies an appeal of the non-renewal, the owners and operators shall not be allowed to apply for a new pain medication license for a period of 24 months. In the event the city non-renews, revokes, or denies a pain medication license, the city reserves the right to contact the appropriate local, state and federal agencies for administrative or criminal action.
- (d) *Appeal procedure.* Appeal of any city commission decision regarding the issuance, suspension, revocation or non-renewal of pain medication license shall be to the circuit court, in the manner provided by state law. In accordance with state law, failure to appeal within 30 days of the rendition of the decision shall result in the applicant waiving his right to appeal.
- (e) *Transferability.* A pain management license shall not be transferable. Any change in ownership shall require the new owner to reapply for a new license prior to the prescribing, storing or dispensing of Schedule II substances.

(Code 1995, § 5-13-7; Ord. No. 2828, 6-26-2012)

Sec. 10-467. Pain medication license exemption.

The agreement for pain medication license exemption, which is attached as Exhibit A to the ordinance from which this article is derived, is hereby adopted and the city manager is authorized to execute agreements for pain medication license exemption that substantially conform to said Exhibit A subject to city attorney approval. The pain medication license exemption agreement is on file in the city clerk's office.

(Code 1995, § 5-13-8; Ord. No. 2828, 6-26-2012)

Secs. 10-468—10-487. Reserved.

We take the worry out of ALF Compliance



VIVA PHARMACY

**DEDICATED QUALITY CARE
TO IMPROVE YOUR HEALTH**



Viva Pharmacy Partners in Healthcare

Our Mission Statement

At Viva Pharmacy we are dedicated to quality care in improving patients' health. As a community pharmacy we strive to offer personal attention and a personal commitment to listening to the needs of our customers & patients.



About Viva Pharmacy

- We are a dedicated community pharmacy.
- We service twenty-five ALFs within the Greater Orlando Area
- We service six ALFs and Independent Living Facility in the Orange City, Deland, De Barry
- You are a valued member of our community, not just a number.
- We are part of your health care team.

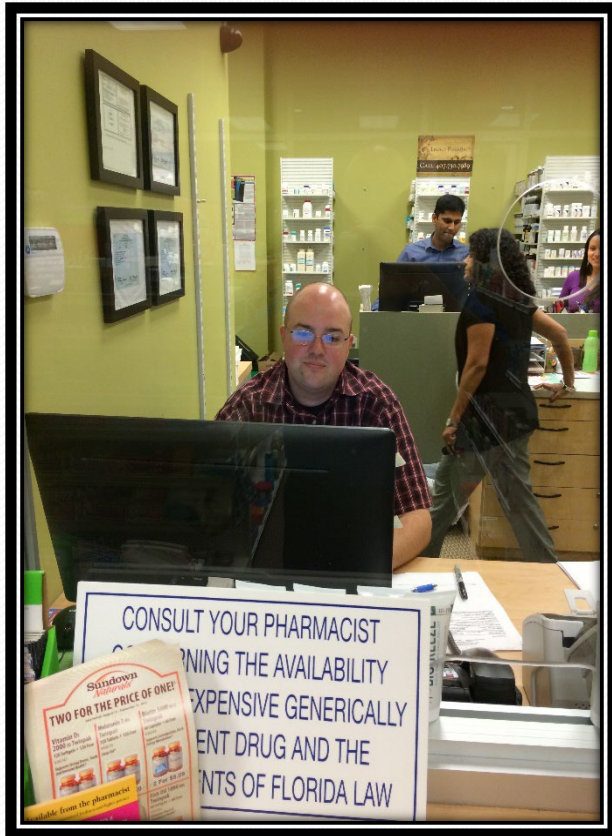


What we Bring to the Table

- Excellent Choice for an ALF because of our ability to customize the software to print MARs.
- Highly trained pharmacists are always ready to answer any questions regarding the prescriptions, medications, or the pharmacy.
- Bubble / Blister pack readily available for medicines.
- We offer a variety of convenient delivery schedules to meet your needs.
- Med Pass & Med Cart Training for ALF staff



Services Specifically for ALFs



- Emergency Deliveries
- Emergency Phone number
- DMEs available to order, just browse the catalog for what you need.
- We take all Insurances and offer direct patient billing.



Let the Rx do the Heavy Lifting

- Blister Packs - Easy to Read Packaging
 - 7-day, 31 day – easily see status
 - Large Print Labels
- Direct Billing is a value-add (avoids reconciliation time)
- Access to latest brand name medications
- Generic medications are preferred
- We Accept all Major Insurances



Medication is Safer, Faster, Easier

- The Right Medication. The Right Dose. At the Right Time.
- Clearly able to identify day and time to enhance medication adherence.
- Available in 7 day, 31 day or 31 countdown



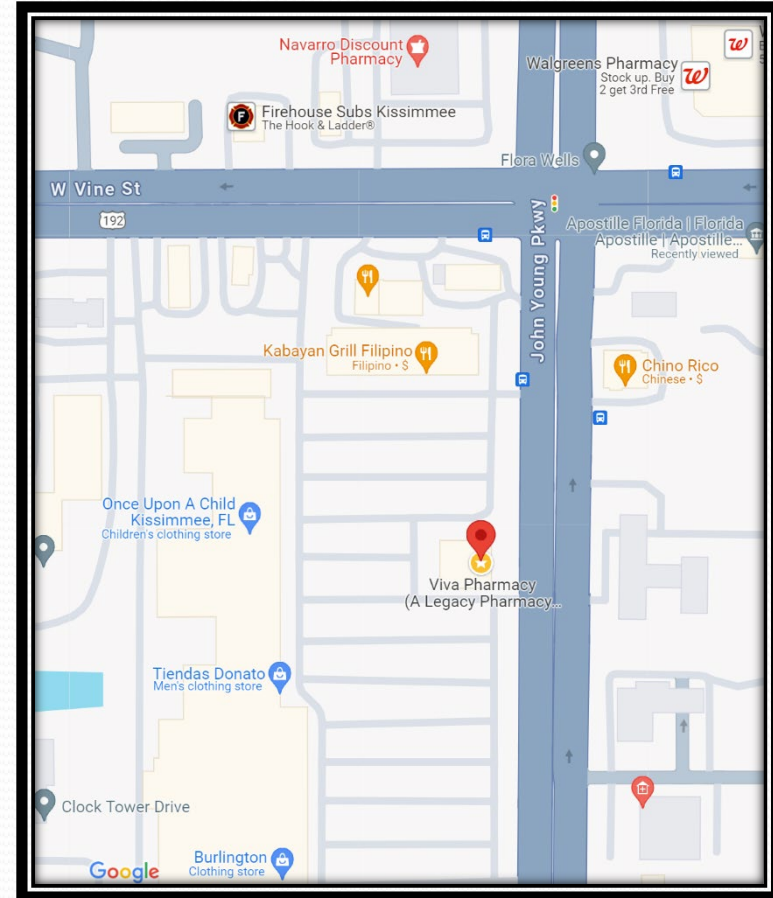
Medical Professional Services

- Consultant Pharmacist
 - Audit
 - Training
 - Guidance
 - Create Structured Processes
 - Define Success Measures
- Staff, LPN & RPN Training
- Med Pass Training (only one in Volusia)
 - Mandatory CE Courses
 - Training for all Nursing and Caregiver Staff
 - Compliance with FL state regulations



We are Just Around the Corner

- Located Conveniently on W Vine Street & N. John Young Parkway in Kissimmee
- Available for emergency deliveries every day, up to twice a day.
- Just a phone call away:
Phone: (407) 201- 6744



How Can we Help You?

Q & A



Order ID: 7705126

* Agency Commission not included

GROSS PRICE * : **\$2.00**

PACKAGE NAME: Public Hearling/Bid/Misc_Legal

Order ID: 7705126

* Agency Commission not included

GROSS PRICE * : \$2.00

PACKAGE NAME: Public Hearling/Bid/Misc_Legal

Product(s): Orlando Sentinel, Affidavit, Floridapublicnotices.com, Classifieds.OS.com_Legals

AdSize(s): 1 Column

Run Date(s): Wednesday, October 2, 2024

Zone: Full Run

Color Spec. B/W

Preview

**NOTICE OF PUBLIC HEARING CITY
COMMISSION**

The City Commission will hold a Public Hearing on Tuesday, October 15, 2024 at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida 34741 to consider a Pain Management License for Viva Pharmacy.

The subject property is located at 1060 N. John Young Pkwy. Parcel ID: 21-25-29-2235-0001-0010

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.

Reference # CU-24-0010
Viva Pharmacy

**CITYCOMMISSION
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 847-2821 #2309 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.

10/02/2024 7705126

State of Florida

Department of State

I certify from the records of this office that LEGACY PHARMACY CF LLC, is a limited liability company organized under the laws of the State of Florida, filed electronically on November 07, 2022, effective November 01, 2022.

The document number of this company is L22000477043.

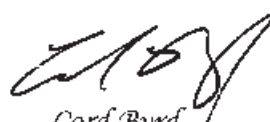
I further certify that said company has paid all fees due this office through December 31, 2022, and its status is active.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code noted below.

Authentication Code: 221108181741-300397284953#1

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this the
Eighth day of November, 2022




Cord Byrd
Secretary of State

STATE OF FLORIDA
DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE

DATE	LICENSE NO.	CONTROL NO.
NOVEMBER 17, 2023	PH 34838	142711

THE PHARMACY

NAMED BELOW HAS MET ALL REQUIREMENTS OF
THE LAWS AND RULES OF THE STATE OF FLORIDA

QUALIFICATION(S)

Schedule II & III Community Pharmacy

EXPIRATION DATE: FEBRUARY 28, 2025

LEGACY PHARMACY CF LLC

Viva Pharmacy

1060 JOHN YOUNG PKWY

KISSIMMEE, FL - 34741



Ron DeSantis
GOVERNOR



Joseph A. Ladapo, MD, PhD
STATE SURGEON GENERAL

Scan QR Code for
License Authentication



DISPLAY IF REQUIRED BY LAW

DEA REGISTRATION NUMBER	THIS REGISTRATION EXPIRES	FEE PAID
FL3769099	03-31-2027	\$888
SCHEDULES	BUSINESS ACTIVITY	ISSUE DATE
2,2N,3, 3N,4,5	RETAIL PHARMACY	01-29-2024
LEGACY PHARMACY CF, LLC DBA: VIVA PHARMACY 1060 N JOHN YOUNG PKWY KISSIMMEE, FL 34741		

CONTROLLED SUBSTANCE/REGULATED CHEMICAL
REGISTRATION CERTIFICATE
UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION
WASHINGTON D.C. 20537

Sections 304 and 1008 (21 USC 824 and 958) of the
Controlled Substances Act of 1970, as amended, provide
that the Attorney General may revoke or suspend a
registration to manufacture, distribute, dispense, import or
export a controlled substance.

THIS CERTIFICATE IS NOT TRANSFERABLE ON CHANGE OF
OWNERSHIP, CONTROL, LOCATION, OR BUSINESS ACTIVITY,
AND IT IS NOT VALID AFTER THE EXPIRATION DATE.

Form DEA-223/511 (9/2016)



REQUESTING MODIFICATIONS TO YOUR
REGISTRATION CERTIFICATE

To request a change to your registered name, address, the drug
schedule or the drug codes you handle, please

1. visit our web site at deaddiversion.usdoj.gov - or
2. call our customer Service Center at 1-(800) 882-9539 - or
3. submit your change(s) in writing to:
Drug Enforcement Administration
P.O. Box 2639
Springfield, VA 22152-2639

See Title 21 Code of Federal Regulations, Section 1301.51
for complete instructions.

Articles of Organization

Article I

Name

The name of the company is: LEGACY PHARMACY CF LLC

Article II

Duration

The term of duration for this company shall be: 99 years .

Article III

Purpose

The purpose for which this company is organized is to conduct any lawful business pursuant to state statute Chapter 465, 465.018, including but not limited to:

Community and residential pharmacy able to dispense drugs and medications including schedule II and schedule III drugs as authorized by the state of Florida.

Article IV

Registered Agent

The name and address of the company's initial registered agent:

Ashishkumar K. Smart 320 Ancona Avenue Debary, FL 32713

The company maintains in its records the statement of acceptance by the registered agent.

Article V

Principal Office & Mailing Address

The principal office of the company is located:

320 Ancona Avenue Debary, FL 32713

with the mailing address of the company being:

1060 John Young Parkway, Kissimme, FL 34741

Article VI

Members

The names and addresses of members are as follows:

Ashishkumar Smart 320 Ancona Avenue Debary, FL 32713

Ramesh Nimmala 13137 ALDERLEY DR ORLANDO, FL 32832

**Article VII
Management**

The name(s) and address(es) of the individual(s) responsible for the day-to-day operations of the company are as follows:

Ramesh Nimmala	13137 ALDERLEY DR ORLANDO, FL 32832

**Article VIII
Capital Contributions**

The total amount of cash contributed to the company: \$ 50,000.00

Description and agreed value of property contributed to company:

Property	Value
N/A	

**Article IX
Additional Contributions**

The total of additional contributions agreed to be made by all members and the times at which or the events upon the happening of which they will be made:

Description of Contribution	Member Name	Due Date
N/A		

**Article X
Liability**

The members of the company are not personally liable for the acts or debts of the company.

**Article XI
Other Provisions**

Additional provisions the members elect to set out in these Articles are:

N/A

I, Ashishkumar K. Smart, acting as the Organizer for this company, execute these Articles of Organization dated this 1st day of November, 2,022.

Ashish Smart

Signature of Organizer



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: _____ DRC# _____

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

Agent Signature: Rajesh Nagle (Viva Pharmacy) Date: 07/03/2024

Agent Name (Print): RAJESH NAGLE

Property Owner Signature: Anthony J Haynes Date: 07/03/2024

Property Owner Name (Print): ANTHONY J HAYNES

AFFIDAVIT OF AGREEMENT

I have read the above definitions for Pain Clinics and Pain Management Clinics; and Cash Only Pharmacy. I clearly understand these uses are separate and distinct from Medical, Dental, Chiropractic, and Pharmacy uses. I am aware that the Business Tax Receipt I am applying for is only that of a Medical, Dental, or Chiropractic office or a pharmacy; and not a Pain Clinic, Pain Management Clinic, or Cash Only Pharmacy. I am also aware of my responsibilities for the use of Medical, Dental, or Chiropractic office, or pharmacy on the property. I further understand that any violation of this affidavit and/or operation of a Pain Clinic, Pain Management Clinic, or Cash Only Pharmacy at the business address contained in this affidavit may be a violation of the Moratorium and may result in code enforcement action and/or revocation of the Business Tax Receipt.

Physician or
Operating Corporation Representative: Ashish K. Smart

Business
Name: Legacy Pharmacy CF

Business Address: 1060 JOHN YOUNG PARKWAY Suite:
Kissimmee, FL

Occupation: Owner

Signature of Applicant: [Signature] Date: 7/2/2024

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA

The forgoing instrument was acknowledged before me this 2ND day of JULY, 2024 by ASHISHKUMAR SMART (Name of person acknowledging). He/she is personally known to me or has produced (type of identification) FL DRIVER'S LICENSE as identification.

[Signature]
Notary Public State of Florida at Large

My Commission Expires: JAN. 24, 2028





City of Kissimmee Police & Fire Departments
Business Listing / Emergency Contact Information



Date: 06/12/2024

Information Type: New ☒ Update ☐

Business Name: Legacy Pharmacy CF LLF DBA ... Viva Pharmacy

Physical Address: 1060 N John Young Parkway

City: Kissimmee State: FL Zip: 34741

☒ Check if mailing address is same as physical address (if not, complete below section).

Mailing Address: _____

City: _____ State: _____ Zip: _____

Type of Occupancy: Commercial Retail Pharmacy

Owner of Business: Ashishkumar K. Smart

Home Phone: _____ Mobile Phone: (321) 278-4422

Home Address: 320 Ancona Avenue

City: Debary State: FL Zip: 32713

Owner of Building: Tony Hayes

Home Phone: _____ Mobile Phone: 973-216-9808

Address: ajhaynes@optonline.net

City: _____ State: _____ Zip: _____

Protection Systems

Fire Alarm: Yes ☒ No ☐ Type: Local ☒ Monitoring Company ☒ Telephone ☒

Burglary Alarm: Yes ☒ No ☐ Type: Local ☒ Monitoring Company ☒ Telephone ☒

Hold- Up/Panic Alarm: Yes ☒ No ☐ Type: Local ☒ Monitoring Company ☒ Telephone ☐

Other Alarm: Yes ☐ No ☐ Specify: _____

Fire Suppression: Sprinkler(s) ☒ Range/Cooking ☐

Hazardous Materials: Propane ☐ Natural Gas ☐ Other ☐: _____

Other Important Information

REVERSE SIDE OF FORM MUST BE COMPLETED



City of Kissimmee Police & Fire Departments
Business Listing / Emergency Contact Information



Emergency Contact Call List (In Order of Preference)

Contact 1 Name: Sachin Gala
Home Phone: _____ Mobile Phone: 407-242-5272
Address: 607 Cortona Drive
City: Orlando State: FL Zip: 32828

Contact 2 Name: Rajesh Nagle
Home Phone: _____ Mobile Phone: 407-446-4000
Address: 8672 Warwick Shore Crossing
City: Orlando State: FL Zip: 32824

Contact 3 Name: Ashishkumar K. Smart
Home Phone: _____ Mobile Phone: 321-278-4422
Address: 320 Ancona Avenue
City: Debarry State: FL Zip: 32713



ADDRESS NOTIFICATION

Osceola County Sheriff's Office

911 Addressing

1 Courthouse Square, Suite 1400, Kissimmee, FL 34741

Phone: (407) 742-5911 Fax: (407) 742-5912

911addressing@osceolasheriff.org

Tax Parcel #R 21 / 25 / 29 / 2235 / 0001 / 0010

Property owner of record: Anthony J Hayes Bermuda Avenue Shopping Center Associates LLC

Address issued for: Legacy CF LLC DBA Viva Pharmacy 1060 N John Young Pkwy. Kissimmee FL 34741

Please check all boxes that apply:

☐ Verification of Existing

☒ New Issue

☐ Form Updated

☐ Change of Address

Applicant's name: Viva Pharmacy

Phone #: 4072016744 **Cell #:** 4074464000

Email: legacycf23@gmail.com

Applicant's Signature _____

FOR COUNTY 911 USE:

Current address in use: _____

New issued address: _____

Comments: _____

Date: _____ **Issued By:** _____

Please notify the Post Office if this is a newly issued address.
County Ordinance 04-47 requires the posting of your address.

RESIDENTIAL: Must be no less than 4 inches in height and ½ inch in width.

COMMERCIAL: Must be no less than 6 inches in height and ½ inch in width.

(SEE ORDINANCE NEXT PAGE FOR PROPER POSTING OF BUILDING NUMBER(S))

ADR #: _____

Retain this Copy for your Records

PLEASE POST YOUR BUILDING NUMBERS
IN ACCORDANCE WITH SECTION (8) OF COUNTY ORDINANCE 04-47
AN ORDINANCE ESTABLISHING A UNIFORM NUMBERING SYSTEM

SECTION 8. STANDARDS FOR NUMBERING STATES:

All principal buildings shall have the assigned building number properly displayed whether or not mail is delivered to such building. Numbers need not be displayed on accessory buildings. Physical numbering shall conform to the following standards:

- (1). Numbers must be clearly visible and legible from the public or private way on which the building fronts in accordance with Florida Fire Prevention codes and this ordinance.
- (2). Numbers must be in a color contrasting to the building background.
- (3). Where applicable, easily legible numbers shall also be affixed to the mailbox serving the building or house.
- (4). Assigned numbers shall be displayed on the front entrance of each principal building and, in the case of a principal building which is occupied by more than one business or family dwelling unit, on each separate front entrance.
- (5). Separate unit numbers must be displayed on the individual dwelling entrances of a multistory building. At no time will unit numbers that are unauthorized addresses be displayed on the exterior building. Individual unit numbering shall not exceed (3) numbers, and shall be displayed in a manner that clearly distinguishes it apart from the building number.
- (6). Any different numbers which might be mistaken for or confused with the number assigned in accordance with the "Numbering System" shall be removed upon proper display of the assigned number.

The proper display of your location address will be greatly appreciated. It will aid Emergency Services such as Law Enforcement, and Fire and Rescue in locating you.

ITEM 5.B

Public Hearing - Approval of a Pain Management License for Central Avenue Pharmacy at 1211 North Central Avenue.

Request

Approval of a Pain Management License for Central Avenue Pharmacy located at 1211 North Central Avenue.

Explanation

The City adopted the Pain Management License Ordinance at the June 26, 2012 City Commission meeting. The Ordinance included exemptions to the license requirement for pharmacies that meet any one of the exemption criteria. If a pharmacy does not meet any of the exemptions, a pain management license is required to prescribe or dispense any Schedule II controlled substances.

The Central Avenue Pharmacy requests approval of a pain management license (CU-24-0011) for its business located at 1211 N. Central Avenue. The pharmacy has a Code Enforcement violation (CE-24-01167) for operating a business without an approved Pain Management License or Business License. The Development Review Committee (DRC) review of the license confirmed that the pharmacy use is a permitted use under the property's Mixed Use Center (T5-M) Zoning designation.

The staff recommendation for approval include the general conditions established from the Ordinance and additional supplemental recommendations from the Kissimmee Police Department for exterior lighting and a Trespass Authorization Notice for non-business hours.

FINDINGS AND REASONS:

1. Compliance with Chapter 10, Article VIII of the City's Code of Ordinances for Pain Management Establishments and Pharmacies.
2. Compliance with the review criteria for pain management licenses in Section 10-464 of the Pain Management Establishments and Pharmacies Ordinance.
3. Compliance with the allowable uses as outlined in Table 5-1, Section 14-5-6A
4. Compliance with Comprehensive Plan Future Land Use Element Policy 1.2.9.2, the Mixed Use Downtown (MU-D) Future Land Use designation.

Recommendation

Approve a Pain Management License for Central Avenue Pharmacy subject to conditions.

The Development Review Committee (DRC) recommended approval of this license request on September 3, 2024, subject to conditions.

CONDITIONS:

1. A criminal background check of all owners, operators, or any other party with a proprietary interest in the establishment is required in order to provide assurances that such persons have no criminal convictions, including, but not limited to, convictions under F.S. Ch. 893, within the last 10 years.
2. The pharmacy shall only dispense any Schedule II substances, as defined in Section 10-408 of the Pain Management Ordinance, between the hours of 9:00 a.m. to 7:00 p.m.

3. Each pain management clinic or pharmacy shall be registered separately for each location within the City regardless of whether each clinic or pharmacy is operated under the same business name or management as another clinic or pharmacy.
4. Each application for a pain management clinic or pharmacy shall disclose each owner and operator of such clinic or pharmacy, and individual principals of any entity that owns such clinic or pharmacy.
5. The pain management clinic or pharmacy shall not limit the form of payment for goods or service to cash only.
6. The pain management clinic or pharmacy shall not accept cash for payment of goods and services associated with the prescribing or dispensing of Schedule II substances except for insurance co-pays, coinsurance, or deductibles.
7. The pharmacy shall have a state licensed pharmacist physically on-premises at all times during all hours of operation.
8. The pharmacy shall post a copy of all licensed pharmacists' licenses.
9. The pharmacy shall require a valid state/federal photo identification or passport to identify the patient or, in the case of a minor, parent or legal guardian's similar identification, prior to the dispensing of any Schedule II substances.
10. The pharmacy shall not dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state of Florida. For any patient whose valid identification is outside the state, the pharmacy shall not dispense more than a 72-hour supply of any Schedule II substances.
11. A pharmacy may also dispense up to a 30-day supply of any Schedule II substances provided the patient presents a valid photo identification and a utility bill that is not older than 3 months, that is in the name of the patient or patient's spouse and that shows a city address.
12. The pharmacy shall maintain a legible copy of the prescriptions for Schedule II substances as defined by Section 10-408 of the Pain Management Ordinance, the patient's photo identification for each prescription dispensed or delivered, and the utility bill, if applicable. The records must be maintained for a minimum of 2 years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by F.S. § 893.07, for a minimum of 2 years.
13. The delivery, including mail order delivery, of all Schedule II substances shall be prohibited except to any facility licensed under F.S. Ch. 400 or 429; any address located within the City boundaries and listed on the patient's valid photo identification; or an address listed within the City boundaries on the utility bill for the patient or the patient's spouse, if applicable.
14. Provide a monthly summary report to the Kissimmee Police Department for all Schedule II substances, as defined in Section 10-408 of the Pain Management Ordinance, that have been dispensed by this facility. The monthly report shall be provided by the 7th day of each month for the previous month.
15. It is recommended that the outside perimeter of the facility maintain the minimum illuminance levels included with the Kissimmee Police Department's supplemental conditions of approval and consider obtaining a Trespass Authorization Notice for non-business hours.
16. The pain medication license shall be issued for a period of 1 year. This license must be renewed annually, subject to a \$200 fee, and approved by the City Manager or designee. The amount of the renewal fee may be modified by resolution of the City Commission after a public hearing.
17. A pain management license shall not be transferable. Any change in ownership shall require the new owner to reapply for a new license prior to prescribing, storing or dispensing Schedule II substances.
18. If, at any time, the City Manager or designee determines that any pain medication license holder has failed to comply with any applicable conditions of its license, or is operating in a manner harmful to the public health, safety or welfare and not in compliance with the terms of this chapter, the City Manager may place on the City Commission public hearing agenda an

item to determine whether the pain medication license should be revoked. The City Manager or designee shall prepare a report with analysis showing the noncompliance.

REQUESTED CITY COMMISSION ACTION:

Approve w/Conditions

Department: Development Services

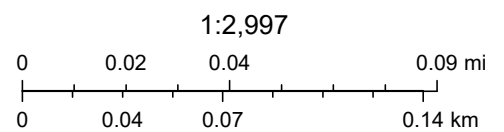
Presenter: Brenda Ryan

Attachment(s):

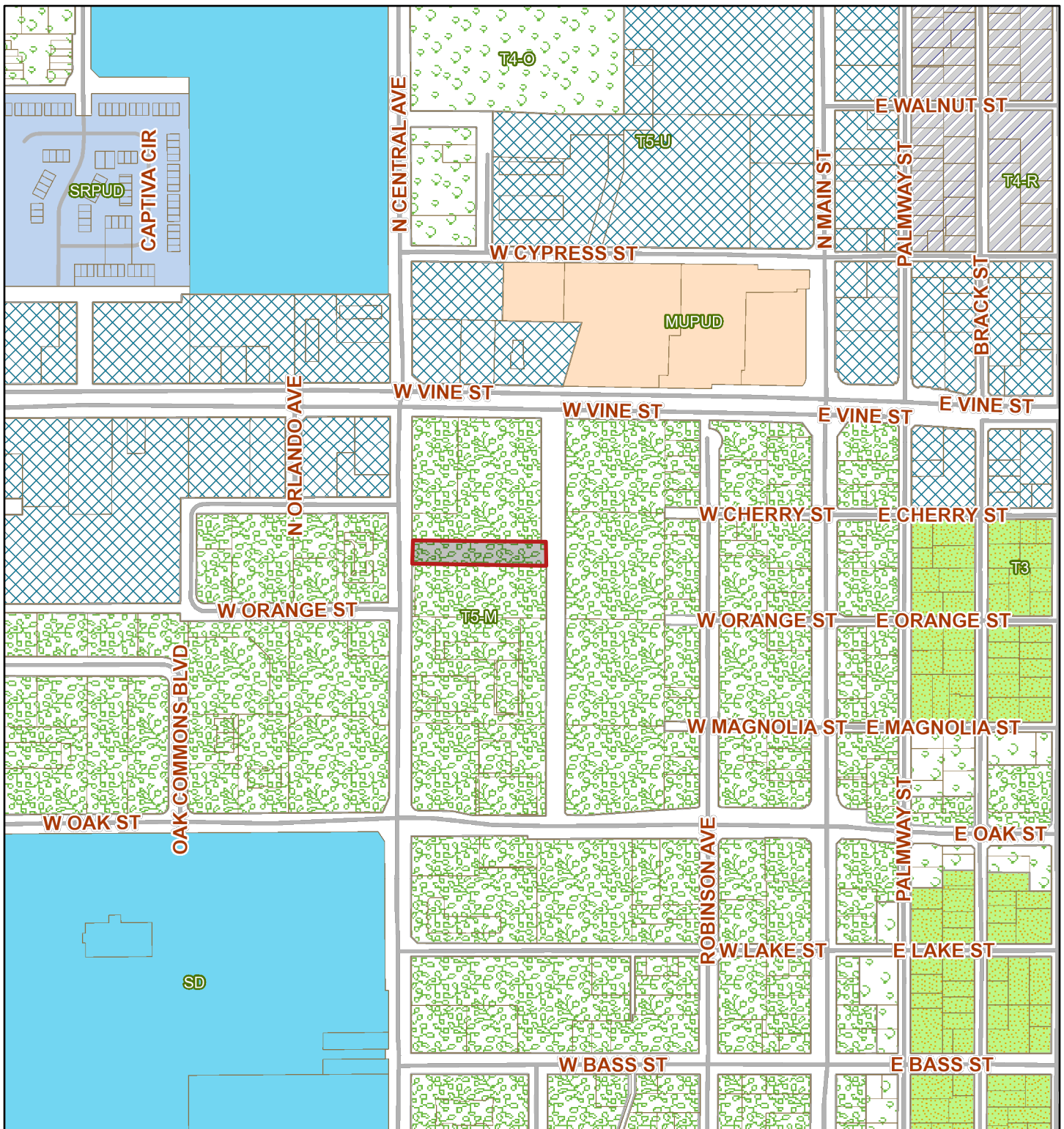
1. CU-24-0011 Aerial Map
2. CU-24-0011 Vicinity Map
3. CU-24-0011 Planning Comments & Pain Mgt. Ordinance
4. CU-24-0011 KPD Supplemental Conditions & Comments
5. CU-24-0011 City Commission Ad
6. CU-24-0011 DRC Application Documents



October 3, 2024

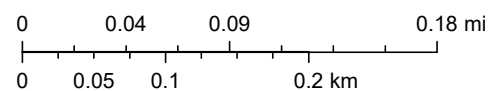
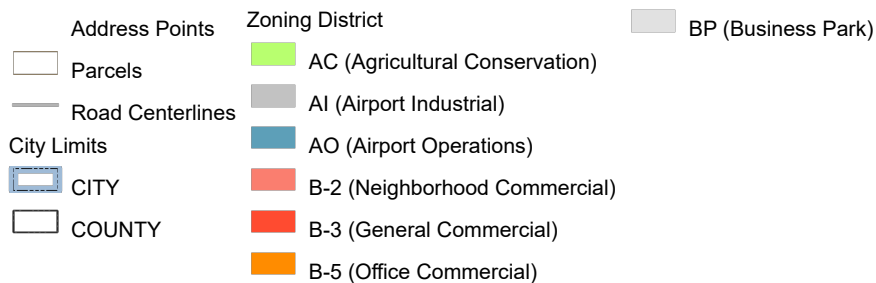


State of Florida, Maxar



October 3, 2024

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

ADDRESS: 1211 N. Central Ave.

DATE: 8/30/2024

PLAN NUMBER: CU-24-0011

PROJECT NAME: Pain Management License

REVIEW VERSION NUMBER: V1

**Review Status:
APPROVED WITH CONDITIONS.**

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

1. There are no prior records that a stand-alone pharmacy has been previously established at this location or on this parcel.
2. A Business License (BL-000253-2024) is on hold until a Pain Management License review has been completed that will determine if the pharmacy is exempt from the Pain Management License or must obtain approval. Since there was no supporting documentation included for an exemption, the pharmacy must obtain a Pain Management license that must be approved by City Commission. The Pain Management license must be approved prior to the approval of the Business License.
 - a. There is an active Code Enforcement violation (CE-24-01167) for the Pain Management License.
 - b. There is an active Code Enforcement violation (CE-24-01166) for the Business License.
3. The staff recommendation for the Pain Management License for this pharmacy will be subject to the conditions and standards in City's Pain Management Establishments and Pharmacies Article VIII, Chapter 10, Businesses and Business Regulations, Part II, Code of Ordinances, Sections 10-464 through Section 10-466, which is attached as reference.

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.

ARTICLE VIII. PAIN MANAGEMENT ESTABLISHMENTS AND PHARMACIES¹

DIVISION 1. GENERALLY

Sec. 10-406. Findings.

- (a) Pursuant to article VIII, section 2 of the state constitution and F.S. ch. 166, the city is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law.
- (b) The public health, safety and welfare is a legitimate public purpose recognized by the courts of the state.
- (c) The city commission has been made aware by law enforcement and news reports that a pattern of illegal prescription drug use, diversion and distribution of oxycodone, OxyContin and other Schedule II prescription narcotic drugs resulting in deaths associated with such abuse and criminal activity that have been associated with pain management clinics and pharmacies.
- (d) Many municipalities within central Florida have experienced an influx of pain management clinics.
- (e) The city commission has been made aware by law enforcement of the significant amount of Schedule II substances that are obtained from pain management clinics and pharmacies in the county and distributed out of the state.
- (f) The city commission finds it in the best interest of the citizens of the city to mitigate the negative effects of these businesses by adopting appropriate regulations relating thereto.
- (g) On May 3, 2011, the city commission approved Ordinance No. 2799 authorizing a moratorium on the issuance of business tax receipts for the operation of pain management clinics, in order to research the nature and scope of possible measures to mitigation and regulation of pain management clinics and pharmacies involved in the dispensing of prescription substances.
- (h) The state and federal laws have not done enough to curb the proliferation of pain management clinics and pharmacies that do not follow the medical standard of care.
- (i) Based on all of the foregoing, the city commission deems it necessary and in the best interest of the city to enact an ordinance regulating such businesses and further desires to extend the pain clinic and pharmacy moratoriums to coincide with the effective date of the ordinance from which this article is derived.

(Code 1995, § 5-13-1; Ord. No. 2828, 6-26-2012)

¹State law reference(s)—Pain management clinics, F.S. §§ 458.3265, 459.0137 et seq.; authority to adopt provisions for administrative adjudication of violations and abatement of drug related public nuisances, F.S. § 893.138.

Sec. 10-407. Purpose and intent.

The purpose and intent of this article is to create a procedure for licensing for any pain management clinics or pharmacies that intend to prescribe or dispense or which are presently prescribing or dispensing any Schedule II substances, as defined herein.

(Code 1995, § 5-13-2(A); Ord. No. 2828, 6-26-2012)

Sec. 10-408. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In those cases wherein a term is not defined, its definition shall be as found in Black's Law Dictionary, latest edition, or in American Heritage College Dictionary, latest edition.

Operator means a person who engages or participates in any activity that is necessary to or that facilitates the operation of an establishment that is a pharmacy or pain management clinic.

Pain management clinic means a privately owned pain management clinic, facility, or office which advertises in any medium for any type of pain management services or engages a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and which is required to register pursuant to F.S. § 458.3265 or 459.0137, as amended. A physician that is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of pain shall also be defined as a pain management clinic. The term "pain management clinic" shall not include any clinic or medical practitioner's office that is affiliated with a hospital, hospice or other facility for the treatment of the terminally ill in Osceola or Orange County, nor shall it include a pain management clinic or practice which is conducted within a facility licensed under F.S. ch. 395 or any successor statute.

Pharmacy means a facility, office, building, or other establishment which engages in the dispensing of prescription substances. An exempt pharmacy shall not be required to obtain a pain medication license.

Schedule II means a substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence and as defined in F.S. § 893.03, as amended from time to time. For the purposes of this article, the following substances are exempted from the definition of Schedule II substances and shall not be counted in the monthly or annual aggregate unit doses: Nabilone, Phenylclidine, 1-Phenylcyclohexylamine, 1-Piperidinocyclohexanecarbonitri le, Amobarbital, Amphetamine, Glutethimide, Methamphetamine, Methylphenidate, Pentobarbital Phenmatrazine, Phenylacetone, and Secobarbital.

(Code 1995, § 5-13-2(B); Ord. No. 2828, 6-26-2012)

Sec. 10-409. Exempt pharmacy.

A facility, office, building, or other establishment that engages in the dispensing of prescription substances, and which meets one of the following criteria:

- (1) The facility, office, or building is located in an establishment where physicians provide surgical services;
- (2) The facility, office, or building is owned or leased by a publicly held corporation whose shares are traded on a national exchange and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50,000,000.00;

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- (3) The facility, office, or building is affiliated with an accredited medical school where training is provided for medical students, medical residents, or fellows;
 - (4) The facility, office, or building is owned by a corporate entity exempt from federal taxation under 26 USC 501(c)(3);
 - (5) The facility, office, or building is licensed as a facility pursuant to F.S. ch. 395;
 - (6) The facility, office, or building is owned or operated by a public agency;
 - (7) The facility, office, building, or pharmacist:
 - a. Does not purchase, store or dispense more than an aggregate of 5,000 unit doses of Schedule II substances as defined herein on a monthly basis. The pharmacy may exceed the monthly aggregate by up to ten percent provided the pharmacy's annual aggregate of Schedule II substances does not exceed 60,000 unit doses;
 - b. Has no principals, officers and/or pharmacists with criminal convictions under F.S. ch. 893 within the last ten years;
 - c. Executes an agreement for pain medication license exemption in substantially the format as adopted by the city commission that will result in the revocation of the certificate of use and local business tax receipt and inability of the facility, office, building or pharmacist, or any successor entity or person, to apply for any certificate of use or local business tax receipt within the city for the next 24 months upon determination by the city manager or his designee based on the recommendation of the police chief of any violation of the agreement;
 - d. Files a monthly affidavit by the seventh day of each month for the previous month with the police chief identifying the types and quantities of Schedule II substances as defined herein:
 1. That were purchased during the reporting period;
 2. That were sold during the reporting period; and
 3. That were stored during the reporting period; and
 - e. The owners and operators of the facility, office, or building have not had a pain medication license suspended, revoked, non-renewed or denied in the previous 24 months; or
 - (8) The facility, office, building or pharmacist is located within a retail store that has a minimum of 40,000 square feet of retail and that maintains more than 20 locations within the state.

(Code 1995, § 5-13-2(B); Ord. No. 2828, 6-26-2012)

Secs. 10-410—10-429. Reserved.

DIVISION 2. PAIN MANAGEMENT LICENSING PROCEDURE²

Sec. 10-430. License required.

It shall be unlawful for any pain management clinic or pharmacy to prescribe or dispense any Schedule II controlled substance without first obtaining a pain medication license from the city.

²State law reference(s)—Pain management clinics, F.S. §§ 458.3265, 459.0137.

(Code 1995, § 5-13-3(A); Ord. No. 2828, 6-26-2012)

Sec. 10-431. Pain medication licensing procedure.

Any pain management clinic or pharmacy holding a license duly granted by the state to prescribe or dispense Schedule II controlled substances may apply for a pain medication license. The applicant shall pay a fee for the review and processing of the application as set forth in section 10-463. The application shall be processed using the procedures and criteria listed in this article. In the event that such an establishment is under contract for sale, the current owner and the potential future owner, under contract, must submit a joint application for a pain medication license. The fee for the issuance of the pain medication license shall be the same as for a new license and shall be paid prior to issuance of the license. A pain medication license granted to a duly licensed establishment shall allow the pain management clinic or pharmacy to lawfully prescribe and/or dispense Schedule II substances within the city. Pain medication licenses are hereby deemed to be a privilege granted by the city commission, and are declared to be and are regulatory in nature, and revocable pursuant to the procedures set forth in this article.

(Code 1995, § 5-13-3(B); Ord. No. 2828, 6-26-2012)

Sec. 10-432. Revocation of existing pain medication licenses and approvals, and establishment of pain medication licensing procedure.

The ability to prescribe and/or dispense Schedule II substances within the city is hereby declared to be and is a privilege subject to review and approval, suspension, termination, and the imposition of conditions as provided below, and no person may reasonably rely upon the granting of or the continuation of that privilege. Pain management clinics and pharmacies, as defined under section 10-408, that do not fall under an exemption and that wish to prescribe or dispense Schedule II substances after July 1, 2012, including any pain management clinic or pharmacy to whom an authorization or approval for prescribing or dispensing has previously been granted by the city or which was not previously required to obtain any city approval, shall be required to make an application and receive approval for a pain medication license no later than July 1, 2012.

(Code 1995, § 5-13-3(C); Ord. No. 2828, 6-26-2012)

Secs. 10-433—10-462. Reserved.

DIVISION 3. PAIN MEDICATION LICENSING PROCEDURE

Sec. 10-463. Application; public notice; public hearing; determination.

- (a) *Application.* One application per location for a pain medication license shall be submitted, on a form furnished by the city, to the city manager or his designee, along with a nonrefundable application fee of \$500.00 per location. The amount of the application fee may be modified by resolution of the city commission.
- (b) *Public notice.* All owners of property located within 500 feet of the parcel for which a new pain medication license is requested shall be notified of the application. The letter of notification will set forth a description of the request and a date, time and place of the hearing before the city commission. Letters will be mailed by the city to said property owners by first class. The required notification shall be postmarked at least 15 days

prior to the hearing date at which the application will be heard before the city commission. Staff is authorized to charge the applicant a reasonable fee for the city's cost of preparing and mailing notices.

- (c) *Public hearing.* The city commission, in accordance with the procedures of this article, shall conduct a public hearing on the application for a pain medication license, during which staff and the licensee may address the city commission.
- (d) *Determination.* The city commission shall approve, approve with conditions, or deny the request for a pain medication license in accordance with the procedures of this article.
 - (1) *Approval.* The city commission may approve an application for a pain medication license upon a determination that the subject application is consistent with the health, safety, and welfare of the city and pursuant to the criteria and conditions set forth in this section and section 10-464.
 - (2) *Conditional approval.* The city commission may require, as a condition of the privilege of granting of a pain medication license, compliance with any reasonable condition deemed to be necessary to mitigate or eliminate the potential adverse effects of such dispensing and prescribing Schedule II substances, in addition to the conditions provided in section 10-464. These conditions may include, without being limited to, provision by the owner or operator at his expense measures designed for security, crowd control, noise attenuation, crime prevention or reduction, and other similar protections designed to mitigate the effects of the operation of the pain management clinic or pharmacy.
 - (3) *Denial.* An application which is determined by the city commission to be inconsistent with the public health, safety, and welfare or the review criteria set forth herein, shall be denied. Any applicant who makes an application which is denied, after any appeal therefrom, shall be precluded from making another application for 24 months from the date of such denial of the application or conclusion of the appeal.

(Code 1995, § 5-13-4; Ord. No. 2828, 6-26-2012)

Sec. 10-464. Review criteria for pain medication licenses.

An application for a pain medication license shall be submitted to the city manager or his designee. The development review committee shall review the application, based on the criteria of this article and consistency of the application with the public health, safety, and welfare of the city, and shall make a recommendation to the city manager or his designee. The city manager or his designee shall prepare a report to the city commission recommending approval, approval with conditions, or denial, based upon the following criteria:

- (1) The amount and degree of law enforcement activities generated by the operation of any such establishment, by previous similar establishments in the same location or at any location involving any of the same owners or operators. Consideration will be given as to whether the calls are initiated by the pain medication license holder and what efforts have been taken to reduce unlawful activity at establishments owned or operated by the applicant;
- (2) A criminal background check of all owners or operators or any other party with a proprietary interest in such establishment shall be conducted in order to provide assurances that such persons have no criminal convictions, including, but not limited to, convictions under F.S. ch. 893, within the last ten years;
- (3) The adverse effects of prescribing, storing, and/or dispensing Schedule II substances shall not place an undue burden on the nearby properties in proximity to the establishment, especially with respect to patron activities and effects of noise, traffic, parking, and vehicular use; and

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- (4) The amount and degree of security measures in place, including, but not limited to, impact resistant glass, exterior lighting, security cameras, video recordings, alarm and panic system, Crime prevention through environmental design ("CPTED") standards, principals, and signage.

(Code 1995, § 5-13-5; Ord. No. 2828, 6-26-2012)

Sec. 10-465. Mandatory conditions for pain medication license.

All pain medication licenses shall require compliance with the following conditions:

- (1) During all hours of operation, the pain management clinic or pharmacy shall comply with the following conditions:
 - a. Each pain management clinic or pharmacy shall be registered separately for each location within the city regardless of whether each clinic or pharmacy is operated under the same business name or management as another clinic or pharmacy;
 - b. Each application for a pain management clinic or pharmacy shall disclose each owner and operator of such clinic or pharmacy, and individual principals of any entity that owns such clinic or pharmacy;
 - c. The pain management clinic or pharmacy shall not limit the form of payment for goods or service to cash only;
 - d. The pain management clinic or pharmacy shall not accept cash for payment of goods and services associated with the prescribing or dispensing of Schedule II substances except for insurance co-pays, coinsurance, or deductibles; and
 - e. Such other conditions as the city commission determines are reasonably related to the public health, safety and welfare.
- (2) Pharmacies. During all hours of operation, the pharmacy shall comply with the following conditions:
 - a. The pharmacy shall have a state licensed pharmacist physically on-premises at all times during all hours of operation;
 - b. The pharmacy shall post a copy of all licensed pharmacists' licenses;
 - c. The pharmacy shall require a valid state or federal photo identification, or passport, to identify the patient or, in the case of a minor, his parent or legal guardian's similar identification, prior to the dispensing of any Schedule II substances;
 - d. The pharmacy shall only dispense any Schedule II substances as defined in section 10-408 between the hours of 9:00 a.m. to 7:00 p.m.;
 - e. The pharmacy shall not dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state. For any patient whose valid identification is outside the state, the pharmacy shall not dispense more than a 72-hour supply of any Schedule II substance except that a pharmacy may dispense up to a 30-day supply of any Schedule II substance provided the patient presents a valid photo identification, in accordance with this section, and a utility bill that is not older than three months, that is in the name of the patient or the patient's spouse, and that shows a city address;
 - f. The pharmacy shall maintain a legible copy of the prescription for Schedule II substances as defined by section 10-408, the patient's photo identification for each prescription dispensed or delivered, and the utility bill, if applicable. The records must be maintained for a minimum of two

years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by F.S. § 893.07, for a minimum of two years;

- g. The delivery, including mail order delivery, of all Schedule II substances shall be prohibited except:
 - 1. To any facility licensed under F.S. ch. 400 or 429;
 - 2. While fully complying with this article to any address located within the city boundaries and listed on the patient's valid photo identification; or
 - 3. While fully complying with this article to the address listed within the city boundaries on the utility bill for the patient or the patient's spouse, if applicable;
 - h. Provide a monthly summary report to the police department for all Schedule II substances as defined in section 10-408 that have been dispensed by this facility. The monthly report shall be provided by the seventh day of each month for the previous month. At a minimum, the report shall include the following:
 - 1. A list of all physicians that have prescribed Schedule II substances and the business address of the prescribing physician;
 - 2. The number of prescriptions written by each physician or physician's office;
 - 3. The number of prescriptions associated with each type of Schedule II substances;
 - 4. Certification from the applicant that the pain management clinic or pharmacy is in compliance with all provisions of the pain medication license; and
 - 5. A current listing of all suppliers/wholesalers for all Schedule II substances.
- (3) Pain management clinics. During all hours of operation, the pain management clinic shall comply with the following conditions:
- a. The pain management clinic shall only operate between the hours of 9:00 a.m. to 6:00 p.m.;
 - b. Prior to prescribing or dispensing any Schedule II substances, the licensed physician shall perform a physical examination of a patient on the same day at the same location that he dispenses or prescribes any Schedule II substance. The physical exam shall be performed by the licensed physician and shall not be performed by a nurse or physician's assistant. A written report of the physical examination shall be placed in the patient record;
 - c. The physician shall require a valid state or federal photo identification, or passport, to identify the patient or, in the case of a minor, his parent or legal guardian's similar identification, prior to the prescribing or dispensing of any Schedule II substances;
 - d. A physician shall not prescribe or dispense more than a 30-day supply of any Schedule II substance provided the patient's valid identification is from the state. For any patient whose valid identification is outside the state, the physician shall not prescribe or dispense more than a 72-hour supply of any Schedule II substance except that a physician may prescribe or dispense up to a 30-day supply of any Schedule II substance provided the patient presents:
 - 1. A valid photo identification in accordance with this section; and
 - 2. A utility bill that is not older than three months, that is in the name of the patient or the patient's spouse, and that shows a city address;
 - e. The physician shall maintain a legible copy of the prescription for Schedule II substances as defined by section 10-408, the patient's photo identification for each prescription, and the utility bill required by this section, if applicable. The records must be maintained for a minimum of two

years. Such records shall be available for inspection and copying by the law enforcement agencies, as permitted by law, for a minimum of two years;

- f. Each prescription must be clearly documented in the patient record. All written prescriptions must include the name, address, substance name, amount prescribed, and detailed instructions;
- g. The pain management clinic shall establish and submit to the city as part of the pain medication license application written policies and procedures governing the management of pain that are reviewed every year and revised more frequently as needed. The written policies and procedures shall include at least the following:
 - 1. A written procedure for systematically conducting periodic assessment of patient's pain;
 - 2. Criteria for the assessment of pain, including, but not limited to, pain intensity or severity, pain character, pain frequency or pattern, or both; pain location, pain duration, precipitating factors, responses to treatment and the personal, cultural, spiritual, and/or ethnic benefits that may impact an individual's perception of pain;
 - 3. A written procedure for the monitoring of a patient's pain;
 - 4. A written procedure to ensure the consistency of pain rating scales across the pain management clinic;
 - 5. Requirements for documentation of a patient's pain status on the medical record;
 - 6. A procedure for educating patients and, if applicable, their families about pain management when identified as part of their treatment;
 - 7. A written procedure for systematically coordinating and updating the pain treatment plan of patient in response to documented pain status;
 - 8. Whether or not the pain management clinic requires patients to enter into a narcotic medication agreement, and, if so, whether the agreement addresses the risks associated with taking Schedule II substances; requirements for the patient to use one pharmacy to fill all Schedule II prescriptions; a requirement that the patient not utilize illegal or illicit drugs or obtain additional prescriptions for Schedule II substances; a requirement that prescriptions not be transferred, shared, traded or sold; authorization for the pain management clinic to contact other physicians and pharmacies to validate compliance; indicators of patient misuse, abuse or diversion that may result in noncompliance or violation of the agreement; and the consequences for noncompliance or violation of the agreement, including, but not limited to, patient authorization for referral to law enforcement; and
 - 9. Whether or not the physician requires random drug screening.
- (4) Each pain management clinic shall develop, revise as necessary and implement a written plan for the purpose of annual training and educating staff on pain management policies and procedures. The plan shall be submitted and reviewed as part of the application for pain medication license. The plan shall include mandatory educational programs that address at least the following:
 - a. Orientation of new staff to the pain management clinic's policies and procedures on pain management;
 - b. Training of non-clerical staff on the dangers of prescription drug diversion, the signs of misuse and abuse, and the importance of patient compliance with prescribed regimens;
 - c. Patient rights; and

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- d. Implementation of the plan shall include records of attendance of each program for each member of the pain management clinic's staff.
- (5) Provide a monthly summary report to the police department for all Schedule II substances as defined in section 10-408 that have been prescribed or dispensed by this facility. The monthly report shall be provided by the seventh day of each month for the previous month. At a minimum, the report shall include the following:
- a. List of all physicians that have prescribed Schedule II substances, with their business addresses;
 - b. The number of prescriptions written by each physician or physician's office; and
 - c. The number of prescriptions associated with each type of Schedule II substances.

(Code 1995, § 5-13-6; Ord. No. 2828, 6-26-2012)

Sec. 10-466. Issuance, revocation, and renewal of pain medication license.

- (a) *Approval and issuance.* Following consideration of the application for a pain medication license by the development review committee, the committee shall forward its recommendation for approval, denial, or conditional approval of the license to the city manager or his designee and the city manager or his designee shall place the application, with recommendations, on the next available city commission agenda, for public hearing. Upon approval or conditional approval of an application for a pain management license by the city commission, based on the criteria of this article, the pain medication license shall be issued, for a period of one year.
- (b) *Revocation, suspension, or imposition of additional conditions and/or restrictions.*
 - (1) If, at any time, the city manager or his designee determines that any pain medication license holder has failed to comply with any applicable conditions of its license, or is operating in a manner harmful to the public health, safety or welfare and not in compliance with the terms of this chapter he may place on the city commission public hearing agenda an item to determine whether the pain medication license should be revoked. The city manager or his designee shall prepare a report with analysis showing the compliance or noncompliance with the following criteria:
 - a. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not complied with all conditions imposed at the time of license issuance;
 - b. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not taken all reasonable precautions to discourage unlawful activity, including vandalism, crimes against property or persons, disturbances, loitering of patrons, narcotics use or distribution, excessive noise, vehicular use by impaired patrons, and illegal activity of any kind by employees, patrons or others associated with the establishment;
 - c. During the operation of the pain management clinic or pharmacy, the pain medication license holder has or has not taken all reasonable efforts to prevent nuisances and/or criminal activity both inside and outside the establishment;
 - d. During the hours of operation, the pain medication license holder has or has not exceeded the number of occupants set by the city building and fire officials as the maximum capacity (persons) for the establishment; or
 - e. The pain medication license holder is in compliance with public health, safety or welfare.
 - (2) The city manager or his designee, on the recommendation of the police chief, shall have the power to enter an order immediately revoking a pain medication license or suspending the operation of said facility.

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- (3) Within 30 days of the suspension of the operation of the facility, as noted above, a public hearing on said revocation, suspension, or imposition of additional conditions shall be conducted in the manner described in division 2 of this article. The city commission will consider the matter de novo, and will determine whether the city manager or his designee was justified in revoking and/or suspending the pain medication license. The presumption of the correctness of the decision may be overcome by the license holder, upon a showing of competent substantial evidence that the finding of the city manager or his designee was not correct. The burden of proof will be on the applicant seeking the reinstatement of a revoked license.
- (4) After consideration of the matter, the city commission may revoke or suspend the pain medication license or allow the licensee to continue operating with the prescribing or dispensing of Schedule II substances, subject to any reasonable additional conditions deemed necessary to mitigate or eliminate the adverse effects of such operation.
- (5) Should the pain medication license be revoked, no reapplication for a pain medication license by the owners or operators shall be considered for any location within a 24-month period following the date of final revocation. After the expiration of the 24-month period, a new application and corresponding fee must be submitted.
- (c) *Renewal of pain medication license.* Each pain medication license shall be required to be renewed no later than one year following the date of initial granting of the license. The annual renewal of any pain medication license shall be processed by the city manager or his designee and reviewed based upon the criteria of this article. If the city manager or his designee approves the renewal, the license shall be renewed upon payment of the nonrefundable annual fee in the amount of \$200.00 per registered address. The amount of the renewal fee may be modified by resolution of the city commission after a public hearing. If the city manager or his designee denies the renewal, the licensee shall have ten days from the date of the notice of denial to appeal the decision to the city commission in accordance with division 2 of this article. The notice of appeal shall be timely submitted to the city manager and the city shall schedule a public hearing within 30 days of the receipt of the notice. The city commission shall consider the appeal and make a decision with reasons stated using the provisions, terms and criteria set forth in this article. At the time of the requested license renewal, the city manager or his designee may, based on the criteria of section 10-463 recommend the imposition of additional conditions upon the pain medication licensee. If additional conditions are recommended by the city manager or his designee, the renewal shall be placed on the city commission agenda for public hearing on the proposed imposition of additional conditions, in accordance with division 2 of this article. If a license is non-renewed or the commission denies an appeal of the non-renewal, the owners and operators shall not be allowed to apply for a new pain medication license for a period of 24 months. In the event the city non-renews, revokes, or denies a pain medication license, the city reserves the right to contact the appropriate local, state and federal agencies for administrative or criminal action.
- (d) *Appeal procedure.* Appeal of any city commission decision regarding the issuance, suspension, revocation or non-renewal of pain medication license shall be to the circuit court, in the manner provided by state law. In accordance with state law, failure to appeal within 30 days of the rendition of the decision shall result in the applicant waiving his right to appeal.
- (e) *Transferability.* A pain management license shall not be transferable. Any change in ownership shall require the new owner to reapply for a new license prior to the prescribing, storing or dispensing of Schedule II substances.

(Code 1995, § 5-13-7; Ord. No. 2828, 6-26-2012)

Sec. 10-467. Pain medication license exemption.

The agreement for pain medication license exemption, which is attached as Exhibit A to the ordinance from which this article is derived, is hereby adopted and the city manager is authorized to execute agreements for pain medication license exemption that substantially conform to said Exhibit A subject to city attorney approval. The pain medication license exemption agreement is on file in the city clerk's office.

(Code 1995, § 5-13-8; Ord. No. 2828, 6-26-2012)

Secs. 10-468—10-487. Reserved.



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

ADDRESS: 1211 North Central Avenue (Central Avenue Pharmacy)
PLAN (DRC) NUMBER: CU-24-0011

DATE: 8/19/2024

Review Status:
CHOOSE REVIEW STATUS.

KISSIMMEE POLICE DEPARTMENT – Jack Flanary - 407.518.3242 - Jack.Flanary@kissimmee.gov

As defined in Part II of the Kissimmee Code of General Ordinances, Chapter 10- Businesses and Business Regulations, Article VIII- Pain Management Establishments and Pharmacies

Section 10-465, subsection 2 and paragraph (h):

Please provide a monthly summary report for all Schedule II substances as defined in Section 10-408 that have been dispensed by this facility to the Kissimmee Police Department. The monthly report must indicate:

- 1. A list of all physicians that have prescribed Schedule II substances and the business address of the prescribing physician;*
- 2. The number of prescriptions written by each physician or physician's office;*
- 3. The number of prescriptions associated with each type of Schedule II substances;*
- 4. Certification from the applicant that the pain management clinic or pharmacy is in compliance with all provisions of the pain medication license; and*
- 5. A current listing of all suppliers/wholesalers for all Schedule II substances.*

The report, containing the information outlined above, may be sent via email to Lieutenant Omar Berrio at email address: Omar.Berrio@kissimmee.gov. Provision of the summary report shall be made by the seventh day of each month for the previous month.

In addition to the criteria outlined in Section 10-464, the suggestions or recommendations hereafter are encouraged as measures to supplement the elements of safety, security and promote the prevention of crime.

Exterior Lighting

It is recommended for the outside perimeter of the facility be well lighted during non-daylight hours. Consider the following illuminance levels for the specified areas:

- 1. Uncovered parking- minimum horizontal illuminance level of 1.8 – 3 foot candles (fc) / square foot (sq. ft.) at ground level; minimum vertical illuminance of 1.2 fc at 5 feet*
- 2. Sidewalks around building- minimum horizontal illuminance of 3 – 5 fc / sq. ft. at ground level; minimum vertical illuminance of 1.2 fc at 5 feet*
- 3. Entrance- minimum horizontal illuminance of 5 fc / sq. ft. at ground level; minimum vertical illuminance of 1.2 fc at 5 feet*

A LED light source is suggested. Consult with a lighting professional for additional assistance or guidance.

Miscellaneous

Consider contacting the Kissimmee Police Department (407-846-3333) to inquire about and obtaining a Trespass Authorization Notice for non-business hours.

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.

Order ID: 7705102

* Agency Commission not included

GROSS PRICE * : **\$200.68**

PACKAGE NAME: Public Hearling/Bid/Misc_Legal

Order ID: 7705102

* Agency Commission not included

GROSS PRICE * : \$200.68

PACKAGE NAME: Public Hearling/Bid/Misc_Legal

Product(s): Orlando Sentinel, Affidavit, Floridapublicnotices.com, Classifieds.OS.com_Legals

AdSize(s): 1 Column

Run Date(s): Wednesday, October 2, 2024

Zone: Full Run

Color Spec. B/W

Preview

**NOTICE OF PUBLIC HEARING CITY
COMMISSION**

The City Commission will hold a Public Hearing on Tuesday, October 15, 2024 at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida 34741 to consider a Pain Management License for Central Avenue Pharmacy.

The subject property is located at 1211 N Central Ave. Parcel ID: 22-25-29-1360-000D-0030

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.

Reference # CU-24-0011
1211 N Central Avenue

**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 847-2821 #2309 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.

10/02/2024 7705102



**Affidavit and Agreement relating to Issuance of
of Licenses for Medical, Dental, or Chiropractic Offices
City of Kissimmee Development Services Department**

NOTICE:

This application must be read in its entirety and executed fully by the following persons or entities:

- 1.) BUSINESS OPERATOR
- 2.) MEDICAL DIRECTOR
- 3.) PROPERTY OWNER

PAIN MANAGEMENT CLINICS:

On June 26, 2012, the City of Kissimmee adopted regulations for Pain Management Clinics and Pharmacies through Ordinance #2828. Pursuant to this Ordinance, all pain management clinics and pharmacies must obtain a Pain Medication License prior to operating within the City of Kissimmee.

Pain Management Clinic: - A privately owned pain management clinic, facility, or office which advertises in any medium for any type of pain management services or engages a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and which is required to register pursuant to Sections 458.3265 or Section 459.0137, Florida Statutes (2010), as amended from time to time. A physician that is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of pain shall also be defined as a pain management clinic. This definition shall not include any clinic or medical practitioner's office that is affiliated with a hospital, hospice or other facility for the treatment of the terminally ill in Osceola or Orange County, nor shall it include a pain management clinic or practice which is conducted within a facility licensed under Chapter 395, Florida Statutes, or any successor statute.

AFFIDAVIT & AGREEMENT

1. I have read the above definitions for Pain Management Clinics.
2. I clearly understand these uses are separate and distinct from Medical, Dental, and Chiropractic uses.
3. I am aware that the Business Tax Receipt I am applying for is only that of a Medical, Dental, or Chiropractic office; and not a Pain Management Clinic.
4. I am also aware of my responsibilities for the use of Medical, Dental, or Chiropractic office on the property.
5. I further understand that any violation of this affidavit and/or operation of a Pain

BUSINESS NAME: Central Avenue Pharmacy

Business Address: 1211 N. Central Ave. Kissimmee Suite: FL 34741

NAME OF BUSINESS OPERATOR: Muhammad Zahid

Occupation: Pharmacist in charge (PIC)

Address: 1211 N. Central Ave. Kissimmee, FL 34741

Signature of Business Operator: [Signature] **Date:** 4-30-2024

NOTARY PUBLIC INFORMATION:

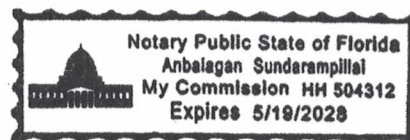
STATE OF FLORIDA

COUNTY OF OSCEOLA

The forgoing instrument was acknowledged before me this 30 day of April, 2024 by SUNDARAMPILLAI ANBALAGAN (Name of person acknowledging). He/she is personally known to me or has produced (type of identification) FL Driver License as identification.

[Signature]
Notary Public State of Florida at Large

My Commission Expires: 05/19/2028



BUSINESS NAME: _____

Business Address: _____ Suite: _____

NAME OF MEDICAL DIRECTOR: N/A

Medical License Number/Issuing State: _____

Address: _____

Signature of Medical Director: _____ Date: _____

NOTARY PUBLIC INFORMATION:

STATE OF _____

COUNTY OF _____

The forgoing instrument was acknowledged before me this _____ day of _____, 20____ by _____ (Name of person acknowledging). He/she is personally known to me or has produced (type of identification) _____ as identification.

Notary Public State of Florida at Large

My Commission Expires: _____



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: Central Avenue Pharmacy DRC# _____

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

Agent Signature: [Signature] Date: 7-17-24

Agent Name (Print): Muhammad Zahid

Property Owner Signature: [Signature] Date: 7/17/2024

DocuSigned by:

Dharmesh Patel

SCF3CDS300BC414

Dharmesh Patel

Property Owner Name (Print): _____



ADDRESS NOTIFICATION

Osceola County Sheriff's Office

911 Addressing

1 Courthouse Square, Suite 1100, Kissimmee, FL 34741

Phone: (407) 742-5911 Fax: (407) 742-5912

911Addressing@osceolasheriff.org

Tax Parcel #R 22 / 25 / 29 / 1360 / 000D / 0030

Property owner of record:

Harsh Investment LLC

Address issued for:

Professional Service Bldg / Central Avenue Pharmacy

Please check all boxes that apply:

☐ Verification of Existing

☐ New Issue

☒ Form Updated

☐ Change of Address

Applicant's name: Zahid Muhammad

Phone #: 321-284-8886

Cell #: 734-516-7260

Email: zahid.capharmacy@gmail.com

Applicant's Signature

Zahid Muhammad

5-20-24

FOR COUNTY 911 USE:

Current address in use: 1211 N Central Ave, Kissimmee FL 34741

New issued address: N/A

Comments: Updated Address Form

Date: 5/20/24

Issued By:

Nancy Cancel

Please notify the Post Office if this is a newly issued address.
County Ordinance 04-47 requires the posting of your address.

RESIDENTIAL: Must be no less than 4 inches in height and ½ inch in width.

COMMERCIAL: Must be no less than 6 inches in height and ½ inch in width.

(SEE ORDINANCE NEXT PAGE FOR PROPER POSTING OF BUILDING NUMBER(S))

ADR #:

Retain this Copy for your Records

ITEM 7.A**Approval of City Commission Minutes from the October 1, 2024 meeting****Request**

Request Commission approval of the October 1, 2024 Commission Minutes.

Explanation

Minutes of the Commission meeting held on October 1, 2024 are attached for approval.

Recommendation

Staff recommends Commission approval.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Commission

Presenter:

Attachment(s):

1. (S) CCM MIN OCT 1, 2024



**MEETING MINUTES
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, OCTOBER 1, 2024 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 Austin Blake, Deputy City Clerk Tameara Crespo

Staff Absent: Deputy City Manager Desiree Matthews, City Clerk Linda Hansell

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 Proclamation - National Fire Prevention Week

To present a proclamation to Fire Chief Walls from the Kissimmee Fire Department, in honor of Fire Prevention Week.

City Manager Steigerwald read a proclamation in honor of Fire Prevention Week as the Mayor and Commissioners presented the proclamation to Kissimmee Fire Chief Walls.

3.B Proclamation - Domestic Violence Awareness Month

To present a proclamation to Tammy Douglas, Executive Director of Help Now, along with staff and the Domestic Violence Task Force.

City Manager Steigerwald read a proclamation in honor of Domestic Violence Awareness Month as the Mayor and Commissioners presented the proclamation to Tammy Douglas, the Domestic Violence Task Force, and members of the Kissimmee Police Department.

3.C Employee of the Month for October

That the Commission join the City Manager recognizing Angel Cruz of the Public Works & Engineering Department as the Employee of the Month for October.

City Manager Steigerwald introduced Tradesworker, Angel Cruz of the Public Works and Engineering Department and reviewed the qualities and attributes which led to his nomination and selection as employee of the month. City Manager Steigerwald reminded everyone that the Employee of the Month is not selected by the Commission, City Manager, or department heads but by nominations that are reviewed and selected by a committee of their peers from all departments in the City and there is no greater honor.

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second and Final Reading - Proposed Ordinance #24-15 - Amending Land Development Code, Chapter 14-10-8, Dumpsters

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, CHAPTER 14-10, SUBDIVISION AND SITE DESIGN; PUBLIC

IMPROVEMENTS, 14-10-8, DUMPSTERS, PROVIDING REGULATIONS FOR DUMPSTERS LOCATED FIFTY FEET FROM A WATERBODY; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING AN EFFECTIVE DATE

Request approval of the Second and Final Reading of Proposed Ordinance #24-15, amending the Land Development Code, Chapter 14-10-8, Dumpsters, providing for regulations for dumpsters located fifty feet from a body of water.

City Attorney Sanchez de Fuentes read Ordinance # 3109 by title.

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

Commissioner Castano moved to adopt Ordinance # 3109. Commissioner Martinez seconded the motion.

Upon roll call, the vote was as follows:

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

Motion carried 5 - 0.

4.B Public Hearing - First Reading - Proposed Ordinance #24-14 - Amending Land Development Code, Creating a Processing Fee

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA PART II CODE OF GENERAL ORDINANCES, CHAPTER 9 BUILDINGS AND BUILDING REGULATIONS, ARTICLE II ADMINISTRATION; AMENDING DIVISION 5 SECTION 9-126 BUILDING PERMITS; DIVISION 6 SECTION 9-146 MECHANICAL PERMITS; DIVISION 7 SECTION 9-173 PLUMBING PERMITS; DIVISION 8 SECTION 9-193 ELECTRICAL PERMITS; AND PART III LAND DEVELOPMENT CODE CHAPTER 14-3 DEVELOPMENT REVIEW BOARDS AND PROCEDURES SECTION 14-3-19 APPLICATION SUBMITTAL AND REVIEW, BY ADDING A PROCESSING FEE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Request approval to amend the Land Development Code by creating a processing fee that will be applied to all credit card and e-check transactions conducted within the Development Services Department.

City Attorney Sanchez de Fuentes read Proposed Ordinance #24-14 by title.

Development Services Director Craig Holland stated the City incurred between \$250-300 thousand dollars in uncovered processing fees last year at the tax payers expense. He's proposing implementation of a 3% processing fee for all credit card transactions and a \$1.99 processing fee for e-checks. Customers who do not wish to pay this fee may come inside and pay by cash or check at the permit counter. A fee study has been conducted and concluded that the proposed fee is consistent with surrounding jurisdictions.

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

Commissioner Martinez made a motion to approve the Public Hearing and the First Reading of Proposed Ordinance #24-14. Commissioner Alvarez seconded the motion.

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

NAY: None

Motion carried 5 - 0.

5. PUBLIC HEARINGS

5.A Public Hearing - Resolution to vacate a portion of the Mill Slough Road right-of-way located adjacent to 1630 Mill Slough Road, 1700 Mill Slough Road, 2402 Oak Mill Drive, & 2418 Quail Hollow Court- ABDN-24-0001

Approval of a resolution to vacate 0.67 acres, more or less, of right-of-way located adjacent to 1630 Mill Slough Road, 1700 Mill Slough Road, 2402 Oak Mill Drive, & 2418 Quail Hollow Court that has a Single Family Residential (RA-1), Community Facilities (CF), Single Family Residential (RA-3), and Mixed Use Planned Unit Development (MUPUD) Zoning designations.

Planning Manager Brenda Ryan reviewed the item and vacation map attached to the agenda. This item was continued from the September 17, 2024, meeting. Since, staff has discovered the original plat from 1993 establishing the right-of-way and the City Attorney has concluded that the vacated portion will revert back to the owners of 2418 Quail Hollow pursuant to Florida law.

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

Commissioner Martinez made a motion to approve the Public Hearing and adopt Resolution #29-2024. Commissioner Castano seconded the motion.

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

NAY: None

Motion carried 5 - 0.

6. HEAR AUDIENCE *Anything requiring a vote will be heard at a later time.*

Jay Wheeler, 1524 Four Winds Blvd, Kissimmee, FL spoke on Nord Engineering training and encouraged the City to take advantage of the business opportunity. He thanked the City's leadership team and looks forward to a continued professional relationship.

Jose Cotto, 2114 Walden Park, Kissimmee, FL addressed the commission as Alberto J. translated on his behalf. He discussed his experience as a boxing coach and the training classes he offers for the youth at Lakefront Park. He's interested in partnering to expand the services he provides, and hopes to access a gym in the Kissimmee area to offer more classes.

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 Castano made a motion to approve the consent agenda in its entirety. Commissioner Alvarez seconded the motion.

Motion carried 5 - 0.

- 7.A Approval of City Commission Minutes from the September 17, 2024 meeting
Request Commission approval of the September 17, 2024 Commission Minutes.
- 7.B Modification to Lakefront Sovereignty Submerged Lands Fee Waived Lease
Approval of modifications to Sovereignty Submerged Land Lease BOT No 490003974 to allow for mooring of recreational and commercial vessels at the Kissimmee Lakefront Park Marina, contract # 20240529.
- 7.C Supplemental Agreement No. 2 for Connect Kissimmee Project
Approval of Supplemental Agreement No. 2 for design services related to the Connect Kissimmee Complete Streets Project with AECOM (Contract No. 20230049) in the amount of \$150,184. The additional funding required will be provided by MetroPlan Orlando.
- 7.D Consent to Sub-Lease between Signature Aviation and Go Rentals
Approval of Consent to Sub-Lease between Signature Aviation and Go Rentals Contract # 20240466.
- 7.E Purchase of Real Property on Thacker Avenue
Approval to purchase an approximately 8.27 acre parcel at the intersection of N. Thacker Ave and W Carroll Street as part of the City's strategic plan to acquire property to maintain and provide quality services to the community.
- 7.F Intergovernmental Transfer Agreement for Medicaid Managed Care Organization Payment Program
Approval of an Intergovernmental Transfer (IGT) agreement with the Agency for Health Care Administration (AHCA) to continue receiving supplemental payments for Medicaid patients transported by the Fire Department.
- 7.G State Housing Initiatives Partnership Owner-Occupied Rehabilitation Agreement between with the Osceola Council on Aging and Rosemary Holt for the property located at 1703 Smith Street
Approve the execution of the State Housing Initiatives Partnership (SHIP) Owner Occupied Rehabilitation Agreement, Contract #20240039, between the City of Kissimmee, Osceola County Council on Aging, and Rosemary Holt in the amount of \$67,159.20 for the rehabilitation of 1703 Smith Street, Kissimmee 34744.
- 7.H Disposal of City Assets
Approval to dispose of the asset items detailed in the attached report.
- 7.I Change Order to Extend Completion Date for the Rehabilitation of 1124 Lindsay Way
Approve the change order, contract #20240039, extending the completion date of the project to May 30, 2025 and authorize the Mayor to execute the Amendment at a later time.
- 7.J Tyler Software Service Agreement
Approval of the Software as a Service (SaaS) Agreement with Tyler Technologies for the amount of \$587,264.
- 7.K Award Oak Street Backstop renovations to MVB & Associates, Inc.
Award the Oak Street Backstop renovations to MVB & Associates, Inc. in the amount of

\$157,595 through the Construction and Renovation Contract # 20230206 (continued service) and authorize the City Manager to execute any agreements or amendments related to this award.

7.L Change Order No. 1 for Fire Station Mill Run Project

Approval of Change Order No. 1 to amend the current contract price for the Fire Station Mill Run project (Contract # 20240408) from \$91,920 to \$103,420 to include geotechnical services.

7.M Purchase of Solid Waste Garbage Trucks

Approval for the purchase of two (2) garbage trucks in the amount of \$791,721 from Nextran Truck Centers.

7.N Purchase of annual budgeted computer equipment

Approval to purchase Fiscal Year 2024-25 budgeted servers, personal computers, printers, and associated equipment from the State or National purchasing contracts with the option to purchase directly from a certified reseller or the manufacturer if the price is lower than what is available from applicable contracts.

7.O Settlement Agreement and Release Between City of Kissimmee, GB Skyview Kissimmee Phase I Owner, LLC and the heirs holding reversionary interest in three parcels on the Beaumont Property

Approval of the Settlement Agreement and Release Between City of Kissimmee, GB Skyview Kissimmee Phase I Owner, LLC and Carl Rush, Louise Rush Legere, John A. Rush, III, George Rush, Elizabeth White, Elizabeth Rush McCoy, Charles A. Rush, Bryan Simpson, Jr., Nathan Bryan Simpson, Sr., Frank Allen May, Jr., David Bryan May, Elizabeth Leslie Keiffer, Thomas Morgan Simpson, Arthur A. Simpson, Iii, Katie Pierce, and Allen Simpson Murray.

8. DISCUSSION ITEMS

8.A Prospera Annual Presentation and Approval of the FY2024-2025 Agreement

Approve Agreement/Contract #20240483 for FY2024-2025.

CRA Manager Samia Singleton, introduced Vice President Katia Medina to provide the 2024/2025 annual update. She reviewed a PowerPoint presentation attached to the agenda.

Commissioner Eady and Ms. Medina discussed the services provided to the Spanish-speaking and non-Spanish-speaking community. Ms. Medina clarified that Prospera serves all community members, in addition to collaborating with the Small Business Development Center ("SBDC") and the Black Business Investment Fund ("BBIF") on areas such as training and development for clients.

Commissioner Martinez made a motion to approve the \$20,000 agreement. 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 reminded the audience and Commissioners of upcoming events: Viva Osceola at Lake Front Park on Sunday, October 6th and the Vine Street Master Plan Updates scheduled in the morning and afternoon on October 9th.

9.B CITY ATTORNEY

9.C CITY COMMISSION

Commissioner Eady and the City Manager discussed the new House Bill 1365, "Unauthorized Public Camping and Public Sleeping" and the plans the City has to host roundtables with local service providers to continue combatting the issue. The commissioners additionally discussed attending the upcoming Lip Sync Competition.

10. ADJOURNMENT

There being no further business to come before the Commission, Mayor Gonzalez adjourned the meeting at 6:46 PM.

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK

ITEM 7.B

CentralSquare Technologies annual software maintenance fee for OneSolution Public Safety Software Suite

Request

Approval of the annual maintenance fee for OneSolution Public Safety Software suite with CentralSquare Technologies in the amount of \$237,601.65.

Explanation

The City currently uses CentralSquare Technologies' Public Sector OneSolution Software suite for its public safety software. Each year, the City pays an annual maintenance fee as part of the City's contract for programming and staff support. The contract price also includes upgrades and new version releases of the software. The current contract #20240380 is perpetual and will continue for as long as the City pays the annual fee. Since this service can only be provided by the software vendor, this is a sole source purchase.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
56060103 504647		Decrease	\$237,500.00	\$237,601.65

Financial Summary:

Adequate funds are available in the FY 2025 operating budget for the CentralSquare Technologies annual software maintenance contract.

Recommendation

Staff recommends approval to pay CentralSquare Technologies the annual maintenance fee of \$237,601.65 as outlined in the approved FY 2024-25 Information Technology operating budget.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Information Technology

Presenter:

Attachment(s):

None

ITEM 7.C

Resolution to accept grant funding from the Florida Department of Transportation

Request

Approval to accept, by Resolution, a Public Transportation Grant Agreement (PTGA) from the Florida Department of Transportation (FDOT) in the amount of \$914,725.00 to Rehabilitate Taxiway Delta at Kissimmee Gateway Airport. Grant Master No. TxyD Con S.

Explanation

The Kissimmee Gateway Airport's Capital Improvement Plan has identified the need to rehabilitate pavement and replace associated lighting for Taxiway Delta (TW D). The Pavement Condition Index (PCI) rating evaluates pavement conditions assigning a scale, 0 indicating failed, and 100 indicating perfect. PCI rating 41-55 indicates a "poor condition" and the current average number assigned to TW D is 47.5. The project will improve lighting with new LED edge lights and directional signs. In addition, the project will straighten an adjacent pavement, Taxiway Charlie, to meet the FAA's Runway Incursion Mitigation (RIM) Program.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
47070106-506393	TwyD-Const	Increase	914,725	914,725
47000334-334410	TwyD-Const	Increase	914,725	914,725
46170106-506393	TwyD-Const	Decrease	228,681	230,846

Financial Summary:

The Airport's 2% Share allocated in FY2025 Taxiway D Construction Phase 1, is \$230,846; this is the Airport's match for this project.

The project cost is \$11,434,068,
90% FAA (\$10,290,661)
8% FDOT (\$914,725)
2% Local match (Airport) (\$228,681)

Recommendation

Approval to accept, by Resolution, a Public Transportation Grant Agreement from the Florida Department of Transportation in the amount of \$914,725.00 to Rehabilitate Taxiway Delta at Kissimmee Gateway Airport.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Airport

Presenter:

Attachment(s):

1. (S) FDOT PTGA 438446-1-94-02 Taxiway D Rehab at ISM
2. (S) Resolution PTGA 438446-1-94-02 for Taxiway D Rehab

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Financial Project Number(s): (item-segment-phase-sequence) 438446-1-94-02	Fund(s): Work Activity Code/Function: 215	DDR	FLAIR Category: 088719
	Federal Number/Federal Award		Object Code: 740100
	Identification Number (FAIN) – Transit only: N/A		Org. Code: 55052000531
Contract Number:	Federal Award Date: N/A		Vendor Number: VF596000348026
CFDA Number: N/A	Agency SAM/UEI Number:		
CFDA Title: N/A			
CSFA Number: N/A			
CSFA Title: N/A			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____, by and between the State of Florida, Department of Transportation, ("Department"), and City of Kissimmee, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.
- 2. Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Taxiway D Rehabilitation at Kissimmee Gateway Airport, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
- 3. Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☐ Aviation
- ☐ Seaports
- ☐ Transit
- ☐ Intermodal
- ☐ Rail Crossing Closure
- ☒ Match to Direct Federal Funding (Aviation or Transit)
- (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ Other

- 4. Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ *Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ *Exhibit B2: Advance Payment Financial Provisions
- ☐ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
- ☒ *Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☐ *Exhibit G: Audit Requirements for Awards of State Financial Assistance

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- *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
— *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
— *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. Time. Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

6. Term of Agreement. This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 1, 2028. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. ☐ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the day of , or within days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. Amendments, Extensions, and Assignment. This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. Termination or Suspension of Project. The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

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9. Project Cost:

- a. The estimated total cost of the Project is \$11,434,067. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$914,725 and, the Department's participation in the Project shall not exceed 8.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

☒ Travel expenses are NOT eligible for reimbursement under this Agreement.

☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061,

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Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

- f. Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.
- g. Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department

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may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for

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not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

11. General Requirements. The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
 - i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
 - ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d. ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e. ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
 - i. ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
 - ii. ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
 - iii. ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

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- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

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13. Maintenance Obligations. In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. Sale, Transfer, or Disposal of Department-funded Property:

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
 - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
 - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
 - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
 - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
 - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
 - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. Single Audit. The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

Federal Funded:

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided

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through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
 - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
 - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
 - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and

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management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the Federal award;
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
 5. Withhold further Federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
 - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and

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Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or

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10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. Notices and Approvals. Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. Restrictions, Prohibitions, Controls and Labor Provisions:

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

b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
 - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at fdotsingleaudit@dot.state.fl.us within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any

**PUBLIC TRANSPORTATION
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subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the

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coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

19. Miscellaneous:

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

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- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY City of Kissimmee

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Name: _____

Name: C. Jack Adkins

Title: _____

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

Daniel L. McDermott

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 725-000-02
STRATEGIC
DEVELOPMENT
OGC 07/22

EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): This project will rehabilitate existing partial parallel Taxiway Delta, including Runway Incursion Mitigation Systems (RIMS) correction and rehabilitation of Taxiway Charlie. The rehabilitation is approximately 3200 linear feet. Connector taxiways will be necessary at Taxiway Echo, and Taxiway A2. The project includes Medium Intensity Taxiway Lights (MITLS), guidance and mandatory hold signs, marking, grading, and drainage.

B. Project Location (limits, city, county, map): Kissimmee Gateway Airport/Kissimmee, FL/Osceola

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): Taxiway Rehabilitation: As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey and geotechnical costs, permitting, construction inspection and material testing costs, mobilization and demobilization, maintenance of traffic, erosion control, demolition, pavement enhancement or reconstruction (with concrete, asphalt, rejuvenators, or sealants), joint rehabilitation for PCC pavement, pavement markings (removal and new), airfield lighting system, signage improvements (includes conduits, lights, conductors, cans, lightning protection, and vault upgrades), drainage, stormwater structures, fencing and gates, and sodding, including all materials, equipment, labor, and incidentals required to rehabilitate/reconstruct the taxiway pavement.

The specifics of the Project Scope for construction are described in and limited by the Construction Plans for Rehabilitate, Mark, Light, and Sign Taxiway D prepared by AVCON Inc., dated April 2024, together with all plan updates, necessary design variation, exceptions, and change orders approved by the Agency. The Sponsor will comply with Aviation Program Assurances.

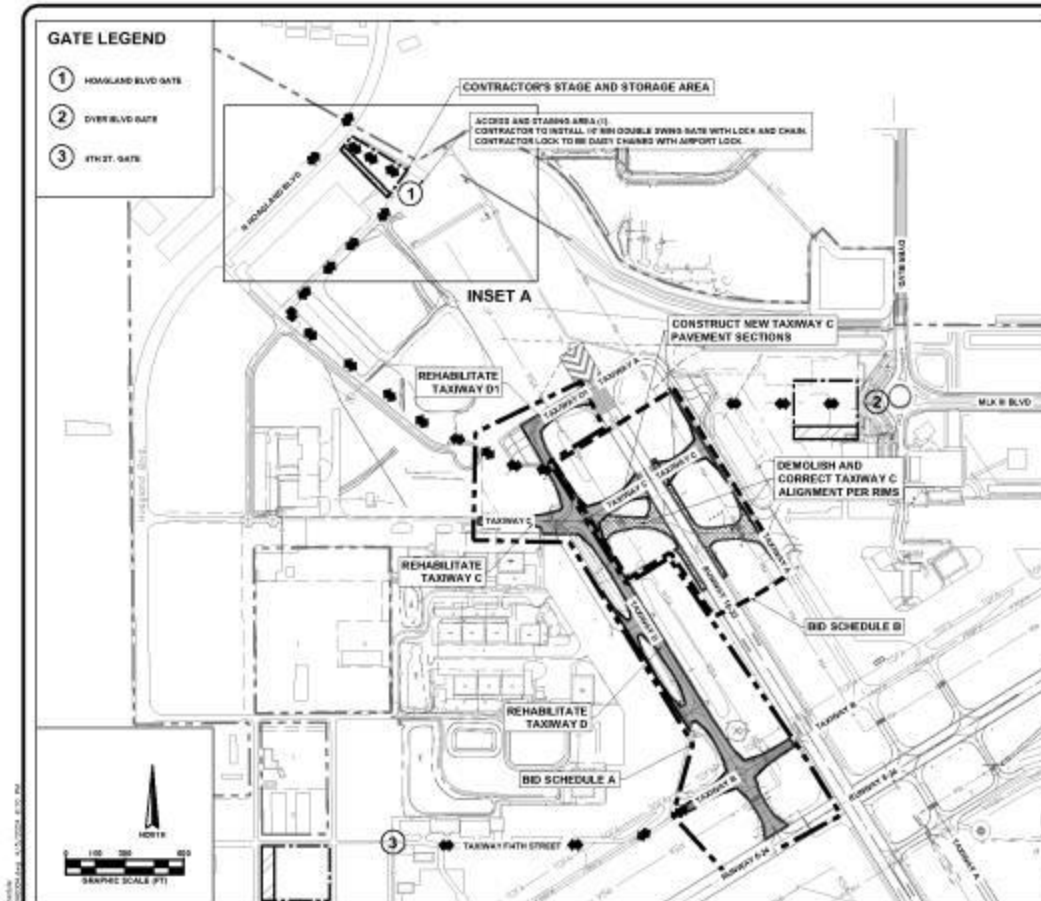
D. Deliverable(s): Final close out documents to be uploaded in JACIP

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to): Stored materials unless prior written approval from FDOT is obtained.

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.



AIRPORT BUSINESS TO REMAIN OPEN

THE CONTRACTOR SHALL COORDINATE ANY WORK SCHEDULES THAT WOULD IMPACT AIRCRAFT ACCESS TO AIRPORT FACILITIES WITH THE AIRPORT ADMINISTRATION AND THE ENGINEER, IN ORDER TO ACHIEVE TIMELY COORDINATION WITH TENANTS. THE CONTRACTOR MUST MAINTAIN RADIO CONTACT WITH ATCT AT ALL TIMES BY MONITORING THE FOLLOWING FREQUENCIES WHEN INSIDE THE AIRPORT OPERATIONS AREA (AOA).

GROUND
ATIS 121.7
124.45

THE TOWER WILL DIRECT ALL GROUND MOVEMENTS WITHIN THE DESIGNATED MOVEMENT AREA DURING CONSTRUCTION. NORMAL TOWER WORKING HOURS ARE 7 AM TO 10 PM.

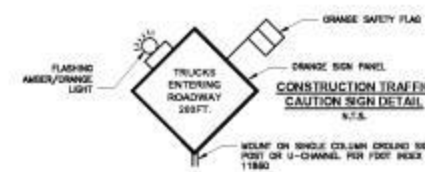
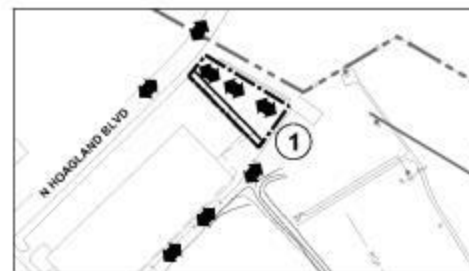
GENERAL SAFETY PLAN:

1. REFERENCES (USE THE LATEST EDITIONS)

- A. FAA ADVISORY CIRCULAR NO. 150/5210-5, PAINTING, MARKING, AND LIGHTING OF VEHICLES USED ON AN AIRPORT, LATEST EDITION.
- B. FAA ADVISORY CIRCULAR NO. 150/5270-2, OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION (THE CONTRACTOR IS REQUIRED TO READ AND COMPLY WITH THIS DOCUMENT), LATEST EDITION.
- C. FEDERAL AVIATION ADMINISTRATION PARTS 77, 135, & 137 (WHICH APPLICABLE) REFER TO THE PROJECT CONTRACT DOCUMENTS FOR ADDITIONAL INFORMATION.
3. ALL CONTRACTOR VEHICLES MUST TRAVEL ALONG THE RESTRICTED ACCESS ROUTE(S) SHOWN ON THIS PLAN. GATE ACCESS GOODS BY AIRPORT. RADIO MUST BE TUNED TO THE AIRPORT FREQUENCIES ABOVE AND MAINTAIN CONTINUOUS COMMUNICATION WITH ATCT.
3. STAGING AREA MUST BE CLEARED AND RESTORED TO ITS ORIGINAL CONDITION AT NO ADDITIONAL COST TO THE OWNER PRIOR TO PROJECT COMPLETION.
4. ALL AIRCRAFT TRAFFIC ON ACTIVE RUNWAYS, TAXIWAYS, AND APPROACHES SHALL HAVE PRIORITY AND RIGHT-OF-WAY OVER CONTRACTOR'S TRAFFIC. NO VEH OR EQUIPMENT ALLOWED WITHIN 50' OF AN ACTIVE TAXIWAY CENTERLINE OR 250' OF AN ACTIVE RUNWAY CENTERLINE.
5. MATERIALS DELIVERY TO THE SITE: ALL CONTRACTOR'S MATERIAL ORDERS FOR DELIVERY TO THE WORK SITE WILL USE THE CONTRACTOR'S STAGING AREA AT THE AIRPORT. THIS SHOULD PRECLUDE DELIVERY TRUCKS FROM TAKING SHORT CUTS THROUGH THE AIRFIELD AND ENTERING INTO AIRCRAFT OPERATIONS AREAS UNDESIRABLY.
6. ALL CONTRACTOR VEHICLES THAT ARE AUTHORIZED TO OPERATE ON THIS AIRPORT OUTSIDE OF THE DESIGNATED CONSTRUCTION AREA LIMITS OR HAUL ROUTES AS SPECIFIED ON THE PLANS AND IN THE ACTIVE AIRCRAFT OPERATIONS AREAS (AOA), SHALL DISPLAY IN FULL VIEW ABOVE THE VEHICLE A 3'x3' OR LARGER ORANGE AND WHITE CHECKERBOARD FLAG WITH EACH CHECKERBOARD COLOR BEING 1" SQUARE. ANY VEHICLE OPERATING IN THE ACTIVE AOA SHALL BE EQUIPPED WITH A FLASHING AMBER STROBE LIGHT, MOUNTED ON TOP OF THE VEHICLE AND OF INTENSITY TO CONFORM TO LOCAL CODES FOR MAINTENANCE AND EMERGENCY VEHICLES.
7. CONTRACTOR'S VEHICLE TRAFFIC SHALL BE COORDINATED WITH THE ATCT AND AIRPORT MANAGEMENT.
8. THIS SITE AND SAFETY PLAN DOES NOT RELIEVE THE CONTRACTOR FROM ANY RESPONSIBILITY CONCERNING SAFETY ON AIRPORT PROPERTY. ULTIMATE RESPONSIBILITY RESTS UPON THE CONTRACTOR AT ALL TIMES WITH REGARD TO THE CONTRACTOR'S ACTIVITY, INCLUDING ANY ACCIDENTS OR INCIDENTS FOUND TO RESULT FROM THESE CONSTRUCTION ACTIVITIES. AREAS SHOWN ON SITE/SAFETY SHEETS ARE ILLUSTRATIVE ONLY. REFER TO PLANS WHICH FOLLOW FOR ACTUAL LIMITS OF WORK.
9. ALL FBO/TENANT FACILITIES WILL BE FULLY OPERATIONAL FOR THE DURATION OF CONSTRUCTION. THE CONTRACTOR WILL MAINTAIN SAFE ACCESS FOR INCOMING/OUTGOING TRAFFIC TO THE PROJECT WORK AREAS. AN OPERATIONS PLAN WILL BE SUBMITTED BY THE CONTRACTOR PRIOR TO CONSTRUCTION FOR REVIEW AND APPROVAL BY THE TENANTS, AIRPORT, AND ENGINEER.
10. MATERIALS REQUIREMENTS: NO EXISTING MATERIALS CURRENTLY STOCKPILED ON AIRPORT OR CITY PROPERTY ARE AVAILABLE FOR THE PROJECT. BIDDERS ARE NOTIFIED THAT ALL MATERIALS REQUIRED FOR CONSTRUCTION SHALL BE BROUGHT IN FROM OFF AIRPORT PROPERTY OR TAKEN STRICTLY FROM WITHIN THE PROJECT LIMITS OF SPECIFIED WORK AREA ONLY. PURSUANT TO THE PLANS AND SPECIFICATIONS, THERE ARE ABSOLUTELY NO STOCKPILES OR OTHER MATERIALS TO BE PROVIDED BY THE BIDDERS FOR THIS PROJECT. ALL MATERIALS ARE TO BE PROVIDED BY THE CONTRACTOR. ALL UNUSABLE OR UNTESTED MATERIALS GENERATED BY THE PROJECT SHALL BE Hauled OFF OF AIRPORT PROPERTY AND LEGALLY DEPOSITED. THE AIRPORT AND AIRPORTS AUTHORIZED REPRESENTATIVE SHALL SOLELY DETERMINE WHAT MATERIALS ARE UNSUITABLE.
11. ALL CONTRACTOR-PERSONAL VEHICLES SHALL BE PARKED OUTSIDE THE SECURITY FENCE.
12. ALL WORKERS DESIGNATED AS FLAGGERS, OR ASSIGNED AS SAFETY OFFICERS, OR ASSIGNED AN AIRPORT RADIO BY THE CONTRACTOR MUST SPEAK AND UNDERSTAND AMERICAN ENGLISH.

SPECIAL SAFETY CLASS:

1. THE CONTRACTOR AND HIS PERSONNEL WILL BE REQUIRED TO ATTEND A SPECIAL AIRPORT SAFETY ORIENTATION CLASS PRIOR TO CONSTRUCTION. ALL PERSONNEL MUST ATTEND THE CLASS IN ORDER TO WORK IN THE AIRPORT OPERATIONS AREA (AOA).



AVCON, INC.
ENGINEERING PLANNING
10001 WINDYBUSH, SUITE 100, ORLANDO, FL 32837
OFFICE: 407.944.1414, FAX: 407.944.1415
CONSTRUCTION: 407.944.1416, FAX: 407.944.1417
WWW.AVCONINC.COM

The services herein are hereby accepted and approved by:

PROFESSIONAL SEAL

REHABILITATE,
MARK, LIGHT, & SIGN
TAXIWAY D

KISSIMMEE
GATEWAY AIRPORT,
FLORIDA

GENERAL SITE PLAN

AVCON INC.

THIS DOCUMENT IS UNCLASSIFIED AND IS NOT TO BE RELEASED TO THE PUBLIC OR TO ANY OTHER PARTY WITHOUT THE WRITTEN AUTHORIZATION OF AVCON INC. IT IS THE POLICY OF AVCON INC. TO MAINTAIN THE CONFIDENTIALITY OF ALL INFORMATION CONTAINED HEREIN. ANY DISCLOSURE OF THIS INFORMATION TO ANY OTHER PARTY WITHOUT THE WRITTEN AUTHORIZATION OF AVCON INC. IS PROHIBITED.

SCALE (US SVY FT): GRAPHIC

REVISIONS			
NO.	DATE	BY	DESCRIPTION

DESIGNED BY: RCH
DRAWN BY: MJT
CHECKED BY: RCH
APPROVED BY: SS
DATE: APRIL 2024

FOOT FPN 438446-1
FAA AIP NO. 3-12-0008-044-2023
AVCON PROJECT NO. 2822.181.03
CADD: 221616032040004

DRAWING
G004
SHEET 1 OF 20

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 725-000-02
STRATEGIC
DEVELOPMENT
OGC 07/22

EXHIBIT B

Schedule of Financial Assistance

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT
CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
438446-1-94-02	BIL	088719	2025	740100	N/A	N/A	\$844,000.00
438446-1-94-02	DDR	088719	2025	740100	N/A	N/A	\$914,725.00
438446-1-94-02	FAA	088719	2025	740100	N/A	N/A	\$9,446,661.00
438446-1-94-02	LF	088719	2025	740100	N/A	N/A	\$228,681.00
Total Financial Assistance							\$11,434,067.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$914,725.00	\$228,681.00	\$10,290,661.00	\$11,434,067.00	8.00	2.00	90.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Totals	\$914,725.00	\$228,681.00	\$10,290,661.00	\$11,434,067.00			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

Scope Code and/or Activity Line Item (ALI) (Transit Only)	
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BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Joseph A. Jerkins

Department Grant Manager Name

Signature

Date

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**PUBLIC TRANSPORTATION
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- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Joseph A. Jerkins (email: joseph.jerkins@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. Construction on the Department's Right of Way. If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Joseph A. Jerkins.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): N/A
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

800-780-7102

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

**PUBLIC TRANSPORTATION
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PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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EXHIBIT E

**PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION
AVIATION PROGRAM ASSURANCES**

A. General.

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.
3. The Agency shall comply with the assurances as specified in this Agreement.
4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.
5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.
6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.
7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.
8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.
9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.
10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

B. Agency Compliance Certification.

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):
 - a. **Florida Statutes (F.S.)**
 - Chapter 163, F.S., Intergovernmental Programs
 - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
 - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
 - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
 - Chapter 332, F.S., Airports and Other Air Navigation Facilities
 - Chapter 333, F.S., Airport Zoning

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b. Florida Administrative Code (FAC)

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

c. Local Government Requirements

- Airport Zoning Ordinance
- Local Comprehensive Plan

d. Department Requirements

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

- 2. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

a. Federal Requirements

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

b. Local Government Requirements

- Local Building Codes
- Local Zoning Codes

c. Department Requirements

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

- 3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

a. Federal Requirements

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

b. Florida Requirements

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions

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C. Agency Authority.

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.
2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

D. Agency Responsibilities. The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

1. Accounting System.

- a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.
- b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.
- c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

2. Good Title.

- a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.
- b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

3. Preserving Rights and Powers.

- a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
- b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

4. Hazard Removal and Mitigation.

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- a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

5. Airport Compatible Land Use.

- a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.
- b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.
- c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

6. Consistency with Local Government Plans.

- a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.
- b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
- c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

7. Consistency with Airport Master Plan and Airport Layout Plan.

- a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.
- b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:
 - 1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
 - 2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
 - 3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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- c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.
- d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

8. Airport Financial Plan.

- a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:
 - 1) The Airport financial plan will be a part of the Airport Master Plan.
 - 2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
 - 3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.
- b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

- 9. Airport Revenue.** The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

10. Fee and Rental Structure.

- a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.
- b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

11. Public-Private Partnership for Aeronautical Uses.

- a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.
- b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

12. Economic Nondiscrimination.

- a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.
 - 1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

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- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

- b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

13. Air and Water Quality Standards. The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

14. Operations and Maintenance.

- a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
 - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
 - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
 - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
- b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

15. Federal Funding Eligibility.

- a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
- b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

16. Project Implementation.

- a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
- b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
- c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

17. Exclusive Rights. The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

18. Airfield Access.

- a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

- b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

19. Retention of Rights and Interests. The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or aviation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

20. Consultant, Contractor, Scope, and Costs.

- a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.
- b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

21. Planning Projects. For all planning projects or other aviation studies, the Agency assures that it will:

- a. Execute the project per the approved project narrative or with approved modifications.
- b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.
- c. Make such project materials available for public review, unless exempt from public disclosure.
 - 1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
 - 2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.
- d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.
- e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:
 - 1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
 - 2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
 - 3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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- f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.
- g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

22. Land Acquisition Projects. For the purchase of real property, the Agency assures that it will:

- a. **Laws.** Acquire the land in accordance with federal and/or state laws governing such action.
- b. **Administration.** Maintain direct control of Project administration, including:
 - 1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
 - 2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
 - 3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
 - 4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
 - 5) Establish a Project account for the purchase of the land.
 - 6) Collect and disburse federal, state, and local project funds.
- c. **Reimbursable Funds.** If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:
 - 1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
 - 2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
 - 3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
 - 4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.
- d. **New Airport.** If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:
 - 1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
 - 2) Complete an Airport Master Plan within two years of land purchase.
 - 3) Complete airport construction for basic operation within 10 years of land purchase.
- e. **Use of Land.** The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- f. **Disposal of Land.** For the disposal of real property the Agency assures that it will comply with the following:
 - 1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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- 2) Land will be considered to be needed for airport purposes under this assurance if:
 - a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
 - b) Revenue from uses of such land contributes to airport financial self-sufficiency.
- 3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
- 4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

23. Construction Projects. The Agency assures that it will:

a. Project Certifications. Certify Project compliances, including:

- 1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
- 2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
- 3) Completed construction complies with all applicable local building codes.
- 4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

b. Design Development. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

- 1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
- 2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
- 3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
- 4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

c. Inspection and Approval. The Agency assures that:

- 1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
- 2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
- 3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

d. Pavement Preventive Maintenance. The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

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24. Noise Mitigation Projects. The Agency assures that it will:

- a. Government Agreements.** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.
 - 1)** The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
 - 2)** The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.
- b. Private Agreements.** For noise compatibility projects on privately owned property:
 - 1)** The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
 - 2)** The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

- End of Exhibit E -

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EXHIBIT F

**Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

RESOLUTION NO. _____

WHEREAS, the City of Kissimmee has determined to make certain improvements at the Kissimmee Airport, the purpose of this Public Transportation Grant Agreement (PTGA) is to provide funds for Taxiway Delta Rehabilitation.

WHEREAS, the State of Florida Department of Transportation has agreed to participate in the funding of this program, and

WHEREAS, it is necessary, for the City of Kissimmee to enter into a Public Transportation Grant Agreement with the State of Florida Department of Transportation for construction funding of this project.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Kissimmee, Florida in lawful session assembled, that the Mayor and City Clerk of the City of Kissimmee are hereby authorized to execute this Public Transportation Grant Agreement as to Project No.: 438446-1-94-02, Function 215.

PASSED AND DULY ADOPTED on this _____ Day of October 2024.

CITY OF KISSIMMEE, FLORIDA

Mayor-Commissioner

ATTEST

City Clerk

ITEM 7.D

Task Order No. 5 for Professional Service Agreement with Avcon Inc

Request

Approval of Task Order No. 5 of the professional service agreement, contract No. 20230139 between the City of Kissimmee and AVCON, Inc. that was executed on February 7, 2023, for construction engineering services for rehabilitate, mark, and light Taxiway Delta & RIMS.

Explanation

The Kissimmee Gateway Airport's Capital Improvement Plan has identified the need to rehabilitate pavement and replace associated lighting for Taxiway Delta (TW D). The Pavement Condition Index (PCI) rating evaluates pavement conditions assigning a scale, 0 indicating failed, and 100 indicating perfect. PCI rating 41-55 indicates a "poor condition" and the current average number assigned to TW D is 47.5. The project will improve lighting with new LED edge lights and directional signs. In addition, the project will straighten an adjacent pavement, Taxiway Charlie, to meet the FAA's Runway Incursion Mitigation (RIM) Program.

The professional service agreement between the City of Kissimmee and AVCON, Inc. was executed on February 7, 2023, for construction engineering services. An independent review was conducted on the service fees, as required by the FAA, and found acceptable. All hours and expenses are included in Lump Sum Costs as shown in Attachment A of the provided document, which is consistent with the original project agreement.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
47070106-506393	Twy D Const	Decrease		499,646

Financial Summary:

This agreement will be funded by FAA and FDOT grant funds to rehabilitate Taxiway Delta.

Recommendation

Approval of Task Order No. 5 of the professional service agreement, between the City of Kissimmee and AVCON, Inc. that was executed on February 7, 2023, for construction engineering services for rehabilitate, mark, and light Taxiway Delta & RIMS.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Airport

Presenter:

Attachment(s):

1. (S) AVCON Task Order No. 5
2. AvconAirportConsultingAgreementRev-10-24-2022-Executed_Feb-08-2023_completed



**TASK ORDER NO. 5
TO THE
PROFESSIONAL SERVICES AGREEMENT**

BETWEEN

**CITY OF KISSIMMEE
KISSIMMEE, FLORIDA
(SPONSOR)**

AND

**AVCON, INC.
ORLANDO, FLORIDA
(CONSULTANT)**

This is an AMENDMENT entered into, effective this _____ day of _____ 20____, by and between the parties above described, WHEREAS, the SPONSOR and CONSULTANT have entered into a Master Consulting Agreement (Professional Services Agreement) dated February 7, 2023, hereinafter referred to as the MASTER AGREEMENT for the purpose of defining the general terms and conditions applicable to the initial and continuing contractual relationship between the parties hereto. Except for what is in this TASK ORDER AMENDMENT, all covenants, conditions, and obligations of the Master Agreement not in conflict herewith shall remain in full force and effect. For the purposes of this agreement, the terms AMENDMENT and TASK ORDER, and TASK ORDER AMENDMENT are interchangeable.

NOW THEREFORE, in consideration of these premises and of the satisfactory performance by the CONSULTANT of the services hereinafter provided and for the payments to be made, therefore by the SPONSOR, the CONSULTANT and the SPONSOR do hereby agree to accomplish the work as follows.

SCOPE OF SERVICES:

Provide technical basic and special construction engineering services in connection with Attachment A as follows:

REHABILITATE TAXIWAY DELTA AND RIMS - CONSTRUCTION ENGINEERING

All Man-hours and Expenses are included in Lump Sum Costs as Attached. Reference is made to the Master Agreement for Professional Consulting Services between Consultant and Client.

The **LUMP SUM COST** of this AMENDMENT is Four Hundred Ninety-Nine Thousand Six Hundred Forty-Six Dollars and Zero Cents (**\$499,646.00**) as detailed in Attachment A. The Client agrees to pay CONSULTANT for its services based on approved monthly invoices once federal funds are received. This project is being jointly funded by the Federal Aviation Administration (FAA), Florida Department of Transportation (FDOT), and the City of Kissimmee Gateway Airport (ISM).

The schedule for completion of all services is anticipated to be not greater than approximately 12 months from the date of execution or Notice to Proceed to the contractor, whichever is later. The client project representative and CONSULTANT shall jointly determine interim schedule milestones after contract execution.

This AMENDMENT and all referenced attachments shall constitute the complete AMENDMENT (Task Order) for this assignment.

Client Concurrence:

City of Kissimmee

By: _____
Authorized Signature

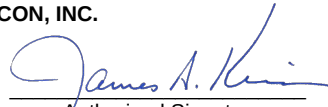
Honorable Olga Gonzalez

Mayor - Commissioner

Date: _____

Vendor Concurrence:

AVCON, INC.

By: 
Authorized Signature

James A. Kriss, P.E.

Sr. Vice President

Date: 9-26-2024

ATTEST

Date: _____

Approved as to form and legality

City Attorney Date



ATTEST Russell D. Holliday, PE
Sr. Project Manager - Airports
Date: 09/26/24

ATTACHMENT A

SCOPE OF SERVICES –CONSTRUCTION ENGINEERING

The following parties may be referred to hereafter: SPONSOR (OWNER - City of Kissimmee); CONSULTANT (SPONSOR's Consultant – AVCON, Inc.); FAA (Federal Aviation Administration); FDOT (Florida Department of Transportation); DISTRICT (South Florida Water Management District); Toho Water Authority (TWA); Florida Department of Environmental Protection (FDEP); Osceola County Department of Environmental Health (DEH).

I. PROJECT DESCRIPTION

The work can generally be as described below, hereinafter called the PROJECT.

The work will consist of the level of effort required for the bidding and construction engineering of:

REHABILITATE TAXIWAY DELTA AND RIMS - CONSTRUCTION ENGINEERING

The following exhibits form a part of this ATTACHMENT to the TASK ORDER AMENDMENT:

EXHIBIT B – CONCEPTUAL PROJECT LAYOUT

EXHIBIT C – PROFESSIONAL SERVICES COMPENSATION

II. PROJECT SERVICES

The PROJECT Services are divided into the FAA categorized Basic Services and Special Services per Advisory Circular 150/5100-14. **Basic Services** are identified in Section III, and consist of the following phases

- **Basic Services**
 - A. Bidding
 - B. Construction Administration
- **Special Services** are identified in Section IV and are sub-divided into following phases:
 - A. FAA Grant Applications
 - B. Resident Project Representative / Inspection
 - C. Control & Testing of Construction Materials
 - D. DBE Goals, Methods, and Accomplishments
 - E. Project and Cost Administration
 - F. Record Drawings

Additional Services are identified in Section V, and include services not specifically performed in this AMENDMENT, due to circumstances that may arise and which are beyond the control of the CONSULTANT.

III. BASIC SERVICES

The services to be rendered by the CONSULTANT included under this Article are defined as Basic Services in accordance with FAA AC 150/5100-14.

A. Bidding

1. Assistance with the actual advertising for bids, including assistance with advertisements for newspapers and construction trade publications. The actual cost of advertisement is included (bid invitation advertisement fee).
2. Assist SPONSOR in issuance of bid documents. Prepare, order, and assimilate bid sets including the construction plans and project manual to registered plans holders. Coordinate with plans rooms, SPONSOR, and others to arrange for delivery of bid sets, receive orders for bid sets, as well as manage and administer of bid sets in-house and to registered plans holders. Maintain a listing of registered plans holders, and dissemination to concerned parties.
3. Attend and assist the SPONSOR at one bid opening and conduct one pre-bid conference as necessary and advise as to matters relating to design as they may arise during the bidding period. A pre-bid conference will not be mandatory for contractors to attend in order to bid the project.
4. Prepare addenda as required and/or proposals, formulate responses to bidder questions, modify the plans and specifications as necessary, and general coordination and interpretation of the technical aspects of the bid documents.
5. Advise and make recommendations to SPONSOR during bidding, review the bids received as to the low responsive bidder quality, insurances, and references, and make determinations as to the efficacy of the bids. Prepare a recommendation to award letter, including a comprehensive bid tabulation with engineer's estimate. Coordinate with low responsive qualified bidder.

B. Construction Administration Phase services to be rendered by the CONSULTANT include:

1. Conduct one Pre-construction conference. The CONSULTANT will coordinate the time, date, and location of the preconstruction conference. The consultant will notify the Owner, the FAA, the FDOT, and other interested parties of the preconstruction conference and will invite their representatives to attend. The CONSULTANT will conduct the preconstruction conference in accordance with FAA AC 150/5300-9 *Predesign, Prebid, and Preconstruction Conferences for Airport Grant Projects* to ensure that the attendees are aware of the design, construction, and safety requirements of the project and are informed of their individual responsibilities.
2. General Administration - Consultation and advice to the SPONSOR during construction. The consultant will provide general consultation and advice to the Owner during the construction phase of the project. The consultant will provide general coordination between the Owner, FDOT, and the FAA during the construction phase of the project. The consultant will assist the Owner with the preparation and issuance of change orders, recommend construction specification interpretations, and advise the Owner as to the contractor's performance. The consultant will review daily progress reports, monthly construction progress reports, wage survey records, and certified payrolls. The consultant will distribute copies of the monthly construction progress reports to the Owner, the FAA, and the FDOT. The consultant will provide general supervision and support to the RPR including, but not limited to, coordinating field testing personnel, processing the RPR's weekly time sheets and expense sheets, providing technical documentation, providing field office supplies and materials, performing construction contract interpretation, analyzing unusual or unique developments or complications during construction, and communicating and corresponding with the contractor regarding contract administration, project changes, bonding and insurance issues, and other construction related matters. The consultant will communicate and coordinate with the contractor, Owner, FAA, FDOT, and RPR on a regular basis throughout the construction phase of the project in the form of teleconferences, letters, memos, faxes, and email.
3. Preparation of field sketches required to resolve actual field conditions encountered.
4. Reviewing detailed construction, shop, materials certifications, and erection drawings submitted by contractor for compliance with design concepts. The consultant will review the shop drawings and materials submittals that are furnished by the contractor as required by the construction contract documents. The consultant will either fully approve, conditionally approve, or reject the shop drawings and materials. The consultant will return conditionally approved and rejected shop drawings and materials submittals to the contractor for changes or revisions prior to the use of the materials on the project. The consultant will review up to three (3) resubmissions of a conditionally approved or rejected shop drawing or submittal. The consultant will prepare and maintain a submittal register identifying the submittal number, description, specification section, specification paragraph, received date, action date, and action taken. The consultant will distribute copies of the submittals and the updated submittal register to the Owner and the contractor.
5. Reviewing and analyzing laboratory and field soils test reports, and delivery certificates for materials and equipment, as necessary and required by the PROJECT scope.
6. Observation of initial operation performance tests and test strips required by specifications.
7. Review and approval of periodic estimates submitted by the Resident Project Representative for partial and final payments to the contractor.
8. Final review of contractor monthly pay applications, including any adjustments necessary, and preparation of the recommendation to pay (as appropriate) letter, with one or more copies of the certified approved version of the application.
9. Preparation and negotiation of change orders and supplemental agreements, Requests for Information (RFI), Engineer's Supplemental Instructions (ESI), or review and approval of field directive change orders.
10. Supervisory Site Visits - The consultant will make periodic supervisory visits to the construction site to observe the progress, safety, and quality of the construction. The consultant will coordinate the site visits with the Owner and representatives of the contractor. The consultant's representatives will meet with the representatives of the Owner and the contractor to discuss the project's progress and to identify areas of concern to facilitate the construction.
11. Final Inspection - The consultant will conduct a site walk and final inspection of the project to confirm the completeness and quality of the construction. The consultant will coordinate the date and time of the final inspection via teleconferences, letters, faxes and email to the Owner, the FAA, the FDOT, the RPR, and the contractor. The consultant will prepare a summary report of the final inspection, including a punch list of work items that the contractor must accomplish to complete the project. The consultant will distribute the summary report to the Owner, the FAA, the FDOT, the RPR, and the contractor. Consultant will attend final inspection of the completed construction and prepare a punch-list report on any deficiencies, corrective actions required, etc., as determined at said inspection.

NOTE: In the performance of construction phase services, the CONSULTANT shall not be responsible for the acts or omissions of any contractor, any subcontractor, or any of the contractor's or subcontractor's agents or employees, or any other persons (except his own employees and agents) on the PROJECT or otherwise performing any of the work of the PROJECT, including the contractor's means, methods, or procedures of construction, or issue directions or be responsible for the safety procedures and programs in connection with the contractor's work.

IV. SPECIAL SERVICES

The services to be rendered by the CONSULTANT included under this Article are defined as Special Services in accordance with FAA AC 150/5100-14. The following are among the Special Services to be performed by the CONSULTANT:

A. FAA Grant Applications

The CONSULTANT will prepare copies of both the formalized FAA grant application package for construction and the final FAA grant application including letters of transmittal, Standard Form 424, Standard Form 5100-100, project narrative, cost estimate, project schedule, location sketch, statement of environmental action, statement of airport user coordination, statement of intergovernmental coordination, statement of owner DBE program status, sponsor certifications, and grant assurances, and other supporting documentation. The CONSULTANT will submit the grant application to the owner with transmittal letters for signatures and forwarding to the FAA and state. The CONSULTANT will review the Federal grant offer and assist the owner in complying with the terms and conditions of the grant offer.

B. Resident Project Representative (RPR)

The CONSULTANT will furnish full-time RPR services throughout the estimated 274 calendar day (196 working weekdays) construction period for the PROJECT. The RPR will in general:

1. Be present every work weekday required by the special phasing, to observe the construction activities for conformance with the intent of the design and FAA/FDOT standards. The consultant will provide a qualified construction RPR to observe that the construction is carried out in reasonably close conformity with the contract documents and in accordance with the customary practices of professional engineers and consultants. Any weekend days, and any night work will require an amendment to this TASK ORDER AGREEMENT.
2. Measure, compute, and/or monitor quantities of work performed and quantities of materials in-place for partial and final payments to the contractor. The RPR will prepare and maintain cost estimates and construction quantity estimates for use in preparing monthly payment reimbursement requests and for monitoring the progress of the consultant's work. The RPR will prepare daily construction progress reports of the construction activities that are observed and will submit the reports to the consultant for review. The RPR will prepare monthly construction summary reports of completed work that has been accepted and approved and will submit the reports to the consultant for review.
3. Review and approve initial requests for monthly and final payments to the contractor, prior to forwarding to the CONSULTANT for further review and approval.
4. Coordinate the construction activity with the SPONSOR and attend construction meetings. Coordinate quality assurance testing, and \ or observe contractor quality control testing. Review test reports and review, advise, and consult with the CONSULTANT.
5. Review up to date as-built drawings completed by and received from the Contractor. Maintain a separate set of red-lines for consolidation with the Contractor's red-line annotations of the construction plans and for incorporation into the record drawings by the CONSULTANT.
6. Advise CONSULTANT of any construction problems, RFIs, and any necessary Change Order work, and make suggestions for resolution.
7. Attend the pre-construction conference, substantial, and final inspection.
8. The RPR will be the consultant's primary contact with the contractor and their subcontractors during construction. The RPR will be available to meet with the representatives of the Owner, the FAA, the FDOT, and other interested parties at the project location. The RPR will coordinate and supervise the consultant's subconsultants and personnel who are performing on-site testing, surveying, or other project related services.
9. The RPR will monitor and coordinate the construction progress; will coordinate with the Owner, the consultant, and the contractor; will provide construction oversight to ensure that the work is proceeding according to the construction contract documents; and will notify the consultant if problems, disputes, or changes arise during construction.
10. Review and approve the Contractor's payroll and wage rates per federal standards, prior to forwarding to the CONSULTANT for further review and approval. The RPR will conduct Federal wage rate surveys with the contractor's personnel and their sub-contractor's personnel to ensure compliance with the U.S. Department of Labor regulations for federally funded construction projects. The RPR will submit the wage rate survey records to the consultant for review.
11. The RPR will assist the contractor with construction surveying to identify the limits of work, to determine elevations and grades, to locate physical features discovered during construction, and to calculate quantities of materials either removed or utilized on the project. The contractor's construction survey data will be incorporated into the record drawings at the completion of the project. The consultant will provide the RPR with CADD support to plot the results of the construction survey data.

Expenses: The consultant/RPR will incur certain project related expenses during the course of the technical observation of construction phase of the work which may include but will not be limited to: meals, lodging, mileage cost at current year IRS rates per mile, tolls, overnight shipping, prints, photocopies, equipment rental, supplies, long distance telephone calls from the field, and miscellaneous vendor invoices. Refer to Exhibit C – Professional Services Compensation for detailed breakdown.

C. Control and Testing of Construction Materials

The CONSULTANT will arrange for the work necessary to provide for the proper control and testing of construction materials, per FAA specifications, and in conformance with the contract documents. This work will include:

1. Provide asphalt and/or concrete plant inspection and materials reporting and supervision, on all days of paving / pouring.
2. Review job mix formula for bituminous and cement concrete pavements to be furnished for the PROJECT.
3. Obtain samples and have necessary laboratory testing performed on aggregates, on site soils and excavation/embankment materials, base, and sub-base mixed materials, as per the project design plans.
4. Conduct or observe field density tests to check the compaction of subgrades, fills, base, and subbase courses.
5. Determine in-place density of bituminous concrete pavements by laboratory testing in accordance with FAA regulations and design/construction standards.
6. Take field LBR or CBR samples for testing with design requirements.
7. Conduct slump, air, concrete cylinder, and/or flexural beam tests for all specified portland cement concrete used on the project, per the contract documents.

D. DBE Goals, Methods, and Accomplishments

1. The CONSULTANT shall prepare and submit DBE Goals/Methodologies Update Report (including any appendices and annual reporting information, as required under 49 CFR Part 26) for the PROJECT in accordance with FAA criteria, using a qualified sub-consultant, or in-house experts.
2. The consultant will update the airport Disadvantaged Business Enterprise (DBE) program plan in accordance with 49 CFR Part 26 *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. Work includes formulation of a revised goal based on actual accomplishment of federal projects since the last update, submittal of methods and goals to FAA Civil Rights Office, FAA Southern Region for approval, and all data collection efforts. The latest Small Business Enterprise (SBE) component will be implemented or updated as necessary.
3. Report and incorporate the PROJECT specific accomplishments by the CONSULTANT and contractor.

E. Project and Cost Administration

1. Scope of Services and Contract - The CONSULTANT shall communicate and coordinate with the Owner via telephone, letters, fax and email requesting the authority to proceed with the preliminary phases of the proposed project pending the execution of the CONSULTANT's professional services agreement. The CONSULTANT will prepare a professional services agreement including a detailed work scope narrative and itemized fee schedule for submission to the Owner, the FAA, and FDOT for review and approval. The CONSULTANT will coordinate the preparation of the contract with the Owner's staff. The CONSULTANT will make changes to the work scope narrative and the fee schedules of the selected proposal. The CONSULTANT will make changes to the contract document standard provisions at the request of the Owner's legal counsel and with the approval of the CONSULTANT's executive management. The CONSULTANT will prepare letters of transmittal and will distribute (3) copies of the final contract to the Owner and the CONSULTANT's executive management for original authorized signatures. The CONSULTANT will prepare letters of transmittal and will distribute one (1) signed original copy of the fully executed contract to the Owner, one (1) signed original copy to the CONSULTANT's executive management, one (1) signed photocopy to the FDOT, and one (1) signed photocopy to the FAA.
2. In-House Administration – The CONSULTANT will provide general project administration and coordination including in-house staff review of the project's progress, in-house staff communication, and dissemination of project data and information to in-house staff in the form of internal memos, discussions, meetings, and updates to apprise the project team, Owner, and funding agencies of new developments throughout the construction phase of the project.
3. Cost and Schedule Administration – The CONSULTANT will prepare a brief work-plan for distribution to the Owner and interested parties to inform them of the goals and objectives of the construction phase of the project including sub-consultants and their assignments and duties, project budget, project schedule, and project contacts. The CONSULTANT will make periodic adjustments to the construction costs and schedules as modified by actual construction and conditions in the field, subject to any change orders, requests for information (RFIs), ESIs, or field directive changes, as necessary and applicable. The CONSULTANT will notify the Owner, FDOT and FAA immediately of any impacts to the budget.
4. Accounting Administration – The CONSULTANT will provide general project administration and coordination with Owner and Consultant staff of their accounting departments. The CONSULTANT will prepare any internal close-out forms. The CONSULTANT will verify and reconcile the monthly accounting statements and will prepare memos for adjustments and corrections when necessary. The CONSULTANT will process and approve invoices received from sub-consultants and vendors providing services to the CONSULTANT through-out the construction phases of the project. The CONSULTANT will prepare and submit monthly invoices to the Owner for services provided to the Owner and for costs incurred by the CONSULTANT and its sub-consultants. The CONSULTANT will prepare monthly and quarterly reports as required for submittal to the FAA on behalf of the Owner.

5. Other General, Outside, and Miscellaneous Administration – The CONSULTANT will provide miscellaneous project administration and coordination duties which are not specifically addressed or anticipated in other project related tasks including telephone conversations with the Owner, the FDOT, the FAA, and other interested parties; disseminating interim project information to the Owner, the FDOT, the FAA, and other interested parties; and organizing, maintaining, and archiving the project records for a period of three (3) years.

F. Record Drawings

Prepare record drawings based upon record information submitted by the contractor and RPR, and provide one set of hard-copy black-line drawings on bond paper to the SPONSOR. An updated hard-copy paper black-line bond paper Airport Layout Plan will be delivered to the SPONSOR, FAA, and FDOT at this time as well. This phase includes the FAA project close-out report.

1. Record Drawings - The consultant will prepare one (1) set of paper copies of the record drawings and final quantities representing the completed project and reflecting the actual work accomplished during construction. The consultant will distribute the one (1) set of record drawings to the Owner, the FAA, and the state for signatures. The consultant will prepare and distribute one (1) set of bond copies of the record drawings to the Owner after the record drawings have been signed by all parties. The consultant will provide the Owner with electronic files of the record drawings in PDF format. All AutoCAD files, and any other changeable electronic media will remain the property of the CONSULTANT. However, electronic CADD files will be delivered to the SPONSOR at the end of the project under the this task. CADD and other changeable electronic files will be delivered to the SPONSOR upon request at later dates, at no additional cost to the SPONSOR for third party use. CONSULTANT will require an electronic disclaimer be signed by third parties receiving such electronic files and delivered by the CONSULTANT on behalf of the SPONSOR for work product patents, designs, and copyrights.
2. Airport Layout Plan Drawing Update - The consultant will update the electronic versions of the Airport Layout Plan drawing which is identified as Sheet 3 of the Airport Layout Plan drawing set. The consultant will update the drawing to reflect the actual work accomplished by the project.
3. Project Close Out Report - The consultant will prepare the final project documentation in the form of a project close out report that consolidates the project related information that will be required by the FAA to formally close out the project. The consultant will include in the close out report all general, fiscal, miscellaneous, engineering and construction information, and submissions/certifications listed on the FAA project closure summary checklist. The consultant will distribute one (1) copy of the project close out report each to the Owner, the FAA, and the FDOT.

V. ADDITIONAL SERVICES (EXCLUSIONS)

When required by the SPONSOR, or in circumstances beyond CONSULTANT's control, CONSULTANT shall furnish or obtain from others, as circumstances may require additional services of the types listed in paragraphs below. These services are not included as part of Basic or Special Services provided under this AMENDMENT. CONSULTANT shall not provide any such Additional Services without written approval from the SPONSOR.

A. Design Phase Services: No design phase services of any kind are to be performed beyond those in this Amendment.

B. Construction Phase Services: The following specific types of construction phase services **NOT** to be provided by this contract include:

1. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by contractor(s); and services after the award of the construction contract(s) in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor.
2. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.
3. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction (2) a significant amount of defective or neglected work of any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any contractor.
4. Evaluating an unreasonable or extensive number of claims or changes submitted by contractor(s) or others in connection with the work.
5. Services resulting from the contractor's failure to complete his work in the number of days allowed in the contract between the SPONSOR and the selected contractor.
6. Preparation of modifications to the PROJECT requested by the SPONSOR and/or relative to Items 1 through 5 above that would necessitate changes to those permit(s) initially submitted and which would trigger the preparation of permit modifications as may be required for permitting agency compliance.

C. Special Services: The following services are NOT to be performed by the CONSULTANT under this AGREEMENT.

Biological and Wetlands Investigation - No biological phase services of any kind are anticipated to be necessary to be performed.

E. Other Services:

Any other services not specifically covered in Sections I through IV, or not compensated for in Exhibit C.

VI. BASIC ASSUMPTIONS

The following is a list of assumptions which forms the basis of CONSULTANT's cost proposal for providing the services for the PROJECT outlined herein. It must be noted that any change to these basic assumptions constitutes a change in the PROJECT scope and may constitute a revision to the fee proposal and corresponding contract addendum.

- A. In the absence of other known standards identified herein, all contract documents (front end, technical specifications and construction drawings) will be developed utilizing CONSULTANT'S selected format, which for state and federally funded projects is based on FAA/FDOT standards.
- B. All construction drawings will be 34" x 22" or larger and will be created in AutoCAD 2024 or later, and Civil 3D version 2024, or later.
- C. Specifications, reports and other word processing letters/memorandums/reports, etc. shall be created in Microsoft Word 2024 or later, while spreadsheets shall be created in Microsoft Excel 2024 or later.
- D. CONSULTANT's Project Manager and/or Project Engineer, as necessary, will attend a maximum of the number of meetings identified below during the course of the project phases. These meetings will be held at the airport or SPONSOR Offices, as necessary, as indicated below, and include:

- (1) Pre-Bid Site Review – at Airport
- (1) Bid Opening – At Airport
- (1) Pre-Construction Conference – At Airport
- (2) Substantial Completion Inspection / Pre-Final Inspection – At Airport
- (1) Final Inspection – At Airport
- (20) Periodic Inspections by engineer – At Airport
- (40) JCM Weekly Meetings by project manager – MS Teams Remotely
- 66 Total maximum meetings**

- E. All data collection efforts requiring CONSULTANT or its sub-consultants' personnel to be within the safety areas of the Airport Operations Areas (AOA) will be performed during daylight hours with the appropriate taxiways on a safety men working alert basis unless otherwise directed by the SPONSOR or FAA.
- F. All as-built drawings necessary for the development of the record drawings for the PROJECT will be compiled by the contractor for incorporation and consideration by the CONSULTANT during the project. The CONSULTANT will utilize the electronic design plans from the design phase as well as the as-built redlines from the RPR and contractor to generate the project record drawings.
- G. The work shall be completed in accordance with the schedule provided during PROJECT initiation but will not be less than twelve (12) months from the date of the SPONSOR's Notice to Proceed to the CONSULTANT. Failure of the SPONSOR, FAA and/or FDOT or other agency to meet the deliverable dates for provision of review comments may be justification for obtaining schedule extensions.
- H. CONSULTANT will transmit design stage review submissions to the SPONSOR and each submission shall be limited to the number indicated in Section IV.
- I. All construction permits required as a result of the PROJECT other than mentioned herein shall be obtained by the successful contractor as appropriate prior to the beginning of the construction of the PROJECT, in accordance with the contract documents.
- J. In accordance with the preliminary cost estimates for the PROJECT, the total construction budget for the PROJECT is understood to be approximately **\$10.9 M**, based on bids, for all bid schedules if awarded. If at any time during the performance of these Consulting services it is anticipated that this budget appears to be in jeopardy of being overrun (CONSULTANT will be monitoring project costs), the CONSULTANT will notify the SPONSOR immediately. The construction phase services and construction of the physical features of the project will be performed under a separate agreement, and separate grant application with the FAA and FDOT.
- K. The Florida Legislature has enacted legislation in early 2020 exempting airports from the requirements prescribed in Florida State Statue 337.14(7) and enabling the design firm to perform CEI services.

VII. SPONSOR'S RESPONSIBILITIES

The following SPONSOR functions are critical, so as not to delay the services of CONSULTANT:

- A. Designate a person to act as SPONSOR's representative with respect to the services to be rendered under this AMENDMENT. Such person shall have complete authority to transmit instructions, receive information, interpret, and define SPONSOR's policies and decisions with respect to the CONSULTANT's services for the PROJECT.
- B. Assist CONSULTANT by placing at CONSULTANT's disposal all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- C. Furnish to CONSULTANT, as required for performance of CONSULTANT's Basic Services, the following:
 - 1. The data prepared by or service of others, including without limitation to borings, probings, and subsurface explorations, laboratory tests and inspections of pavement samples, materials, and equipment.

2. Copy of pertinent utility information.
 3. Property, boundary, easement, right-of-way, topographic and utility surveys.
 4. Other pertinent documents.
- D. Furnish to CONSULTANT, all results, reports, data, studies, generated by other consultants retained by the SPONSOR in association with this project, and as specified under "Additional Services".

VIII. SUMMARY OF DELIVERABLES:

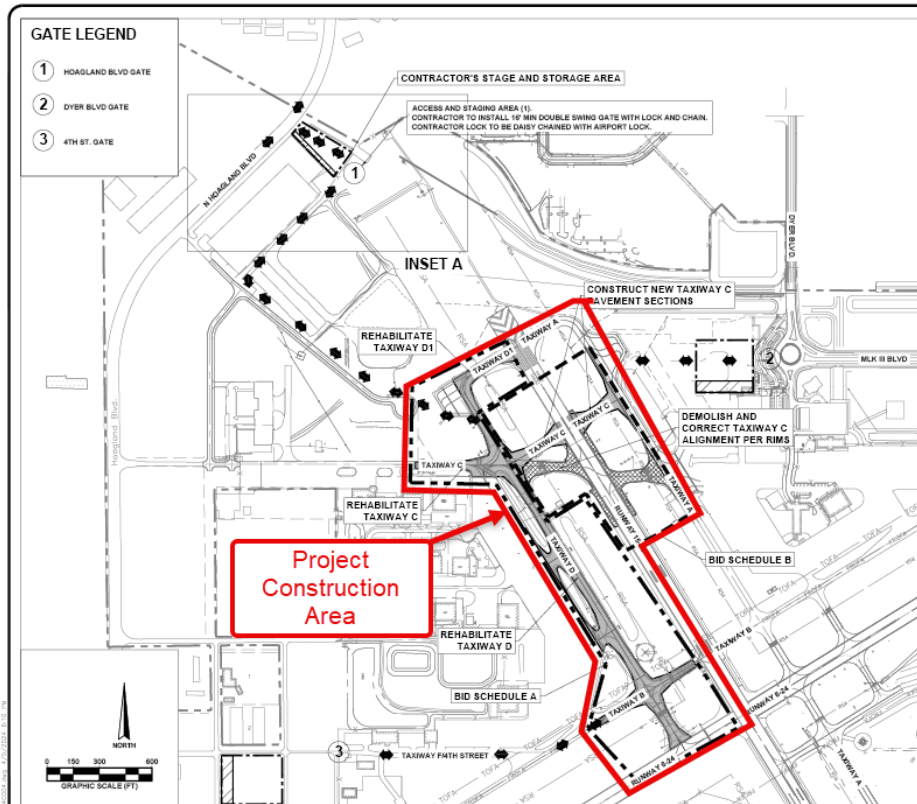
- A. **Bidding Deliverables:** Bid evaluation and Award Recommendation letter,, unlimited PDF versions. Hardcopy printed Bid Sets will be provided to bidders as requested, and available on appropriate websites electronically per SPONSOR purchasing department criteria.
- B. **Construction Administration Deliverables:** (3) full size and (3) half size sets of Approved for Construction plans. Preconstruction conference agenda / minutes, shop drawings, lien waivers, Davis Bacon payrolls, change orders, RFIs, and job coordination meeting agenda / minutes – unlimited copies via pdf, (one) paper copy of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.
- C. **FAA Grant Applications Deliverables:** (1) original and (1) copy each of the FAA grant pre-application and grant application – unlimited copies via pdf, (one) paper copy of each if requested by Airport to save paper due to CONSULTANT's Green initiatives.
- D. **RPR/Inspection Deliverables:** RPR daily and/or monthly reports – unlimited copies via pdf, (one) paper copy of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.
- E. **C&T Construction Materials Deliverables:** Test reports – unlimited copies via pdf. (one) paper copy of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.
- F. **DBE Update Deliverables:** Goal/Methods/Accomplismer reports – unlimited copies via pdf, (one) paper copy of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.
- G. **Project/Cost Admin Deliverables:** Scope of services, cost estimates, invoices, project cost distributions, transmittal letters, etc. – unlimited copies via pdf, (one) paper copy of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.
- H. **Record Drawing Deliverables:** Record drawings, ALP updated drawing, Project closeout report – unlimited copies via pdf, (1) paper copies of each if requested by Airport and others to save paper due to CONSULTANT's Green initiatives.

IX. EXHIBITS

The following exhibits are referenced and made a part of this attachment:

**EXHIBIT B – CONCEPTUAL PROJECT LAYOUT
EXHIBIT C – PROFESSIONAL SERVICES COMPENSATION**

EXHIBIT B – CONCEPTUAL PROJECT LAYOUT



AIRPORT BUSINESS TO REMAIN OPEN

THE CONTRACTOR SHALL COORDINATE ANY WORK EFFORTS THAT WOULD IMPEDE AIRCRAFT ACCESS TO AIRPORT FACILITIES, WITH THE AIRPORT ADMINISTRATION AND THE ENGINEER, IN ORDER TO ASSURE TIMELY COORDINATION WITH TENANTS, THE CONTRACTOR MUST MAINTAIN RADIO CONTACT WITH ATCT AT ALL TIMES BY MONITORING THE FOLLOWING FREQUENCIES WHEN INSIDE THE AIRPORT OPERATIONS AREA (AOA).

GROUND:	121.7
ATCT:	124.45

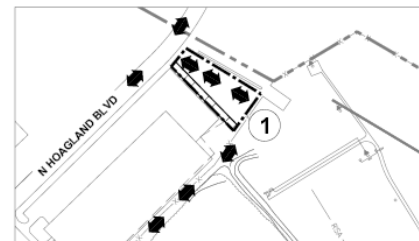
THE TOWER WILL DIRECT ALL GROUND MOVEMENTS WITHIN THE DESIGNATED MOVEMENT AREA DURING CONSTRUCTION. NORMAL TOWER WORKING HOURS ARE 7 AM TO 10 PM.

GENERAL SAFETY PLAN:

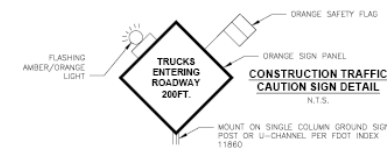
1. REFERENCES (USE LATEST EDITIONS)
- A. FAA ADVISORY CIRCULAR NO. 150/2010-5, PAINTING, MARKING, AND LIGHTING OF VEHICLES USED ON AIRPORT, LATEST EDITION
- B. FAA ADVISORY CIRCULAR NO. 150/2010-7, OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION (THE CONTRACTOR IS REQUIRED TO READ AND COMPLY WITH THIS DOCUMENT), LATEST EDITION
- C. FEDERAL AVIATION ADMINISTRATION PARTS 77, 136, & 157 (WHEN APPLICABLE) REFER TO THE PROJECT CONTRACT DOCUMENTS FOR ADDITIONAL INFORMATION.
2. ALL CONTRACTOR VEHICLES MUST TRAVEL ALONG THE RESTRICTED ACCESS ROUTE(S) SHOWN ON THE PLAN. GATE ACCESS CODES TO THE AIRFIELD MUST BE RETURNED TO THE AIRPORT FREQUENCIES AND/OR MAINTAIN COMMUNICATION WITH THE ATCT.
3. STAGING AREA MUST BE CLEANED AND RESTORED TO ITS ORIGINAL CONDITION AT NO ADDITIONAL COST TO THE OWNER PRIOR TO PROJECT COMPLETION.
4. ALL AIRCRAFT TRAFFIC ON ACTIVE RUNWAYS, TAXIWAYS, AND APRONS SHALL HAVE PRIORITY AND PRECEDENCE OVER CONSTRUCTION TRAFFIC. CONSTRUCTION TRAFFIC SHALL BE ALLOWED WITHIN 93' OF AN ACTIVE TAXIWAY/ RUNWAY OR 250' OF AN ACTIVE RUNWAY CENTERLINE.
5. MATERIALS DELIVERED TO THE SITE: ALL CONTRACTOR'S MATERIAL ORDERS FOR DELIVERY TO THE WORK SITE WILL USE THE CONTRACTOR'S STAGING AREA AT THE AIRPORT. THIS SHOULD PRECLUDE ALL MATERIALS FROM THE AIRPORT CLOSURE CLOSURE THROUGH THE AIRFIELD AND ENTERING INTO AIRCRAFT OPERATIONS AREAS INADEQUATELY.
6. ALL CONTRACTOR VEHICLES THAT ARE AUTHORIZED TO OPERATE ON THE AIRPORT OUTSIDE OF THE DESIGNATED CONSTRUCTION AREA WHITE OR HAZY ROUTES AS SPECIFIED ON THE PLANS AND IN THE CONTRACT DOCUMENTS SHALL BE IDENTIFIED BY THE FOLLOWING: ALL VEHICLES SHALL HAVE A 3'X3' OR LARGER ORANGE AND WHITE CHECKERBOARD FLAG WITH EACH CHECKERBOARD COLOR AND AN ORANGE AND WHITE CHECKERBOARD FLAG WITH THE CONTRACTOR'S IDENTIFICATION NUMBER FLASHING AMBER STROBE LIGHT, MOUNTED ON TOP OF THE VEHICLE AND OF INTENSITY TO CONFORM TO LOCAL CODES FOR MAINTENANCE AND EMERGENCY VEHICLES.
7. CONTRACTOR'S VEHICLE TRAFFIC SHALL BE COORDINATED WITH THE ATCT AND AIRPORT MANAGEMENT.
8. THIS SITE AND SAFETY PLAN DOES NOT RELIEVE THE CONTRACTOR FROM ANY RESPONSIBILITY CONCERNING THE SAFETY ON THE AIRPORT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING THE CONTRACTOR AT ALL TIMES WITH REGARD TO THE CONTRACTOR'S ACTIVITY, INCLUDING ANY INCIDENTS OR ACCIDENTS FOLLOWED TO RESULT FROM THE CONSTRUCTION ACTIVITIES. AREAS SHOWN ON SITE PLANS AND SHEETS ARE ILLUSTRATIVE ONLY. REFER TO PLANS WHICH FOLLOW FOR ACTUAL LIMITS OF WORK.
9. ALL FBO/TENANT FACILITIES WILL BE FULLY OPERATIONAL FOR THE DURATION OF CONSTRUCTION. THE CONTRACTOR WILL MAINTAIN ACCESS FOR NORMAL/OUTGOING TRAFFIC TO THE PROJECT WORK AREA AND AN OPERATIONAL PLAN WILL BE PROVIDED TO THE CONTRACTOR PRIOR TO CONSTRUCTION FOR REVIEW AND APPROVAL BY THE TENANTS, AIRPORT, AND ENGINEER.
10. MATERIALS REQUIREMENTS: NO EXISTING MATERIALS CURRENTLY STOCKPILED ON AIRPORT OR CITY PROPERTY WILL BE USED FOR CONSTRUCTION. ALL MATERIALS TO BE USED FOR CONSTRUCTION SHALL BE BROUGHT IN FROM OFF AIRPORT PROPERTY OR TAKEN STRICTLY FROM THE PROJECT SITE. ALL MATERIALS TO BE USED FOR CONSTRUCTION SHALL BE IDENTIFIED BY THE CONTRACTOR'S IDENTIFICATION NUMBER FLASHING AMBER STROBE LIGHT, MOUNTED ON TOP OF THE VEHICLE AND OF INTENSITY TO CONFORM TO LOCAL CODES FOR MAINTENANCE AND EMERGENCY VEHICLES. ALL UNDESIRABLE OR UNUSUED MATERIALS GENERATED BY THE PROJECT SHALL BE HAULED OFF AIRPORT PROPERTY AND LEGALLY DISPOSED. THE AIRPORT AND AIRPORTS AUTHORIZED REPRESENTATIVES SHALL CONDUCT INSPECTIONS OF WHAT MATERIALS ARE UNDESIRABLE.
11. ALL CONTRACTOR-PERSONNEL VEHICLES SHALL BE PARKED OUTSIDE THE SECURITY FENCE.
12. ALL WORKERS DESIGNATED AS FLAGGERS, OR ASSIGNED AS SAFETY OFFICERS, OR ASSIGNED AN AIRPORT ROAD BY THE CONTRACTOR MUST SPEAK AND UNDERSTAND AMERICAN ENGLISH.

SPECIAL SAFETY CLASS:

1. THE CONTRACTOR AND HIS PERSONNEL WILL BE REQUIRED TO ATTEND A SPECIAL AIRPORT SAFETY ORIENTATION CLASS PRIOR TO CONSTRUCTION. ALL PERSONNEL MUST ATTEND THE CLASS IN ORDER TO WORK IN THE AIRPORT OPERATIONS AREA (AOA).



INSET A



AVCON, INC.
ENGINEERS & PLANNERS
5155 N. WINDHAM ST., SUITE 104 - ORLANDO, FL 32812-2778
OFFICE: (407) 585-5122 - FAX: (407) 585-5123
CORPORATE CERTIFICATE OF AUTHORIZATION NUMBER: 0017
www.avcon.com

This floor has been digitally signed and sealed by:
JULIA J.

Printed copies of this document are not considered signed and sealed and the signature must be affixed on any electronic copies.

PROFESSIONAL SEAL

REHABILITATE,
MARK, LIGHT, & SIGN
TAXIWAY D

KISSIMMEE
GATEWAY AIRPORT,
FLORIDA

GENERAL SITE PLAN

ATTENTION:

THIS DOCUMENT CONTAINS PROPRIETARY AND PROPRIETARY INFORMATION. ALL OF WHICH IS SOLELY PROVIDED BY AVCOIL, INC. FOR THE USE OF THE INTENDED RECIPIENT, AND FOR A SPECIFIC PURPOSE. WITHOUT THE EXPRESS WRITTEN CONSENT OF AVCOIL, INC. ANY DISTRIBUTION, REPRODUCTION, OR OTHER USE OF THIS DOCUMENT, WHOLE OR IN PART, IS STRICTLY PROHIBITED.

SCALE (US SVY FT): GRAPH

REVISIONS:			
NO.	DATE	BY	DESCRIPTION

DESIGNED BY: _____ REVISION: _____

DRAWN BY: M

HECKED BY: _____ RO _____
PPROVED BY: _____

DATE: APRIL 20

AA AIP NO. 3-12-0038-044-20

VCON PROJECT NO. 2022.161.

ADD: 2216103204G0

DRAWING

G004

SHEET 4 OF 219

EXHIBIT C

PROFESSIONAL SERVICES COMPENSATION
REHABILITATE TAXIWAY DELTA AND RIMS - CONSTRUCTION ENGINEERING
KISSIMMEE GATEWAY AIRPORT, KISSIMMEE, FLORIDA

Invoicing shall be made monthly per each phase as they progress to completion on a percent complete basis. Lump sum fees are complete and inclusive of all labor, expenses, overhead, costs, general and administrative costs of doing business, direct costs, and profit.

AVCON Sub-Task		Service Description	Compensation	Method
I. Basic Services				
1	A	Bidding	\$27,060.00	Lump Sum
2	B	Construction Administration	\$62,559.00	Lump Sum
SUB-TOTAL Basic Services			\$89,619.00	Lump Sum
II. Special Services				
3	A	FAA Grant Applications	\$7,560.00	Lump Sum
4	B	Resident Project Representative / Inspection (>)	\$294,717.00	Lump Sum
5	C	Control & Testing of Construction Materials	\$48,290.00	Lump Sum
6	D	DBE Goals & Methodology / SBE Plan Update	\$15,640.00	Lump Sum
7	E	Project and Cost Administration	\$30,690.00	Lump Sum
8	F	Record Drawings	\$13,130.00	Lump Sum
SUB-TOTAL Special Services			\$410,027.00	Lump Sum
GRAND TOTAL All Services			\$499,646.00	Lump Sum
DBE Percentages			Notes	
Cal-Tech Testing, Inc.			\$48,290.00	Woman Owned
			\$ 48,290.00	
			9.66%	Proposed
			3.80%	2024 ISM Goal

(>) Resident Project Representative (RPR) Service fees and expenses calculated as follows:

Salary -

260 calendar day construction period + 14 days to final completion = 274
calendar days x 5 days / 7 day / week = 196 working days. Average
RPR hourly rate \$155.00/hr x 9 hrs/day x 196 days =

\$273,022.00 Salary

Resident Inspection Expenses

1	IRS 2024 Mileage: \$0.67 / mile @ 55 miles / day x 196 working days (incl. 5 mi on airport)	\$7,212.07	AVCON-ISM round trip
2	Epass Tolls: \$5 / day via SR 417	\$978.57	(SR 417 round trip AVCON - ISM)
3	IRS 2024 Expenses (M&IE): \$69 / day x 196 working days	\$13,504.29	

\$21,694.93 Expenses

\$294,716.93 Salary+Expenses

\$294,717.00 Rounded

FUNDING SHARE LEVEL BREAKDOWN			Total	FAA	State	Local	Local
			100%	90%	8%	2%	10%
1	*	Bidding	\$27,060.00	\$24,354.00	\$0.00	\$0.00	\$2,706.00
2		Construction Administration	\$62,559.00	\$56,303.10	\$5,004.72	\$1,251.18	\$0.00
4		FAA Grant Applications	\$7,560.00	\$6,804.00	\$604.80	\$151.20	\$0.00
5		Resident Project Representative / Inspection (>)	\$294,717.00	\$265,245.30	\$23,577.36	\$5,894.34	\$0.00
6		Control & Testing of Construction Materials	\$48,290.00	\$43,461.00	\$3,863.20	\$965.80	\$0.00
7		DBE Goals & Methodology / SBE Plan Update	\$15,640.00	\$14,076.00	\$1,251.20	\$312.80	\$0.00
8		Project and Cost Administration	\$30,690.00	\$27,621.00	\$2,455.20	\$613.80	\$0.00
9		Record Drawings	\$13,130.00	\$11,817.00	\$1,050.40	\$262.60	\$0.00
Total Project Cost			\$499,646.00	\$449,681.40	\$37,806.88	\$9,451.72	\$2,706.00
Federal			\$449,681.40	90.00%			
State			\$37,806.88	7.57%			
Local			\$12,157.72	2.43%			
			\$ 499,646.00				

* Not Eligible for FDOT Funding (work performed prior to an executed PTGA)



ISM - KISSIMMEE - REHAB TAXIWAY D CONSTRUCTION - 2022.161.03 -
FAA AIP 3-12-0038-045-2024 FDOT FPN 438446-2

AVON Project # 2022.161.03											
Salary Costs	1	2	3	4	5	6	7	8			
Title	Bidding	Construction Administration	FAA Grant Applications	Resident Project Representative	Control & Testing of Construction Materials	DBE Goals/Methods/Accomplishments	Project and Cost Administration	Record Drawings	Total Hours	Billing Rate Per Hour	Extended Costs (\$)
Principal	1	1	1		1	1	1		6	\$320.00	\$1,920
Senior Project Manager	24	274	8		2		82	2	392	\$285.00	\$111,720
Project Manager									0	\$210.00	\$0
Senior Planner						24			24	\$170.00	\$4,080
Planner / DBE Specialist						80			80	\$125.00	\$10,000
Project Engineer I	60	82						20	162	\$125.00	\$20,250
Resident Engineer				1566					1566	\$155.00	\$242,686
CADD Tech / Designer								80	80	\$100.00	\$8,000
Contracts Admin \ Tech	100	40	40		4	10	40	10	244	\$124.00	\$30,256
Total Hours per Phase	185	397		1,566	7	115	123	112	2,554		
SubTotal Labor	\$27,060.00	\$93,620.00	\$7,560.00	\$242,686.00	\$1,386.00	\$15,640.00	\$28,650.00	\$12,310.00			\$428,912
Expenses	1	2	3	4	5	6	7	8			
Printing (blacklines, Plans, etc)		\$1,500.00						\$500.00			\$2,000
Mileage (IRS 2022)				\$7,212.07							\$7,213
Per Diem (IRS 2022)				\$13,504.29							\$13,505
SubConsultants					\$46,903.03						\$46,904
Tolls				\$978.57							\$979
SubTotal Expenses	\$0.00	\$1,500.00	\$0.00	\$21,695.00	\$46,904.00	\$0.00	\$0.00	\$500.00			\$70,601
Total Fees	\$27,060.00	\$95,120.00	\$7,560.00	\$264,381.00	\$48,290.00	\$15,640.00	\$28,650.00	\$12,810.00			
Grand Total									\$499,513		
IRS 2024 Mileage: \$0.67 / mile @ 55 miles / day x 196 working days (incl. 5 mi on airport) Epass Tolls: \$5 / day via SR 417 IRS 2024 Expenses (M&IE): \$69 / day x 196 working days									Prepared by AVCON, INC. 24-May-24 Note: Extended Values are Rounded up		
Construction Cost = \$10.9 M Based on Bids RPR Hours: 8 hours per day, 5 days per week Construction Period = 274 Calendar Days x 5 days / 7 day week = 196 working days											

END OF TASK ORDER AMENDMENT

**AIRPORT CONSULTING AGREEMENT BETWEEN
CITY OF KISSIMMEE
AND
AVCON, INC.**

This **AGREEMENT** is made and entered into this 7th day of February, 2023 by and between the **CITY OF KISSIMMEE**, a Florida Municipal Corporation, owner of the **Kissimmee Gateway Airport**, (hereinafter called the **CITY**) and AVCON, Inc., a Florida Corporation authorized to do business in the State of Florida, with offices located in Orlando, Florida, (hereinafter called the **CONSULTANT**) and each represents as follows:

WHEREAS, the CITY advertised RFQ 2023-001, titled “Airport General Consultant of Record Services” where firms submitted statement of qualifications to provide services to include, but not limited to the planning, engineering, design, permitting, and construction management services for the Kissimmee Gateway Airport; and

WHEREAS, the Statements of Qualifications submitted were reviewed, evaluated, and scored by the Selection Committee based on several factors including quality of product, compliance with specifications, and reputation; and

WHEREAS, based on the competitive section, process the CITY determined AVCON, Inc. is qualified to provide the services and desires to award the Consulting services contract to **CONSULTANT** consistent with the terms, conditions, and requirements of the RFQ.

NOW THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 - GENERAL

1.1 TERM. The **CITY** hereby retains the **CONSULTANT** for a duration of five (5) years for project services as the City may require from time to time, in connection with the engineering, planning and development of the **KISSIMMEE GATEWAY AIRPORT**. The term of this Agreement may be extended by mutual written Agreement for the duration of projects in progress at the end of the five (5) year period.

1.2 The Consultant acknowledges that the **CITY** may retain other consultants, contractors, engineering firms, or the like that may be required for a particular project, and that coordination between said contractors and the Consultant may be necessary for the successful completion of

the Project. The Consultant agrees to provide such coordination as necessary within the Scope of Services contained in Exhibit "A".

1.3 The CONSULTANT will maintain an adequate and competent staff of professionally qualified persons throughout the performance of this Agreement to achieve acceptable and timely completion of the Agreement.

1.4 The CITY and Consultant mutually acknowledge that this Agreement will be phased over an extended period and that aspects of the Project(s) cannot be defined sufficiently at the time of execution of this Agreement. It is therefore anticipated that separate authorizations will be required of the Consultant during this Agreement.

ARTICLE II - SERVICES BY CONSULTANT

The CONSULTANT shall diligently and in a professional and timely manner perform the work included in the Agreement consistent with the care and diligence employed by members of the same profession currently performing similar work under similar circumstances in the same locality. Unless modified in writing by the parties hereto, duties of the CONSULTANT shall not be construed to exceed those services specifically set forth herein.

2.1 GENERAL

The CONSULTANT agrees to perform those design and engineering services described in "EXHIBIT A - which is attached hereto and made a part hereof. Services to be provided by the CONSULTANT shall be authorized in writing Task Orders in accordance with Section 2.3. Services under this Agreement do not include participation, whatsoever, in any litigation. Should such services be required, an Addendum may be negotiated between the CITY and the CONSULTANT describing the services desired and providing a basis for compensation to the CONSULTANT.

2.2 SPECIAL SERVICES

The CITY and the CONSULTANT agree that there may be certain additional services required to be performed by the CONSULTANT during the performance of the Agreement that cannot be defined sufficiently at the time of execution of this Agreement. Such services shall be authorized in writing as Task Orders in accordance with Section 2.3 and shall be undertaken only under terms of formal amendments to this Agreement.

2.3 TASK ORDERS.

The specific Scope of Services for each individual assignment or Project shall be defined and implemented by separate **TASK ORDER(S)**, written in the **CONSULTANT'S** standard format for the type of services involved and shall be designated "**TASK ORDER NUMBER____,**" the "number" being in accordance with the sequences in which the **TASK ORDER(S)** are made.

Specific work assignments contained within said **TASK ORDER(S)** shall be referred to as the **PROJECT**. Each TASK ORDER shall define whether the compensation is to be Lump Sum, Maximum Amount Not to Exceed or any combination thereof and the time for completion of the project.

ARTICLE III - PROJECT SCHEDULES

The **CONSULTANT** shall perform the services outlined under Articles I and II of this **AGREEMENT** as specifically established in subsequent TASK ORDER(S) in a timely manner consistent with the **TASK ORDER** schedules mutually agreed upon by the **CITY** and the **CONSULTANT**, commencing upon written authorization (including execution of each **TASK ORDER**) by the **CITY** to proceed with each work assignment.

ARTICLE IV - JOINT COOPERATION

Close collaboration and cooperation shall be maintained by the **CONSULTANT** with representatives of the **CITY** and the **CITY** will be entitled at all times to be advised, at its request, of the status of work being performed by the **CONSULTANT** and of the detail thereof. To the extent available, the **CITY** shall furnish to the **CONSULTANT** all pertinent information within its immediate possession deemed necessary by the **CONSULTANT** to be relevant to the execution of each **PROJECT**. Notwithstanding, the **CITY** shall not be obligated to gather, compile, or hire third parties to complete such pertinent information. The **CONSULTANT** shall be entitled to rely upon the accuracy and completeness of such information if so warranted by the **CITY**. The **CITY** will have the right to inspect the work of the **CONSULTANT** at any time. Either party of this **AGREEMENT** or subsequent **TASK ORDER(S)** may request and be granted a conference.

Article V - SPECIALTY CONSULTANTS

Determination of the need for and selection of Specialty (or other) Consultants shall be made jointly by the **CONSULTANT** and the **CITY**.

Article VI - OWNERSHIP AND REUSE OF DOCUMENTS

It is understood and agreed that all documents, including all tracings, plans, specifications, maps, computer programs and data prepared or obtained in connections with services provided under a specific **TASK ORDER** to the **AGREEMENT** shall remain the property of the **CITY**. A set of electronic files formatted to AutoCAD Rel. 2007 (or latest version approved by City) for all drawings and in Microsoft Word for specifications and reports shall be provided to the **CITY**. Any use or re-use of plans and specifications, by the **CITY** or others, without written verification or adaptation by the **CONSULTANT** for the specific purpose intended, will be at the **CITY'S** sole **risk** and without financial liability or legal exposure to the **CONSULTANT**, including use

or re-use by third parties. The Consultant shall not publish any information concerning City projects without the written consent of the CITY.

Article VII - ADDITIONAL COMPENSATION

Additional compensation arising from changes or revisions made by the **CONSULTANT** at the **CITY'S** request shall be presented to the **CITY** before work starts under changed conditions. In any case, where the **CONSULTANT** deems that extra compensation is due for work not covered herein, or in this or subsequent **TASK ORDER(S)**, the **CONSULTANT** shall notify the **CITY** in writing of his/her intentions to make claim for extra compensation and receive **CITY** approval before he/she begins work on which the claim is based. If such approval is not obtained, then the **CITY** shall not be liable for any extra costs. **CONSULTANT** may refuse to perform additional work requested by the **CITY** until an appropriate **TASK ORDER** is executed by the parties. Such notice by the **CONSULTANT** and the fact that the **CITY** has kept account of the costs as aforesaid shall not in any way be construed as providing the validity of the claim. **CONSULTANT** is not entitled to compensation for work in revising plans and specifications to correct errors or omissions of the **CONSULTANT** resulting from negligence of the **CONSULTANT**.

CONSULTANT will perform work for the **CITY** in accordance with the standard of care ordinarily and customarily exercised by engineers performing this type of services for this type of client and **CONSULTANT** will be liable to the **CITY** for damages proximately caused by the **CONSULTANT'S** deviation from such standard care.

Article VIII - PUBLIC RECORD LAWS

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 and that the constitutional and statutory provisions control over the terms of this Agreement. As such, the Consultant shall keep and maintain public records required by the City to perform the service.

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

1. If the City's Custodian of Records requests records from the Consultant, the Consultant 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 the City of Kissimmee, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.
2. The Consultant 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 contract term and following completion of the contract if the Consultant does not transfer the records to the City.

3. Upon completion of the contract, the Consultant shall transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Contract, the Consultant 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 the City. Unless otherwise directed by the City, all records will be transferred at the conclusion of the Contract.
4. Upon notice to the Consultant of a request to inspect or copy public records relating to a City's contract for services, the Consultant shall provide the records to the City or allow the records to be inspected or copied within a reasonable time.
5. If the Consultant does not comply with the City's request for records, such failure shall constitute a material breach and the Contract shall terminate upon notice by the City.

A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10

Article IX - SUCCESSORS AND ASSIGNS

The **CITY** and the **CONSULTANT** each binds itself and its partners, successors, executors, administrators and assigns of such other party of this **AGREEMENT** and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this **AGREEMENT**. Except as above, neither the **CITY** nor the **CONSULTANT** shall assign, subject, convey or transfer its interests in the **AGREEMENT** without prior written consent or the other. Nothing herein shall be construed as creating any personal liability on the part of any rights or benefits hereunder to anyone other than the **CITY** and the **CONSULTANT**.

Article X - TERMINATION

The provisions of this **AGREEMENT** may be terminated by either party without cause, in which event at least thirty (30) days prior written notice of such termination shall be given to the other.

In the event the **CITY** causes abandonment, termination, or suspension of the **AGREEMENT**, or parts thereof, the **CONSULTANT** shall be compensated for his/her services rendered up to the time of such abandonment, termination, or suspension and all documents and work product shall be given over to the **CITY** and remain the property of the **CITY**.

In the event the **CONSULTANT** terminates this **AGREEMENT**, the **CITY** shall have full authority to appropriate or use all tracings, plans, specifications, maps, and data prepared or obtained under specific **TASK ORDER(S)** to this **AGREEMENT** and may contract with others for the completion of the work. If the **CITY** contracts with others to complete the work of a pending **TASK ORDER**, the **CONSULTANT** will pay to the **CITY** within forty-five (45) days of invoice, the sum the **CITY** paid to others for completion of the task.

Article XI - REIMBURSEMENT

The **CITY** will pay the **CONSULTANT** in accordance with the covenants of the applicable **TASK ORDER(S)** covering the specific assignment involved. It is understood that the following apply to any and all **TASK ORDER(S)** unless specifically contradicted therein:

- A. No Federal Excise or State Sales taxes shall be included in the fees or invoices.
- B. Invoices received from the **CONSULTANT** pursuant to this **AGREEMENT** or any subsequent **TASK ORDER(S)** will be reviewed and if approved by the **CITY** will indicate that services that have been rendered are in conformity with this **AGREEMENT** and/or any subsequent **TASK ORDER(S)**.
- C. Fees and other charges as specified in the Task Order will be invoiced monthly. The amount of each invoice shall be due at the time of billing. When bills are not paid within forty-five (45) days, unless the **CITY** objects to it, after receipt of proper invoice, a late payment service charge of \$50.00 shall be applied will be due to the **CONSULTANT**.
- D. In order for both parties herein to close their books and records, the **CONSULTANT** will clearly state "final invoice" on the **CONSULTANT'S** final billing to the **CITY** for each **TASK ORDER**, as applicable. This will certify that all services have been properly performed and all charges and costs have been invoiced to the **CITY**.

Consultant(s) methods of determining prices, or over competitive bidding or market conditions, the **CONSULTANT'S** opinion of probable project costs and construction costs provided for herein are to be made based of the **CONSULTANT'S** experience and qualifications and represents the **CONSULTANT'S** best judgment as an experienced and qualified professional familiar with the construction industry; but the **CONSULTANT** cannot and does not guarantee that proposals, bids or actual project or construction costs will not vary from opinions of probable cost prepared by the **CONSULTANT**.

Article XX - APPROVAL OF WORK

The work performed by the **CONSULTANT** shall be deemed approved and accepted by the **CITY**. If the **CITY** believes that work is defective, then the **CITY** will give written notice to the **CONSULTANT** what such work is unacceptable.

Article XXI - DELAY

Any delay, default or termination in or of the performance of any obligation of the **CONSULTANT** under the **AGREEMENT** caused directly or indirectly by strikes, accidents, acts of God, shortages or unavailability of labor, materials, power or transportation through normal commercial channels, or any negligent acts of the **CITY** or any other Federal, State or local government agency, or any other cause beyond the **CONSULTANT'S** reasonable control, shall suspend the obligation of the **CONSULTANT** as long as performance is delayed or prevented thereby.

Article XXII- INSURANCE

The **CONSULTANT** shall procure and maintain during the life of this **AGREEMENT**, insurance of the types and subject to the limits set forth below. The **CONSULTANT** shall also provide the **CITY** with evidence of this insurance in the form of Certificate of Insurance that shall be subject to the **CITY'S** approval for adequacy. Companies authorized to do business under laws of the State of Florida shall issue all insurance of the type, amount, and classification as required for strict compliance with this Article and that no material change, or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the **CITY'S** representative. Compliance with the foregoing requirements shall not relieve the **CONSULTANT** of its liability and obligations under this **AGREEMENT**. If subconsultants are used by the **CONSULTANT**, it shall be the responsibility of the **CONSULTANT** to ensure that all its subconsultants comply with all the insurance requirements contained herein, relating to such subcontracts.

Except as otherwise stated, the amount and types of insurance shall conform to the following requirements:

A. WORKERS' COMPENSATION

The **CONSULTANT** shall maintain, during the life of the **AGREEMENT**, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute 440.02. and Employers' Liability insurance with a limit of \$100,000.00 each accident and disease.

B. COMMERCIAL GENERAL LIABILITY

The **CONSULTANT** shall maintain, during the life of the **AGREEMENT**, commercial general liability, including contractual liability insurance to protect the **CONSULTANT** and shall agree to indemnify **CITY** from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this **AGREEMENT**, whether such operations be by the **CONSULTANT** or by anyone directly employed by or contracting with the **CONSULTANT**. Coverage must include:

- (a) Minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability
- (b) Premises and Operations
- (c) Independent Consultants / Contractors
- (d) Products and Completed Operations – **CONSULTANT** shall maintain in force until at least three (3) years after completion of all services required under the Contract, coverage for products and completed operations, including Broad Form Property Damage

C. COMPREHENSIVE AUTO LIABILITY

The **CONSULTANT** shall maintain, during the life of the **AGREEMENT**, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for Bodily Injury Liability and Property Damages Liability to protect the **CONSULTANT** from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the **CONSULTANT** or by anyone directly or indirectly employed by the **CONSULTANT**.

D. PROFESSIONAL LIABILITY

The **CONSULTANT** shall maintain, during the life of the **AGREEMENT**, standard Professional Liability Insurance in the minimum amount of \$1,000,000 per claim and annual aggregate. The minimum amount shall not be reduced by cost or attorney fees to defend a claim. Such coverage shall be maintained for a period of four (4) years following completion and acceptance of any work performed under this **AGREEMENT**. The **CONSULTANT** shall not be liable for unforeseen subsurface conditions.

E. NOTICE OF CANCELLATION AND/OR RESTRICTION

Each policy must be endorsed to provide the **CITY** with a minimum of thirty (30) days notice of cancellation and/or a reduction in policy limits by endorsement during the policy period.

F. CERTIFICATES OF INSURANCE

Certificates of insurance evidencing the insurance coverage specified in this section shall be filed with the **CITY's** designated representative identified herein, and the City's Purchasing Department before any work is begun. The required certificates of insurance not only shall name the types of policies provided, but also shall refer specifically to this **AGREEMENT** and section and the above paragraphs in accordance with which insurance is being furnished. If the initial insurance expires prior to the completion of the work, renewal certificates of insurance shall be furnished upon renewal of such coverage.

ARTICLE XXIII - INDEMNIFICATION

CONSULTANT agrees to indemnify **CITY** from any claims, damages, losses, and costs, including but not limited to, reasonable attorney's fees and litigation costs, arising out of claims by parties for property damage and bodily injury, including death, caused solely by the negligence or of **CONSULTANT**, **CONSULTANT'S** employees, affiliated corporations, officers, and subconsultants in connection with the **AGREEMENT**.

ARTICLE XXIV - HAZARDOUS MATERIALS: ASBESTOS

If potentially hazardous materials or asbestos are encountered, the **CONSULTANT** shall have the right to suspend the work and the right, by written notice to the **CITY**, to terminate the work described in Article I. The **CITY** shall remain liable for and pay all fees and charges incurred under the provisions of **AGREEMENT** through the date of termination.

ARTICLE XXV - CONFLICT OF INTEREST

The **CONSULTANT** represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any matter with the performance of services required hereunder, as provided for in Florida Statute 112.311. The **CONSULTANT** further represents that no persons having any such interest shall be employed for said performance.

The **CONSULTANT** shall promptly notify the **CITY** in writing by Certified Mail of all potential conflicts of interest prohibited by existing State law for any prospective business association, interest or other circumstances which may influence or appear to influence the **CONSULTANT'S** judgment or quality of services being provided hereunder. Such written notification shall identify prospective business association, interest or circumstance, the nature of work that the **CONSULTANT** may undertake and request an opinion of the **CITY** as to whether the association, interest or circumstance would, in opinion of the **CITY**, constitute a conflict of interest if entered into by the **CONSULTANT**.

The **CITY** agrees to notify the **CONSULTANT** of its opinion by Certified Mail within thirty (30) days of receipt of notification by the **CONSULTANT**. If, in the opinion of the **CITY**, the prospective business association, interest or circumstance would not constitute a conflict of interest by the **CONSULTANT**, the **CITY** shall so state in the notification and the

CONSULTANT shall, at his/her option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with the respect to services provided to the **CITY** by the **CONSULTANT** under the terms of this **AGREEMENT**.

ARTICLE XXVI - NOTICE

All notices, requests, and other communications required or permitted under this **AGREEMENT** shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, or mailed by registered or certified mail (postage prepaid) return receipt requested, addressed to:

As to the CITY:

Shaun J. Germolus, Director of Aviation
Kissimmee Gateway Airport
401 Dyer Blvd
Kissimmee, Florida 34741

As to the CONSULTANT:

Name & Title: Sandeep Singh, President
Firm Name: AVCON, Inc.
Firm Address: 5555 E. Michigan St. Suite 200
Orlando, FL 32822

Or to such other address as any party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered (a) on the date delivered if by personal delivery, (b) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

ARTICLE XXVII - INTERPRETATION: VENUE

This **AGREEMENT** constitutes the entire **AGREEMENT** between the parties with respect to the subject matter hereof and supersedes all prior verbal or written **AGREEMENT(S)** between the parties with respect thereto. This **AGREEMENT** may only be amended by written document, properly authorized, executed and delivered by both parties hereto. This **AGREEMENT** shall be interpreted as a whole unit and section headings are for convenience only. All interpretations shall be governed by laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this **AGREEMENT**, venue shall be in the Ninth Judicial Circuit for Osceola County, Florida for claims under State law and the Middle District of Florida for any claims, which are justifiable in Federal Court. Each party waives the right to a jury trial.

ARTICLE XXVIII - ATTORNEY FEES

Each party agrees that the prevailing party shall be entitled to reimbursement of reasonable attorney fees, including court costs from the opposing party. For the purpose of this agreement, reasonable Attorney fees of the City Attorney shall be based on the fees regularly charged by Private Attorney with an equivalent number of years of professional experience who practice in Orange and Osceola County, Florida.

ARTICLE XXIX- TITLE VI ASSURANCES

During the performance of his **AGREEMENT**, the **CONSULTANT**, for itself, its assigned and successors in interest (hereinafter referred to as the “Consultant”) agrees as follows:

1. **Compliance with Regulations.** The Consultant shall comply with regulations relative to nondiscrimination in Federally assisted programs of the Department of transportation (Hereinafter “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred as “Regulations”), which are herein incorporated by reference and made a part of this **AGREEMENT**.
2. **Non-Discrimination.** The Consultant, with regard to the work performed by it during the **AGREEMENT**, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-Consultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices within the **AGREEMENT** covers a program set forth in Appendix B of Regulations.
3. **Solicitations for Sub-Contracts, Including Procurement of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential sub-Consultant or supplier shall be notified by the Consultant of the Consultant’s obligations under this **AGREEMENT** and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The Consultant shall provide all information and reports required by the relations or directives issued thereof, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the sponsor or the FAA, as appropriate, and shall set forth efforts it has made to obtain the information.
5. **Sanctions for Non-Compliance.** In the event of the Consultant’s non-compliance with the non-discrimination provision of this **AGREEMENT**, the sponsor shall impose such **AGREEMENT** sanctions as it or the FAA may determine to be appropriate, including but not limited to:
 - a. Withholding of payments to the Consultant under the **AGREEMENT** until the Consultant complies, and/or

- b. Cancellation, termination, or suspension of the **AGREEMENT**, in whole or in part.
6. **Incorporation of Provisions.** The Consultant shall include the provisions of Paragraph 1 through 5 in every sub-contract, including the procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any sub-contract or procurement as the sponsor of the FAA may direct as a mean of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a sub-Consultant or supplier as a result of such direction, of the sponsor and, in addition, the Consultant may request the United States to enter into such litigation to protect interest of the United States.

Signature page to follow

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to become effective on the day and year caused these presents to be executed, the day and year first above written.

By: Sandeep Singh

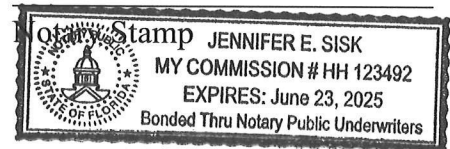
Title: President

Date: 1/26/2023

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 23rd day of January, 23, by (name of person) SADEEP SINGH as type of authority, e.g. officer, trustee, attorney for corporation, LLC, etc. who is personally known or produced _____ as identification.

Jennifer E. Sisk
Notary Signature



ATTEST:

Linda S. Hansell
City Clerk

CITY OF KISSIMMEE

Olga Gonzalez
Mayor

APPROVED AS TO FORM AND LEGALITY.

Olga Sanchez de Fuentes
City Attorney

EXHIBIT A- SCOPE OF SERVICES

Planning type services including airport system, master planning, and environmental inter-related studies.

Engineering type services include architectural, civil, geotechnical, structural, mechanical, and electrical engineering.

The basic services that will be required include but are not limited to the following:

1. Preliminary Phase: This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include:
 - a. Conferring with the Airport on project planning, requirements, finances, schedules, early phases of the project, and other pertinent matters and meeting with FAA and other concerned agencies and parties on matters affecting the project.
 - b. Planning, procuring and/or preparing necessary surveys, geotechnical engineering investigations, field investigations and architectural and engineering studies required for preliminary design considerations.
 - c. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations and preliminary layouts and cost estimates.
2. Design Phase: This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include:
 - a. Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
 - b. Collecting engineering data and undertaking field investigations; performing geotechnical engineering studies; and architectural, engineering and special environmental studies.
 - c. Preparing necessary engineering reports and recommendations.
 - d. Preparing detailed plans, specifications and cost estimates.
 - e. Printing and providing necessary copies of engineering drawings, contract documents and specifications
3. Construction Phase: This phase includes all activities to construct the project. Examples include:
 - a. Assisting the Airport in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts and preparing contract documents.
 - b. Onsite construction inspection and or management involving the services of a part time or full-time resident engineer(s), inspector(s) during the construction or installation phase of a project.
 - c. Providing consultation and advice to the Airport during all phases of construction.
 - d. Representing the Airport at preconstruction conferences.
 - e. Inspecting work in progress periodically and providing appropriate reports to the Airport.

- f. Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept.
 - g. Reviewing, analyzing and approving laboratory and mill test reports of materials and equipment.
 - h. Preparing and negotiating change orders and supplemental agreements.
 - i. Observing or reviewing performance tests required by specifications.
 - j. Preparation of record drawings.
 - k. Determining amounts owed to contractors and assisting the Airport in the preparation of payment requests for amounts reimbursable from grant projects.
 - l. Making final inspection and submitting reports of the completed project to the Airport, FAA, FDOT, SFWMD, Etc.
4. Special Services: The development of planning projects may involve special activities or studies. Some examples of special services that might be employed for airport projects include:
- a. Soil investigations, including core sampling, laboratory tests, related analyses and reports.
 - b. Detailed mill, shop, and/or laboratory inspections of materials and equipment.
 - c. Land surveys and topographic maps.
 - d. Field and/or construction surveys.
 - e. Photogrammetry surveys.
 - f. Environmental studies and analyses.
 - g. Airport planning (Master Planning, Sustainability Planning, Feasibility Studies, etc.).
 - h. Expert witness testimony in litigation involving specific projects.
 - i. Public information and community involvement surveys, studies and activities.
 - j. Assisting the Airport in the preparation of necessary applications for local, State and Federal grants.
 - k. Preparation of DBE Plan/Goals.
 - l. Preparation of or updating the airport layout plan.
 - m. Preparation of property maps.
 - n. Preparation of quality control plans.
 - o. Preparation of rate, fees, and charges comparison reports.
 - p. Preparation of Pavement Preservation and Maintenance Plan.
 - q. Reviewing and responding to tenant requests.

ITEM 7.E

Advertising Funding from Experience Kissimmee for Kissimmee Gateway Airport

Request

Request Commission approval to accept advertising funding in the amount of \$30,000.00 from Experience Kissimmee for Kissimmee Gateway Airport, Grant Master No. Ad FY25.

Explanation

Experience Kissimmee is offering a grant to fund an advertising program by and for the Kissimmee Gateway Airport in the amount of \$30,000.00 for FY 2025. Funds will be used to advertise to the corporate and leisure travel market, the flight training and aircraft maintenance market, and the aviation economic development market.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
47070103-504901	NA	Increase	30,000	30,000
47000337-337410	NA	Increase	30,000	30,000

Financial Summary:

The total amount of \$30,000.00 will go towards advertising the airport and its businesses.

Recommendation

Staff recommends acceptance of \$30,000.00 from Experience Kissimmee for airport advertising.

REQUESTED CITY COMMISSION ACTION:

Accept

Department: Airport

Presenter:

Attachment(s):

1. (S) 24-25 Experience Kissimmee Grant-Kissimmee Gateway Airport Agreement_Signed

Aid to Private Organizations Agreement

Company Legal Name (“Organization”): Kissimmee Gateway Airport – City of Kissimmee
Organization Address: 401 Dyer Blvd., Kissimmee FL 34741
Organization Primary Contact Name: Mike Steigerwald, City Manager
Organization Primary Contact E-Mail: msteiger@kissimmee.org
Organization Contact Phone Number: 407-518-2306

Short General Description of Project (“Project”): Kissimmee Gateway Airport Destination Marketing Agreement

Start Date: October 1, 2024 **End Date:** September 30, 2025

Payment Amount and Schedule of Payments: Experience Kissimmee shall award the City of Kissimmee \$30,000.00. The entire award amount shall be due within thirty (30) days of the City’s submission of and Experience Kissimmee’s approval of a marketing and advertising plan but not prior to October 1, 2024.

Key Performance Indicators (“Key Performance Indicators” or “KPI”) to be Reported to Experience Kissimmee and timing: Quarterly reports are due:

Q1 – October 1 – December 31; report due **January 1, 2025**

Q2 – January 1 – March 31; report due **April 1, 2025**

Q3 – April 1 – June 30; report due **July 31, 2025**

Q4 – July 1 – September 30; report due **October 31, 2025**

Reports are to include:

- Return on Investment of advertising funded by Experience Kissimmee.
- Approximate number of Osceola County room nights booked by businesses located in the Airport for its transient customers and clients.
- A report of monthly visits to the Organization’s website attributable to the advertising displayed at the Organization or on its website, and total monthly “click-thrus” from the Organization’s website.

Experience Kissimmee Marks/Materials to be used, description of use and timing:

- The Organization's website shall prominently feature the Experience Kissimmee logo on the home page with text inviting viewers to visit www.ExperienceKissimmee.com for additional information.
- All marketing and advertising materials funded by Experience Kissimmee shall include its logo and be approved by Experience Kissimmee prior to insertion.

**Osceola Convention and Visitor's Bureau,
Inc. d/b/a Experience Kissimmee**

By: _____
Signature: 
Print Name: DT Minich
Title: President & CEO
Date: 10-1-24

Organization

By: _____
Signature: _____
Print Name: _____
Title: _____
Date: _____

Terms and Conditions

This Aid to Private Organizations Agreement (“agreement”) is entered into between Osceola Convention and Visitors Bureau, Inc. d/b/a Experience Kissimmee (“**Experience Kissimmee**”) and **Organization**. Experience Kissimmee and Organization are together the “**Parties**” or singularly a “**Party**”.

1) Duties

- a) Experience Kissimmee and Organization shall carry out the duties and obligations described in, and assigned to them, in the statement of work (“Statement of Work” or “SOW”).
- b) The Statement of Work forms a material part hereof and is incorporated herein fully by this reference.
- c) The Primary Contact identified in the SOW shall have sufficient authority to make decisions required under this agreement without resort to secondary authority.
- d) Organization shall provide to Experience Kissimmee proofs of all materials, advertisements, promotional materials, promotional videos, swag, collateral and the like that are intended to incorporate Experience Kissimmee intellectual property. Organization shall also provide a reasonable description of the intended use, channels of distribution and the like of same. Experience Kissimmee shall, in its sole discretion, review and approve, or disapprove, such. Subsequent to distribution/display, Organization shall provide proof of publication, use, distribution count, impressions and/or the like and other information as Experience Kissimmee shall reasonably require.

2) Payment

- a) As a condition to any payment by Experience Kissimmee, Organization shall:
 - i) Supply proof of performance as Experience Kissimmee may reasonably specify;
 - ii) Supply the required key performance indicators;

3) Term

- a) This agreement is effective as of the date of last signature affixed to the Statement or Work.
- b) This agreement shall commence on the “Start Date” specified in the SOW.
- c) This agreement shall end, except as otherwise provided herein, on the “End Date” specified in the SOW.

- d) The terms of this agreement which by their nature should survive the termination or expiration of this agreement will survive and be binding on the parties, including but not limited to sections 4 and 6.

4) Intellectual Property

- a) Experience Kissimmee grants to Organization from the Start Date to the End Date a non-exclusive, revocable, limited, royalty-free, and non-transferable license to use (i) Experience Kissimmee's trademarks, service marks, trademarks, and the like specifically designated by Experience Kissimmee in the SOW (collectively, "**Experience Kissimmee Marks**") and Experience Kissimmee's images, photographs, videos, and other copyrightable materials specifically designated by Experience Kissimmee in the SOW (collectively "**Experience Kissimmee Materials**", and together with the Experience Kissimmee Marks, the "**Experience Kissimmee IP**"), solely as necessary for use in the project described in the SOW. Organization shall use Experience Kissimmee IP in accordance with any trademark or other usage guidelines that Experience Kissimmee may communicate to Organization from time to time. Consistent with section 1(e), Organization shall submit examples of all proposed uses of the Experience Kissimmee IP to Experience Kissimmee for Experience Kissimmee's prior written approval in each instance. All uses of the Experience Kissimmee Marks, and all goodwill associated therewith, will inure solely to the benefit of Experience Kissimmee. Organization shall not use, register, or attempt to register any mark that is infringing, confusingly similar to or incorporates any of the Experience Kissimmee Marks. Organization acknowledges and agrees that Experience Kissimmee retains exclusive ownership and rights in the Experience Kissimmee IP.
- b) Other than as specified in the SOW and this section, the Parties each retain exclusive ownership and rights in their intellectual property, including without limitation, their trademarks, service marks, and commercial symbols as well as all associated moral rights. Further, Organization stipulates and agrees that the Experience Kissimmee Marks are valid, incontestable and not subject to collateral attack with the US Patent Trade Office, or any other similar body.

5) Termination

- a) This agreement may be terminated prior to the "End Date" as follows:
 - i) Either Party may terminate if the other fails to perform a material obligation required hereunder after thirty (30) days written notice to cure (which may be email);
 - ii) Either Party may terminate immediately if the other Party is insolvent or files or has filed against it any proceeding in federal or state court seeking insolvency protection or debtor relief;
 - iii) Either Party may terminate immediately if the other Party infringes on the intellectual property of the terminating Party or a third party, or acts in excess of the limited intellectual property license afforded to it under this agreement;

iv) Experience Kissimmee may terminate immediately if the Organization's reputation falls into disrepute or becomes inconsistent with the image or reputation of Experience Kissimmee; and,

v) Experience Kissimmee may terminate for convenience on 30 days written notice (which may be by email).

b) Termination pursuant to sections 5(a)(i)-(iv) will entitle the terminating Party to recover its damages; however, nothing in this agreement will prejudice the rights of the Parties to also seek temporary or permanent equitable relief. In the event of termination pursuant to section 5(a)(v), Experience Kissimmee's payment contemplated in the SOW will be presumed to be *pro rata* to the effective date of termination.

6) Confidentiality

a) The terms of this agreement are confidential. In addition, the Parties each may provide to the other certain confidential information. When the providing Party designates information as confidential, or if the receiving Party has a reasonable basis to believe that information is confidential or should be treated as confidential, then the receiving Party shall maintain its confidentiality by not disclosing that information. Information designated confidential or reasonably implied to be confidential will only be used in a manner consistent with the reason for its being provided to the receiving Party.

b) Regardless of the designation of information as confidential, information exchanged by the Parties shall not be considered confidential when it (i) is publicly known; (ii) is received from another source who can lawfully disclose such information without a duty to maintain its confidentiality; (iii) is already known by the receiving Party prior to receiving such information from the disclosing Party; or (iv) is independently developed, each of (i) through (iv) without breach of this agreement. Further, information shall not be deemed confidential, regardless of designation, when required to be disclosed by federal, state or local law, regulation or rule, or because of directive, subpoena or order issued by an authority possessing competent jurisdiction to require its disclosure. The Parties may share confidential information with their affiliates, related entities and/or professionals hired to provide services to a party so long as they agree to maintain the confidentiality of the information. Notwithstanding the foregoing, Experience Kissimmee may in its sole discretion release this agreement (i) when prudent to do so in voluntary response to a request for public records even though Florida's Public Records Act does not apply to Experience Kissimmee, or (ii) otherwise as required by contract or as Experience Kissimmee deems appropriate.

c) Within ten days of the termination of this agreement, all confidential information shall be returned to the disclosing party. Should returning such information be impracticable, then the receiving Party shall destroy the information and provide written confirmation of its destruction to the disclosing Party. Nothing in this agreement shall require the receiving Party to return or destroy confidential information when prohibited by applicable law or regulation.

- d) The receiving Party shall maintain all confidential information in a manner no less secure than it maintains its own confidential information, but in any event, no less secure than commercially reasonable taking into account the nature and sensitivity of the information, the damage that would arise (including without limitation, reputational damage) should such confidential information be improperly disclosed, and the cost of remediating a breach of confidentiality, including without limitation, the cost of notice, litigation arising from a breach and third-party damages, if any. Organization will comply with all data protection laws, rules and regulations, including without limitation the Federal Trade Commission Act, the European Data Protection Regulation and the California Consumer Protection Act and comply with such data security standards as applicable.
- e) In the event of a data breach or similar event where Experience Kissimmee's data or other confidential information in the possession of Organization is improperly accessed or obtained, used, lost, or becomes the subject of malware or ransomware, the Parties shall reasonably cooperate to remediate such event and provide notice as and if required by applicable law, rule or regulation. Organization shall bear the cost of its own remediation, notice, defense and indemnity as well as that of Experience Kissimmee. Insurance coverage limits by Organization's insurer shall not serve to limit Organization's liability. Experience Kissimmee shall have the right to control its own defense and to choose its own counsel. Likewise, Experience Kissimmee shall have the right to control all communication and notices that may be useful, necessary or required related to or arising from such an event, at Organization's cost. Organization shall promptly notify Experience Kissimmee, but in any event, in less than seventy-two hours following discovery of such an event as generally described in this section.

7) Exclusivity

- a) Unless otherwise specified in the SOW, Organization shall not engage in activities that are in competition with Experience Kissimmee during the term of this agreement.
- b) Unless otherwise specified in SOW, Experience Kissimmee may continue to carry out its operations as it sees fit which may be in competition with Organization and the Project.

8) Independence

- a) The actions to be taken under this agreement by Organization and Experience Kissimmee shall be independent of the other and not taken as an employee, agent, partner, joint venture, subsidiary or parent of the other. The Parties acknowledge that they are independent entities, are not attorneys-in-fact of the other, are not agents of the other, and are not allowed to incur any obligation on the other's behalf. The Parties shall not hold the other out as an agent, legal representative, partner, subsidiary, joint venture or employee of the other and shall not indicate or suggest that they are related or the same entities.

- b) Except as generally required to carry-out the purpose and timing of the actions set-out in the SOW, each Party shall control the conditions, time, details, and means by which it performs its obligations under this agreement.
- c) Neither Party shall have the right to inspect the work of the other except solely for the purpose of determining whether the work is being completed according to the SOW.
- d) Neither Party is eligible for and shall not receive any employee benefits from the other Party. Each Party is solely responsible for the payment of all taxes, FICA, federal and state unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to its business.

9) Indemnification

- a) Organization shall defend, indemnify, and hold harmless the Experience Kissimmee Indemnified Parties, from and against all claims, suits, fines, liabilities, damages, losses and cost, including but not limited to, reasonable attorneys' fees, arising indirectly or directly, in part or solely by Organization's conduct, including but not limited to damage to the property or injury to a person. Organization covenants and warrants that it and all of its agents, vendors, servants, employees, and contractors will use due care and diligence in all of their activities and operations authorized by this agreement. In addition, Organization will defend, indemnify and hold harmless the Experience Kissimmee Indemnified Parties against any action, claim, or damages related or arising from (i) Organization's alleged violation of the intellectual property rights of a third party, and (ii) marketing ads, offerings or services provided by Organization including without limitation their associated contracts.
- b) For purposes of this section, "**Experience Kissimmee Indemnified Parties**" means Experience Kissimmee, its predecessors, successors and assigns, its directors, officers, agents, employees, contractors and subcontractors, and the directors, officers, agents, and employees of each of them as well as their assigns, its directors, officers, agents, employees, contractors and subcontractors, and the directors, officers, agents and employees.

10) Insurance

- a) Organization shall maintain insurance with coverage types and amounts that are reasonable under the circumstances including the indemnification requirements of §9 hereof.
- b) In addition to the requirements of § 10(a), above, Organization shall have and maintain those coverages in the amounts specified (if any) in SOW.
- c) Available insurance coverage will not serve to limit liability that may arise under this agreement. Organization shall name Experience Kissimmee as additional insureds.

Upon Experience Kissimmee's request, Organization shall provide Experience Kissimmee with a certificate of insurance from Organization's insurer evidencing the insurance coverage specified in this agreement. Organization shall provide Experience Kissimmee with 30 days' advance written notice in the event of a cancellation or material change in Organization's insurance policy. Except where prohibited by law, Organization shall require its insurer to waive all rights of subrogation against Organization and Experience Kissimmee.

11) Reporting, Books, Records

- a) Organization shall provide Experience Kissimmee with monthly or quarterly Project updates, the content, form, and frequency of which will be specified by Experience Kissimmee from time to time.
- b) The Parties expressly agree that Experience Kissimmee shall have, upon notice, access to all books, records and accounts of Organization relating to this agreement. Organization shall cooperate to provide such additional financial information relating to the Project and this agreement as requested by Experience Kissimmee from time to time, including but not limited to timely and prompt responses to all requests from Experience Kissimmee and its auditors.
- c) Likewise, Organization shall provide access to all data, information, books, records, materials and the like that Experience Kissimmee shall specify so as to permit Experience Kissimmee to audit and independently verify the key performance indicators set out the SOW.

12) General

- a) The Parties shall not assign this agreement or any rights or obligations hereunder, without prior written consent of the other Party.
- b) Organization shall comply with all applicable federal, state and local laws, ordinances, rules and regulations, both foreign and domestic, relating to Organization's obligations under this agreement.
- c) This agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument. The Parties stipulate, agree, and acknowledge the mutual negotiation of this agreement's terms.
- d) This agreement, including and together with the SOW, is the sole and entire agreement of the Parties concerning the subject matter contained in this agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter. Unless the subject of another written contract, no other warranties, promises or agreements, express or implied exist between the Parties.
- e) In the event the Terms and Conditions, and the SOW are in conflict, then the terms of the SOW shall first control, then the Terms and Conditions shall control. In any event, where

at all possible, the SOW and the Terms and Conditions shall be read to understand their intent and then read to harmonize their requirements and only when the Parties manifest a clear intent to modify and amend the terms of the inferior document will they be amended.

- f) Any notices required under this agreement must be in writing and sent to the Organization's mailing address or email address set forth in SOW. As to Experience Kissimmee, notice shall be sent to the address or email addresses set forth in this section, below. If emailed, the notice shall be deemed received on the same day if the sending party receives no notice of delivery failure and the email is coupled with a copy sent via U.S. Postal Service, 1st class postage pre-paid. If only mailed, the notice must be sent certified mail, return receipt and shall be deemed received three business days after mailing. If sent via third party overnight courier, signature must be required upon receipt and the notice shall be deemed received on the date signed for. Notice to Experience Kissimmee must be sent to (unless otherwise specified by Experience Kissimmee):

Osceola Convention and Visitors Bureau, Inc.
d/b/a Experience Kissimmee
Attn: Melissa Vallejo, Sr. Manager of Operations & Community Engagement
215 Celebration Place
Suite 200
Celebration, Florida 34747
Email: MVallejo@experiencekissimmee.com

- g) The laws of the State of Florida govern this agreement without application of Florida's conflicts of laws, rules and doctrines. Any suit arising from this agreement shall be filed exclusively in the Ninth Judicial Circuit Court in and for Kissimmee, Florida, or in the United States District Court for the Middle District of Florida, Orlando Division should such court have jurisdiction. The parties stipulate that venue and personal jurisdiction are proper in such courts and waive any argument of *forum non conveniens*.
- h) **THE PARTIES WAIVE AND RELINQUISH ANY RIGHT TO A TRIAL BY JURY.** In the event of litigation or legal process arising from or related to this agreement, Experience Kissimmee and Organization expressly submit and consent to a "bench" trial.
- i) In the event of litigation arising from or related to this agreement, the prevailing party shall be entitled to recover from the other, attorneys' fees, paralegal fees and costs through all appeals.
- j) If any portion of this agreement is declared invalid by any law, order, decree or judgment of a court having jurisdiction over the parties and/or the subject matter, this agreement will be construed as if such portion is deleted from this agreement.
- k) The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

- l) This agreement may be executed in counterparts, each of which is deemed an original. Delivery of an executed counterpart of a signature page to this agreement by facsimile or electronic scan and email shall be as effective as delivery of the originally executed signature page.
- m) The failure of Experience Kissimmee to insist upon the strict performance of any term of this agreement, or Experience Kissimmee's failure or refusal to exercise any option, right or remedy contained herein, will not be construed as a waiver or relinquishment for the future of such term, option, right or remedy. Rather, such term, option, right, or remedy will continue and remain in full force and effect. There will be no waiver by Experience Kissimmee unless explicitly set forth in writing and signed by Experience Kissimmee.

* * *

Statement of Work

Additional Terms not Contained in the Agreement:

I. ORGANIZATION OBLIGATIONS.

- A. The Organization will develop a one (1) year marketing and advertising plan to include, but not limited to print and online advertising to attract visitors to Osceola County. The plan will be presented to the EK President/CEO for approval within thirty (30) days of the execution date of this Agreement.
- B. The Organization's website, www.flykissimmee.com, shall prominently feature the EK logo on the home page with text inviting web viewers to visit www.ExperienceKissimmee.com for additional information and lodging reservations.
- C. All marketing and advertisements shall be approved by EK prior to insertion.
- D. The Organization will seek to demonstrate a Return on Investment (ROI) for advertising funded by EK to include but not limited to:
 - 1. A monthly report detailing the approximate number of Osceola County room nights booked by businesses located at the Organization for its transient customers and clients. This measurement will by no means capture the true number of the Organization users choosing to stay in Osceola County hotels as many users will book rooms on their own prior to traveling to Osceola County.
 - 2. A report of the monthly visits to the Organization's website attributable to the advertising displayed at the Organization or on its website, and the total monthly "click-thrus" from the Organization website to the EK website.
- E. The Organization will provide a copy of all expenses incurred for marketing, advertising and advertisement development.
- F. The Organization will give Experience Kissimmee the option of participating in monthly marketing conference calls to gain better synergy on marketing efforts.
- G. The Organization will give Experience Kissimmee the option of attending the Organization's After-Hours Events.

II. EXPERIENCE KISSIMMEE OBLIGATIONS.

- A. Experience Kissimmee will assist the Organization by hosting educational and informational sessions for airport tenants regarding the purpose of Tourist Development Tax, the importance of data collection and destination education.
- B. Experience Kissimmee will include Organization information on www.ExperienceKissimmee.com, related Experience Kissimmee websites and collateral distributed to visitors as deemed appropriate by Experience Kissimmee.

ITEM 7.F

Transient Aircraft Landing Fee Process Agreement With Vector Airport Systems, LLC

Request

Request approval of contract # 20250010 with Vector Airport Systems, LLC to identify, invoice and collect transient aircraft landing fees on behalf of the Kissimmee Gateway Airport at a cost of 15% of landing fees collected for three years.

Explanation

Vector has designed a software program, PLANEPASS tailored to assist managing the Kissimmee Gateway Airport's collection of revenues. The program will assist in identifying transient aircraft (eliminating the exempt aircraft), invoicing and collecting the revenues providing efficiency and saving staff time. The agreement initial term is three (3) years with a two (2) one-year renewal option. Vector will charge 15% of all landing fees collected.

Recommendation

Approval to award and enter into a transient aircraft landing fee process agreement with Vector Airport Systems, LLC at a cost of 15% of landing fees collected for three years.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Airport

Presenter:

Attachment(s):

1. (S) - Vector-ISM_Draft Agreement_Vector Executed

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
VECTOR AIRPORT SYSTEMS, LLC &
CITY OF KISSIMMEE FOR KISSIMMEE GATEWAY AIRPORT (ISM)

Agreement Name: *PLANEPASS® Automated Aircraft Fee Billing & Collections Solution*

This agreement ("AGREEMENT"), dated as of _____, ____ ("Execution Date"), is by and between the City of Kissimmee for Kissimmee Gateway Airport (ISM), (hereinafter "CLIENT"), and Vector Airport Systems, LLC (hereinafter "CONTRACTOR"). The CLIENT shall be defined as the client airport(s) and their governing municipality.

RECITALS

- I. WHEREAS, CONTRACTOR represents that it is a duly qualified provider of various products and services including PLANEPASS® aircraft operating fee billing & collection services, and
- II. WHEREAS, in the judgment of the CLIENT, it is necessary and desirable to employ the services of CONTRACTOR for the performance of aircraft operating fee billing & collection services.
- III. NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1. Term of Agreement:

- 1.1. The term of this Agreement shall commence as of the COMMENCEMENT DATE set forth below and shall continue thereafter for a period of (3) three years (the "Initial Term"). CLIENT shall have the option to renew the AGREEMENT annually on the anniversary of the COMMENCEMENT DATE for two (2) one-year Option Year(s). The Term shall continue and automatically renew for successive one (1) year terms, each ("Successive Term") without further act or instrument, unless either party provides notice per Section 2.3. All terms, conditions, and fees of this AGREEMENT continue unchanged during the Option Year(s) and Successive Term(s).
- 1.2. The COMMENCEMENT DATE is October 1, 2024.

2. Termination

- 2.1. **Termination for Convenience:** Neither party may terminate this AGREEMENT for convenience without the consent of the other party for a period of one (1) following the COMMENCEMENT DATE. After one (1) from COMMENCEMENT DATE has elapsed, either party may terminate this

AGREEMENT for convenience by providing written to the contacts listed in Section 7 no less than sixty (60) calendar days prior to the requested termination date.

2.2. Termination for Cause: Notwithstanding any other provision of this AGREEMENT --

Should CONTRACTOR fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this AGREEMENT, CLIENT must:

- First, notify CONTRACTOR of violation of obligations and give CONTRACTOR 30 calendar days to cure this violation.
- Second, if CONTRACTOR fails to cure the violation within 30 calendar days of receiving notification from CLIENT, CLIENT may immediately terminate this AGREEMENT by giving CONTRACTOR written notice of such termination, stating the reason for termination.

Should CLIENT fail to perform its obligations under this AGREEMENT, including failing to pay CONTRACTOR in accordance with this AGREEMENT, or otherwise violates any of the terms of this AGREEMENT, CONTRACTOR must:

- First, notify CLIENT of violation of obligations and give CLIENT 30 calendar days to cure this violation.
- Second, if CLIENT fails to cure the violation within 30 calendar days of receiving notification from CONTRACTOR, CONTRACTOR may immediately terminate this AGREEMENT by giving CLIENT written notice of such termination, stating the reason for termination.

2.3. Termination for AGREEMENT Expiration: If, upon the expiration of this AGREEMENT, the CLIENT or CONTRACTOR elect not to continue this AGREEMENT (either by extension of agreement period or entering into a new agreement for similar products, services, or solutions), either CONTRACTOR or CLIENT may notify the other party in writing of intent to not continue this AGREEMENT. Notice must be given 60 days prior to the anniversary of the COMMENCEMENT DATE. In the case of such notification, the following provisions will also apply in this case as well as for Termination for Cause.

2.4. Delivery of Work Product and Final Payment Upon Termination: In the event of termination, CONTRACTOR, within 30 days following the date of termination, shall deliver to CLIENT:

- For PLANEPASS®: All standard reports pertaining to unpaid balances and to any amounts paid into CONTRACTOR and unpaid yet to CLIENT.

2.5. Payment Upon Termination: Upon termination of this AGREEMENT by CLIENT, CONTRACTOR shall be entitled to payment for all contracted services unpaid and due before the effective date of termination. Payment shall be made by CLIENT within 30 days of a written invoice from CONTRACTOR.

2.6. Service Wind-Down Period: Should the AGREEMENT be terminated for any reason, including expiration of the AGREEMENT Term prior the Parties agreeing to continue the same or similar services, the following Service Wind-Down Period and provisions shall apply:

- CONTRACTOR will remit to CLIENT all aircraft operating fees collected up to the point of termination, less the CONTRACTOR Billing & Collection Fees specified in this AGREEMENT.
- CONTRACTOR will produce aircraft operating fee invoices for any time period through the termination date as-yet not invoiced, ideally a full calendar month per the normal process. This final invoice period will be the last period of aircraft operating fee invoices. No further regular cycle invoices will be produced. Out of Cycle invoices for this or prior periods may still be produced as necessary to correct any billing errors discovered through the customer service process.
- CONTRACTOR will continue customer service, payment processing, active collections, reporting, and remittance for four calendar month periods after the AGREEMENT termination effective date. Four months are recommended to maximize collections for previously invoiced periods. CONTRACTOR's ongoing fee for *PLANEPASS*® Billing & Collection service stated in Section 4.2 will apply to amounts collected during the four-month period after termination date.
- After the above indicated service continuation period has ended, CONTRACTOR will discontinue all customer service and collection efforts and will refer all customer service calls to the CLIENT. Because some aircraft operators may not comply with CONTRACTOR's instructions to pay CLIENT directly after continuation period has ended, CONTRACTOR will continue to passively allow payments to be made to its lockbox and will continue to report and remit these payments to the CLIENT on a monthly basis.

3. Scope of Work

- 3.1. **CONTRACTOR's Specified Work:** CONTRACTOR shall perform the services described in EXHIBIT A, attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in EXHIBIT A.
- 3.2. **Cooperation with CLIENT:** CONTRACTOR shall cooperate with CLIENT and CLIENT staff in the performance of the Scope of Work hereunder.
- 3.3. **Cooperation by CLIENT:** CLIENT shall cooperate with CONTRACTOR and CONTRACTOR's staff in performance of the Scope of Work hereunder.
- 3.4. **Performance Standard:** CONTRACTOR shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in CONTRACTOR's profession. CLIENT has relied upon the professional ability and training of CONTRACTOR as a material inducement to enter into this AGREEMENT. CONTRACTOR hereby agrees to provide all services under this AGREEMENT in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws.

4. **Compensable Products and Services:** CONTRACTOR shall be compensated for all goods sold and services performed pursuant to this AGREEMENT according to the following:
- 4.1. **Equipment:** As of Execution Date, the contracted solution does not require CLIENT to purchase equipment. CONTRACTOR may have a transponder receiver installed at the CLIENT's location at CONTRACTOR's discretion. If future changes in scope require equipment purchase, the purchase and payment terms will be governed by an amendment to this AGREEMENT, or a separate agreement or purchase order.
- 4.2. **PLANEPASS® Billing & Collection:** CONTRACTOR'S ongoing service fee activity is 15%* of amounts collected under the terms of this AGREEMENT. CONTRACTOR'S fee is paid out of collections on behalf of CLIENT at the time of transfer of the "balance of collections" to CLIENT.
**Discount has been applied.*
- 4.2.1. The "balance of collections" is defined as total net collections on behalf of CLIENT in a monthly collection cycle less the PLANEPASS® Billing & Collection fee, stated above.
- 4.2.2. The transfer of the "balance of collections" and CONTRACTOR's fee will occur monthly by the 10th business day.
- 4.3. **System Operation:** Operations, Processing, Monitoring, & Maintenance (OPM&M) is included in above PLANEPASS® Billing & Collection and not priced separately.
5. **Payment Terms:** For all services and incidental costs required hereunder, CONTRACTOR shall be paid in accordance with the following terms:
- 5.1. **PLANEPASS® Billing & Collection:** CONTRACTOR's fee is retained by CONTRACTOR from collection proceeds, transferred from collections account at the time of monthly disbursement to CLIENT following each monthly collection period.
6. **Insurance:** With respect to performance of work under this AGREEMENT, CONTRACTOR shall maintain insurance with the minimum policy limits as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*.

Type of Coverage	Policy Limits
Worker's Compensation	\$1,000,000
Commercial General Liability	\$1M per occurrence, \$2M aggregate
Business Auto Liability	\$1,000,000

CONTRACTOR shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. **Notice:** All notices, demands, requests or approvals to be given under this AGREEMENT, shall be given in writing and conclusively shall be deemed served when delivered personally or on the third business day after deposit in the United States mail, postage prepaid, registered or certified, addressed as follows:

7.1. All notices, demands, requests or approvals from CONTRACTOR to CLIENT shall be addressed to:

7.2. All notices, demands, requests or approvals from CLIENT to CONTRACTOR shall be addressed to:

Peter Coleton, President
Vector Airport Systems
280 Sunset Park Drive
Herndon, VA 20170

8. **Independent Parties:** The parties to this AGREEMENT will act in their independent capacities and not as agents, employees, or partners of one another. CLIENT, its officers, and employees shall have no control or direction over CONTRACTOR or any of CONTRACTOR's agents, employees, or subcontractors, except as otherwise provided herein.

9. **Integrated Contract:** This AGREEMENT represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modifications of this AGREEMENT will be effective only by written execution signed by both CLIENT and CONTRACTOR and approved as to form by CLIENT's Attorney.

10. **Authority of Executor:** The person executing AGREEMENT on behalf of CLIENT certifies and represents that he/she has authority and power to bind CLIENT to the obligations set forth herein and to sign on its behalf.

11. **Waiver:** A waiver by either party to this AGREEMENT of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein.

12. **Successors in Interest:** All terms and conditions of this AGREEMENT shall be binding upon and inure to the benefit of any successors in interest to the parties hereto. This clause shall not be deemed as a waiver of any prohibitions or conditions against assignment.

13. **Indemnification:** CONTRACTOR to CLIENT: The CONTRACTOR shall indemnify and hold harmless the CLIENT, its officers, employees, agents and contractors from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this AGREEMENT.

CLIENT to CONTRACTOR: To the extent allowed by the Laws of the state of Florida, the CLIENT hereby agrees to indemnify, defend, save, and hold harmless the CONTRACTOR from all claims, demands, liabilities, and suits arising out of or due to unlawful or otherwise impermissible directives given by the CLIENT, its agents or employees to the CONTRACTOR in the performance of this AGREEMENT. These terms shall not be construed to waive any statutory rights provided to the CLIENT.

14. **No Personal Liability:** No member, director, or officer or employee of either party shall be personally liable for the performance of either party's obligations under this AGREEMENT or on account of any breach thereof or because of its execution or attempted execution.

15. **Limitation of Liability:** CONTRACTOR's total liability for any and all injuries, claims, losses, expenses, or damages whatsoever, including attorney's fees, arising out of or in any way related to the CONTRACTOR's work or this AGREEMENT from any cause or causes, including but not limited to CONTRACTOR's errors, omissions, negligence, strict liability, and breach of contract, shall not exceed two million dollars (\$2,000,000.00) or the total amount paid to CONTRACTOR by CLIENT under this AGREEMENT within the previous twelve (12) months, whichever is lesser.

16. **Work for Hire:** CONTRACTOR retains ownership and all intellectual property, trademark and patent rights associated with any and all processes or materials, tangible or intangible, used in the provision of services under this AGREEMENT. Such materials include but are not limited to: concepts, ideas, techniques, data, databases, software, customer lists, materials, and specifications.

17. **Severability:** If any provision of this AGREEMENT, or the application thereof, to any person or circumstances shall to any extent be held invalid or unenforceable, the remainder of this AGREEMENT, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby, and each term and provision of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law unless one or both parties would be substantially and materially prejudiced.

18. **Governing Law and Venue:** This AGREEMENT shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia. The courts of Virginia shall have exclusive jurisdiction to hear any claim between the CONTRACTOR and the CLIENT in connection with the AGREEMENT. Prior to filing any claim or action related to this AGREEMENT, the parties may, but shall

not be obligated to, submit such claim or action to non-binding mediation before a mediator mutually agreeable to the parties. The parties shall share equally in the costs of mediation.

19. **Force Majeure:** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of insurrection, war, fire or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this AGREEMENT, then performance of such act shall be excused for the period of the actual delay attributable to such causes, and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an “Unavoidable Delay”). This Section shall not be applicable to the CONTRACTOR's obligations to procure insurance or to pay any Payments or any other sums, moneys, costs, charges or expenses required to be paid by the CONTRACTOR hereunder. If any provision of this AGREEMENT negates or limits the period of any force majeure extension, such provision shall override this Section. The CONTRACTOR shall not be entitled to an extension for any Unavoidable Delay unless the CONTRACTOR has given the CLIENT notice of the delay within a reasonable time following the occurrence of the delaying event.
20. **Nondiscrimination:** Without limiting any other provision hereunder, CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations regarding nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the CLIENT’s Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this AGREEMENT are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the Effective Date.

[signature page to follow]

VECTOR: Vector Airport Systems, LLC

By: Patrick Hanney

Title: Director of Finance & Administration

Name: Patrick Hanney

Date: September 6, 2024

CLIENT: City of Kissimmee, Florida

By: _____

Title: _____

Name: _____

Date: _____

EXHIBIT A - Scope of Work (“WORK”)

CONTRACTOR shall:

Provide the *PLANEPASS*® billing & collection service to manage the fees designated by the CLIENT:

- Federal Aviation Regulations (“FAR”) Part 91 Landing Fees
- Federal Aviation Regulations (“FAR”) Part 121 Landing Fees
- Federal Aviation Regulations (“FAR”) Part 135 Landing Fees
- To modify the fees billed under this AGREEMENT, CLIENT must complete and submit a Change Order, provided in EXHIBIT D, to CONTRACTOR. This request must be made by an authorized representative of the CLIENT.
 - CONTRACTOR must agree that other fees implemented do not materially change the Scope of Work required to provide *PLANEPASS*® service. Any proposed adjustments detailed in a Change Order are not considered accepted or effective until an authorized representative of the CONTRACTOR has signed and executed the Change Order.
 - Fee adjustments that require material changes to Scope of Work may require renegotiation and an amendment to the CONTRACTOR’S fee stated in Section 4.2 of this AGREEMENT.

Provide overall project management for each of the components listed, from procurement through, and including, training.

1. **PLANEPASS® Billing & Collection Service:** Utilize *PLANEPASS*® service and billing engine to identify billable aircraft operations, as defined by the CLIENT, and track exempt aircraft, billable weights, and operations types (e.g., arrivals and departures).
 - 1.1. Provide exemptions for CLIENT-designated aircraft via batch upload from Excel spreadsheet(s). During the billing process, aircraft listed as exempt, and those under a specified weight, will be removed automatically from the billable activities to be invoiced.
 - 1.2. Coordinate with CLIENT staff to ensure that invoices generated on behalf of the CLIENT are consistent with the CLIENT’s existing billing rate and policies. Provide electronic access to CONTRACTOR’s Customer Portal in order to allow CLIENT customers to receive electronic invoices. All other invoices will be printed, sorted and mailed to customers by CONTRACTOR.
 - 1.3. Provide secure payment portal where aircraft operators can login to their account(s) to check billing status, print and review bills, and submit payment online.
 - 1.4. Maintain *PLANEPASS*® automated billing services including: billing, customer support, collection of fees, and reporting.
 - 1.5. Enable web-based access by CLIENT staff to collected data using Airport Portal. Data must be available to download into commercial off-the-shelf software program (Excel).
 - 1.6. Provide collection system that automatically credits accounts for payments received, calculates operator balances, and tracks accounts receivable balances.
 - 1.7. Process check payments through a secure bank lockbox service with proper and auditable cash controls. At the close of the month, provide a Collection Report for approval and electronically transfer collected funds to the CLIENT in accordance with the CONTRACTOR service fee agreement outlined in the pricing section herein.

1.8. Provide ongoing client and user support.

CLIENT shall:

1. CLIENT Obligations:

1.1. **CLIENT Obligations - General:** CLIENT shall be obligated to use its best efforts to perform or provide the following:

- 1.1.1. **Provide Information:** CLIENT shall make available to CONTRACTOR any documents, data, or information necessary for CONTRACTOR to plan and provide the services described in this AGREEMENT, and that are within CLIENT's possession or control and are not privileged or subject to privacy protections. Examples of this data might be aircraft fee rates, collections records, based aircraft lists, etc.
- 1.1.2. **Point of Contact:** CLIENT shall designate a representative authorized to act on behalf of CLIENT for the duration of this AGREEMENT.
- 1.1.3. **Timely Response:** CLIENT shall, within a reasonable time, examine documentation, correspondence, invoices, and statements submitted to CLIENT for review by CONTRACTOR and respond as necessary within a reasonable time.

1.2. CLIENT Obligations - *PLANEPASS*®

- 1.2.1. **Financial Point of Contact:** CLIENT shall designate a representative authorized to act on behalf of CLIENT for the duration of this AGREEMENT in the capacity of reviewing *PLANEPASS*® financial reports and interfacing with CONTRACTOR's *PLANEPASS*® team from time to time on issues such as based aircraft lists, fee rate updates, airport fee policies, and exemption requests.
- 1.2.2. **Exemption List:** CLIENT will provide CONTRACTOR with a list of aircraft designated as exempt (the "exemption list") from the fee types managed by CONTRACTOR. CLIENT will provide updates to the exemption list on a monthly basis via email to datainput@vector-us.com CLIENT shall not bill "exempt" aircraft included on the exemption list for fee types managed by CONTRACTOR. "Exempt" is understood to mean not billed by any party.
- 1.1.1. **Payments Received by CLIENT:** CLIENT shall not accept payments for fees invoiced by CONTRACTOR. To ensure proper accounting, if CLIENT receives a payment on-site or electronically for an invoice generated by CONTRACTOR, CLIENT will inform CONTRACTOR via email to billing@vector-us.com. CLIENT will either refund payment directly to the payor, remit the funds to CONTRACTOR, or retain the funds with the implied understanding that the payment will be listed on the relevant monthly Collection Report and is subject to CONTRACTOR's service fee.
- 1.2.3. **Fee Types Managed by CONTRACTOR:** The specific aircraft operating fee types placed under CONTRACTOR's management via this AGREEMENT served as an inducement for CONTRACTOR to enter into this AGREEMENT and were integral in determining CONTRACTOR's fee for professional services. If during the Term or any Option Year CLIENT wishes to remove a fee type from CONTRACTOR's management, CLIENT shall request CONTRACTOR provide an opinion as to whether the removal materially alters the Scope of Work of this AGREEMENT. If in the judgement of CONTRACTOR, the requested change does constitute a material alteration in Scope, the parties shall engage in good-faith negotiations

regarding an amendment to CONTRACTOR's service fee. If the parties are unable to produce a mutually acceptable amendment, CONTRACTOR reserves the right to terminate this AGREEMENT for convenience by providing 90 days' notice.

1.2.4. **Airport Policy:** CLIENT shall be responsible for setting CLIENT policy as it pertains to aircraft fee billing, including but not limited to fee structures, types of aircraft activities deemed billable, and other matters that may involve CONTRACTOR's Work in the performance of this AGREEMENT. CONTRACTOR accepts no responsibility and expresses no opinion as to the legality of aircraft fee billing policies instituted by the CLIENT. The CLIENT is responsible for communicating these policies to the appropriate CLIENT stakeholders including the flying community.

1.2.4.1. **Fee Changes:** All fee changes, including but not limited to rates and billing rules, must be submitted via a Change Order, provided in EXHIBIT D, to officemanager@vector-us.com at least forty-five (45) calendar days prior to implementation. The Change Order will undergo review for approval and must be executed by an authorized representative of CONTRACTOR before any fee changes are considered accepted and can be implemented.

1.2.5. **Authorization to Bill & Authorization to Collect Documentation:** CLIENT shall provide to CONTRACTOR within thirty (30) calendar days of AGREEMENT execution an "Authorization to Bill & Collect" letter with materially similar form and content to the example provided in EXHIBIT B. The letter must be provided on the official letterhead of the CLIENT and signed by an authorized representative of the CLIENT.

CLIENT shall provide to CONTRACTOR within thirty (30) calendar days of AGREEMENT execution an "Authorization to Collect" letter with materially similar form and content to the example provided in EXHIBIT C. The letter must be provided on the official letterhead of the CLIENT and signed by an authorized representative of the CLIENT.

1.2.5.1. No later than thirty (30) days following the COMMENCEMENT DATE, CLIENT will provide the "Authorization to Bill & Collect" letter on the webpage where fee information is displayed for public view. CLIENT may either provide a link to the letter in PDF form or post the content of the Letter itself on the fee page.

1.2.5.2. No later than thirty (30) days following the COMMENCEMENT DATE, CLIENT will provide a link to CONTRACTOR's secure payment portal on the webpage where fee information is displayed for public view. The link shall include the following information in materially similar form and content:

Vector offers a self-service web portal for convenient online payments and account management at <https://payment.PLANEPASS.com>. The portal* allows aircraft operators to:

- 1) Update contact information, including email or postal mail addresses
- 2) Process credit card payments
- 3) Enroll in electronic invoicing

4) View account history

5) Request copies of invoices via email or download Excel-formatted invoices

**The portal login is based on Vector invoice number and Vector operator ID*

EXHIBIT B – Authorization to Bill Letter

DATE

Dear Kissimmee Gateway Airport Community,

Effective DATE, Vector Airport Systems (“Vector”) assumed the billing and collection of landing fees on behalf of Kissimmee Gateway Airport (ISM). {If applicable: For all operations occurring until midnight on DATE, Kissimmee Gateway Airport will bill and continue to collect landing fees for commercial and/or general aviation flight activity.)

“Landing fees” is a commonly used term that refers to aircraft operating fees. Landing fees for ISM are currently charged using the time of departure/arrival {choose one}. Please be aware that touch-and-go operations are considered departures/arrivals and thus are billed.

Vector will assess and bill fees in accordance with the Airport’s established Landing Fee schedule located at: _____. [The Airport should insert a web hyperlink to the City/County website stating the established fee] Please note that landing fees are calculated using the aircraft’s FAA-certified MTOW/MLW {Choose one}.

Vector transmits a monthly invoice to an aircraft’s registered owner or managing entity after the conclusion of each monthly billing cycle. Vector offers a self-service web portal for convenient online payments and account management at <https://payment.planepass.com>.

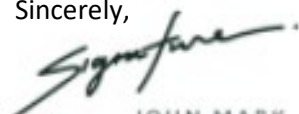
- **Vector’s self-service web portal* allows aircraft operators to:**
 - 1) Update contact information, including email or postal mail addresses
 - 2) Process credit card payments
 - 3) Enroll in electronic invoicing
 - 4) View account history
 - 5) Request copies of invoices via email or download Excel-formatted invoices

**The portal login is based on Vector invoice number and Vector operator ID*

For billing questions or concerns, please contact Vector’s PLANEPASS® billing service team at billing@vector-us.com or (888) 588-0028 Option 01 or x700.

The Airport’s Administration Office staff may also be reached [insert email].

Sincerely,


JOHN MARK
CEO

[insert signature - preferably a cursive version of your wet signature]

EXHIBIT C – Authorization to Collect Letter

DATE

Dear Kissimmee Gateway Airport Aircraft Operator,

Since DATE, Vector Airport Systems (“Vector”) has managed the billing and collection of landing fees on behalf of Kissimmee Gateway Airport (ISM). Vector is authorized to collect balances due on the Airport’s behalf.

Kissimmee Gateway Airport (ISM) is aware of the outstanding balance owed on your account. Please remit payment to Vector immediately. The Airport does not accept payments directly. Further action may be taken if payment is not made in the next 10 business days.

I. **How To Pay:** Vector offers multiple payment methods:

- For check or EFT payments, please use the following information:

Account Name:	Vector PLANEPASS® - US Airports
Lockbox Address:	
Account Number:	
Bank Name:	
Bank ABA Routing Number:	
International Wire Number*:	
SWIFT Code	

- For credit card payments, please visit Vector’s PLANEPASS® Payment Portal:
<https://payment.planepass.com>

II. **Billing Concerns & Account Management with Activity Details:**

Vector’s PLANEPASS® Payment Portal (<https://payment.planepass.com>)* allows aircraft operators to:

- 1) Make credit card payments
- 2) Update account information including email and postal mail addresses
- 3) View airport fee structures, Authorization to Bill letters, and W9s
- 4) Enroll in electronic invoicing
- 5) View account history
- 6) View and download invoices as .csv files for use in MS Excel

**The portal login is based on your Vector invoice number and Vector operator ID.*

III. **Landing fees:** Landing fees for Airport ISM are based upon arrival/DEPARTURE and are not an arrival/DEPARTURE fee. Vector assesses and bills these fees in accordance with the established landing fee structure located at: [insert link to proper Airport webpage]

If you have questions unrelated to billing, you may contact the Airport’s Administration Office staff at [insert email] and [phone number]. You may contact Vector’s PLANEPASS® billing service team at billing@vector-us.com or (888) 588-0028 Option 01 or x700.

Sincerely,

[insert personalized signature – this should be your unique personalized signature like this one:]


JOHN MARK
CEO

SAMPLE

EXHIBIT D – CHANGE ORDER FORM

CHANGE ORDER

REQUESTED BY:

Client Name _____
Address _____

Requestor Name: _____
Requestor Phone: _____
Requestor Email: _____

Change Order No. _____
Date of Request _____

CONTRACTOR:



Address 280 Sunset Park Dr
Herndon, VA 20170

Phone Number (703) 817-7777

Email To: officemanager@vector-us.com

Description of Change	Reason For Change	Requested Effective Date

APPROVED BY:

THIS CHANGE ORDER IS NOT CONSIDERED ACCEPTED OR EFFECTIVE UNTIL EXECUTED BY AUTHORIZED REPRESENTATIVES OF BOTH THE REQUESTOR AND CONTRACTOR BELOW.

Change Orders must be submitted to officemanager@vector-us.com at least forty-five (45) calendar days prior to requested effective date.

AUTHORIZED REQUESTOR NAME

AUTHORIZED CONTRACTOR NAME

AUTHORIZED REQUESTOR SIGNATURE

AUTHORIZED CONTRACTOR SIGNATURE

DATE OF ACCEPTANCE

DATE OF ACCEPTANCE

ITEM 7.G

Authorization to purchase the annual city vehicle requirements for FY2024-25

Request

This request is for authorization to purchase the FY 2024-25 City vehicle requirements from the State Contract, Sheriff's Contract, Cooperative Purchasing Contracts or the City bid, whichever is most cost-effective, considering the requirements of the departments.

Explanation

The City has 46 units in the budget this year at a budgeted cost of \$2,259,400. Included in this total are 21 vehicles for the Police Department at a cost of \$1,074,300. Standard procedure is to identify the pricing for those vehicles planned for purchase using the State and Sheriff's Association and Cooperative Purchasing contracts, and then solicit bids from local dealers to match or beat the State contract pricing.

Recommendation

Staff recommends approval to purchase the City vehicle requirements from the State Contract, Sheriff's Contract, Cooperative Purchasing Contracts or City bid, whichever is the most cost effective, considering the needs of each Department.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Finance

Presenter:

Attachment(s):

None

ITEM 7.H

Bid Award for West Oak Street at John Young Parkway Intersection Improvement Project

Request

Approval to award the bid for the construction of the West Oak Street at John Young Parkway Intersection Improvement to Atlantic Civil (contract # 20250015), in the amount of \$3,341,153.31. This project will be funded by the Florida Department of Transportation (FDOT) and the City of Kissimmee local fund, FIN 434916-1-58-01.

Explanation

Through the City's participation in MetroPlan Orlando, the City has been able to secure funding from the FDOT through a LAP agreement for the construction of the West Oak St at John Young Parkway Intersection Improvements project in the amount of \$3,225,923 and the City was able to secure local funding in the amount of \$115,231 to cover the rest of the construction cost of the project.

The project location is at the intersection of West Oak Street and John Young Parkway (State Road 600 / US 17 / US 92) in the City of Kissimmee. The project limits along West Oak Street begin approximately 662 feet west of John Young Parkway and end at approximately 607 feet east of John Young Parkway. Improvements include widening West Oak Street to provide continuous through lanes along Oak Street, from the westbound and eastbound directions at the John Young Parkway intersection.

The project will also include new asphalt pavement, signalization, lighting, drainage improvements, curb and gutter, traffic separators, sidewalks, gravity wall, guiderail/handrail, driveway reconstruction, detectable warning surfaces, signing and pavement markings, and landscaping. All pedestrian features shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required. All work will be constructed within the existing or acquired right of way.

The project was advertised on Sunday, May 8, 2024. No contractors attended the non-mandatory pre-bid meeting held on May 13, 2024. One contractor submitted a bid for the construction of the West Oak Street at John Young Parkway Intersection Improvement Project. Bids were opened on June 10, 2024, at 2:00 p.m. EST, Bid # IFB2024-006, with the following results:

Contractor/Duration (Days):

Atlantic Civil Contractors Corp / 388 days – Base Bid Total: \$3,341,153.31

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
15145656-506393	PW2219	Decrease	\$3,390,401	\$3,341,153.31

Financial Summary:

City of Kissimmee

The project is fully funded by FDOT and the City of Kissimmee.

Recommendation

Approval to award the bid for the construction of the West Oak Street at John Young Parkway Intersection Improvement to Atlantic Civil, in the amount of \$3,341,153.31.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Contractor's Contract
2. Notice of Intent to Award

CONTRACT

This Contract, entered into this ____ day of _____, 2024, by and between the City of Kissimmee, Florida, a Municipal Corporation of the State of Florida hereinafter called the Owner, and Atlantic Civil Constructors Corp., hereinafter called the Contractor.

Witnesseth: That the Owner agrees with the Contractor, as follows:

1. The Contract shall consist of the following, all of which are hereby made a part hereof.
 - (a) Advertisement for Bids
 - (b) Instructions to Bidders
 - (c) General Conditions and Special Provisions
 - (d) Construction Plans Titled; West Oak Street Intersection Improvements at John Young Parkway
 - (e) Specifications and Addenda Nos. _____ 0 _____
 - (f) Bid Summary
 - (g) Contract
 - (h) FDOT Standard Specifications for Road & Bridge Construction, July 2023 edition
 - (i) Public Construction Bond
 - (j) Appendix A and B
2. The Contractor agrees to furnish all materials and perform all work to complete the construction of the West Oak Street Intersection Improvements at John Young Parkway project, as set forth in the component parts of the Contract hereinbefore described, and to the satisfaction of the Owner or his duly authorized representative.
3. Contractor agrees to commence the work to be done under this contract on the date to be specified in the NOTICE TO PROCEED and agrees to complete said work the identified calendar days from and after said date as submitted in the bid.
4. The Owner agrees to pay the Contractor for the faithful performance under this Contract, subject to any additions and deductions as herein provided, the approximate amount of three million three hundred forty one thousand one hundred fifty three 31/100 Dollars (\$3,341,153.31) based on the estimated quantities and unit or lump sum prices contained herein.
5. Liquidated damages will be assessed in amounts presented in the Liquidated damages section of the SPECIAL PROVISIONS.
6. The contract time is 388 calendar days following issuance of the Notice to Proceed as specified in the SPECIAL PROVISIONS.
7. Time is of the essence.
8. Insurance Provisions: The successful bidder will have in force the following insurance coverage and will provide Certificates of Insurance with the contract.

- A) Workers' Compensation: The Contractor will provide Workers' Compensation coverage for all employees at the site location and, in case any work is subcontracted, will require the subcontractor to provide Workers' Compensation for all his employees. The limits will be statutory for Workers' Compensation and \$300,000.00 for Employers' Liability.
Insurance Company Name: Bitco General Insurance Corp
Address 3700 Market Square Circle, Davenport, IA 52807
Telephone Number 800-822-2905
- B) Comprehensive General Liability: The Contractor will provide all operations including, but not limited to Contractual, and Products and Completed Operations. The limits will be not less than \$1,000,000.00.
Insurance Company Name: Bitco General Insurance Corp
Address 3700 Market Square Circle, Davenport, IA 52807
Telephone Number 800-822-2905
- C) Comprehensive Automobile Liability: The Contractor will provide for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
Insurance Company Name: Bitco General Insurance Corp
Address 3700 Market Square Circle, Davenport, IA 52807
Telephone Number 800-822-2905
- D) The Contractor will provide an umbrella in excess to the coverage in paragraphs B) and C) of not less than \$1,000,000.00.
Insurance Company Name: Bitco General Insurance Corp
Address 3700 Market Square Circle, Davenport, IA 52807
Telephone Number 800-822-2905

Certificates of Insurance acceptable to the Owner shall be filed with the Owner with the contract. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

The City of Kissimmee shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the State of Florida, Department of Transportation to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

9. Indemnification. To the extent permitted by law, Contractor shall indemnify, defend, and hold harmless the City of Kissimmee and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Contractor, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Contractor. The foregoing indemnification shall not constitute a waiver of the Department's or City of Kissimmee's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by Contractor to indemnify the City of Kissimmee for the negligent act(s) or omissions of the City of Kissimmee, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by Contractor to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement.
10. Attorney Fees, Venue, Jury Trial: Venue of all actions shall lie in Osceola County, Florida. Each party waives the right to a jury trial. Each party agrees that the prevailing party shall be entitled to reimbursement of reasonable attorney fees, including court costs, from the opposing party. For the purpose of this agreement, reasonable Attorney fees of the City Attorney shall be based on the fees regularly charged by a private Attorney with an equivalent number of years of professional experience who practice in Orange and Osceola County, Florida.
11. Inspector General: The parties agree to comply with s. 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s. 20.055(5), Florida Statutes.

IN WITNESS WHEREOF the Parties hereto have executed this Contract in **FOUR** counterparts, each of which shall be, without proof or accounting for the other counterparts, deemed an original Contract.

CITY:

CITY OF KISSIMMEE

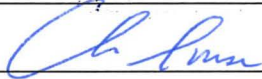
BY: _____
Mayor

ATTEST:

City Clerk
(SEAL)

CONSTRUCTION COMPANY:

Atlantic Civil Constructors Corp

BY: 

ATTEST: 

(SEAL)

Approved as to Form and Legality:

BY: _____
City Attorney



PURCHASING OFFICE
101 CHURCH STREET KISSIMMEE,
FL 34741

NOTICE OF INTENDED ACTION

Date: July 1, 2024
To: All Submitters on Record
Issued By: Debbie Luke, Purchasing Coordinator
Subject: IFB2024-006 West Oak Street Intersection Improvements

The Public Works/Engineering Department has completed their review and evaluation for the above referenced solicitation. The Purchasing Division hereby provides notice that the recommendation is to award this solicitation to Atlantic Civil. This shall now be submitted to the Commission to seek award.

We appreciate your hard work on this project and will be pleased to see your interest in other projects that come up for the City of Kissimmee.

Respectfully,

Purchasing

ITEM 7.I

Resolution authorizing the West Oak Street Intersection Improvements and Supplemental Agreement No. 1

Request

Approval of the Local Agency Program (LAP) Supplemental Agreement No. 1 (Contract #20250014) with the Florida Department of Transportation (FDOT) to provide additional funding of \$1,883,985 for the West Oak Street Intersection Improvements Project (FPN 434916-1-58-01), bringing the total grant funding to \$3,225,923. Approval is also requested for the resolution authorizing the City Manager to execute and deliver this agreement, along with any subsequent documentation or amendments for the project.

Explanation

Initial funding of \$1,341,938 was granted by FDOT and accepted by the Commission for this project. The supplemental agreement provides an additional \$1,883,985 to cover the price increase of the construction resulted by the updated engineer's cost estimate, bringing the total grant funding to \$3,225,923. Although no City match is required for the grant, the city is required to cover the remaining construction cost of \$115,231. The construction shortfall resulted by the lowest bid amount, resulting in a total project cost of \$3,341,154. The City will allocate the additional \$115,231 from project ST2306.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
15145656-506393	PW2219	Increase	\$1,999,216	
15100331-331490		Increase	\$1,883,985	
10445206-506393	ST2306	Decrease	\$115,231	\$883,086

Financial Summary:

The project will be fully funded by FDOT and the City of Kissimmee.

Recommendation

Approval of LAP Supplemental Agreement No. 1 with FDOT to provide additional funding of \$1,883,985.00 for the West Oak Street Intersection Improvements Project. Approval is also requested for the resolution authorizing the City Manager to execute and deliver this agreement, along with any subsequent documentation or amendments for the project.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. Original LAP Agreement - FPN 439084-1-58-01
2. (S) LAP Resolution - FPN 434916-1-58-01
3. (S) SA#1 434916-1-58-01

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FPN: 434916-1-58-01	FPN: _____	FPN: _____
Federal No (FAIN): <u>D518 104 B</u>	Federal No (FAIN): _____	Federal No (FAIN): _____
Federal Award Date: <u>05/27/2022</u>	Federal Award Date: _____	Federal Award Date: _____
Fund: ACSU	Fund: _____	Fund: _____
Org Code: <u>55054010508</u>	Org Code: _____	Org Code: _____
FLAIR Approp: <u>088717</u>	FLAIR Approp: _____	FLAIR Approp: _____
FLAIR Obj: <u>780000</u>	FLAIR Obj: _____	FLAIR Obj: _____
County No: <u>92</u>	Contract No: <u>G2962</u>	
Recipient Vendor No: <u>F596000348006</u>	Recipient Unique Entity ID SAM No: <u>DPHBBJP7RHY3</u>	

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on
6/6/2022 | 4:25 PM EDT, by and between the State of Florida Department of Transportation, an agency
 (This date to be entered by DOT only)
 of the State of Florida ("Department"), and the City of Kissimmee ("Recipient").

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the West Oak Street Intersection Improvements at John Young Parkway project, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before March 31, 2024. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
 - a. The estimated cost of the Project is \$ 1,341,938.00 (One Million Three Hundred Forty-One Thousand Nine Hundred Thirty-Eight Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$ 1,341,938.00 (One Million Three Hundred Forty-One Thousand Nine Hundred Thirty-Eight Dollars and No/100) and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.

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- c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:
- i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;
 - ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
 - iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
 - iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

5. Requisitions and Payments

- a. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
 - b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
 - c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
 - d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, Contract Payment Requirements.
 - e. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
 - f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.
- ☐ If this box is selected, advance payment is authorized for this Agreement and **Exhibit "H"**, Alternative Advance Payment Financial Provisions is attached and incorporated into this Agreement.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department,

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provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g. Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to an Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- j. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.

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- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

6. Department Payment Obligations:

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's **Local Agency Program Manual** (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

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- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
 - i. Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
 - ii. Maintains familiarity of day to day Project operations, including Project safety issues;
 - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
 - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
 - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
 - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.
- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.

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- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.
- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (“CFO”), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
 - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “E”** to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

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- iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient's resources obtained from other than federal entities).
- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse (“FAC”) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
 - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 - 3. Wholly or partly suspend or terminate the federal award;
 - 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
 - 5. Withhold further federal awards for the Project or program;
 - 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
 605 Suwannee Street
 Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

9. Termination or Suspension of Project:

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The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

10. Contracts of the Recipient:

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally delivered projects. Defect management and supervision of LAP project structures components must be

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proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

12. Compliance with Conditions and Laws:

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

13. Performance Evaluations:

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

14. Restrictions, Prohibitions, Controls, and Labor Provisions:

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts

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with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

15. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

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- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

16. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

☒ shall

☐ shall not

maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this

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Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

17. Miscellaneous Provisions:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.
- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the

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making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
 - ii. expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

18. Exhibits:

- a. **Exhibits "A", "B", "C", "D", "E" and "F"** are attached to and incorporated into this Agreement.
- b. ☒ If this Project includes Phase 58 (construction) activities, then **Exhibit "G"**, FHWA FORM 1273, is attached and incorporated into this Agreement.
- c. ☐ Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. ☐ State funds are used on this Project. If state funds are used on this Project, then **Exhibit "I"**, State Funds Addendum, is attached and incorporated into this Agreement. **Exhibit "J"**, State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.
- e. ☐ This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.

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- f. ☒ This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit “L”**, Landscape Maintenance, is attached and incorporated into this Agreement.
- g. ☒ This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit “M”**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- h. ☒ This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit “N”**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- i. ☒ A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit “O”**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- j. ☐ The following Exhibit(s) are attached and incorporated into this Agreement: N/A.

k. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities
 Exhibit B: Schedule of Financial Assistance
 Exhibit C: Title VI Assurances
 Exhibit D: Recipient Resolution
 Exhibit E: Federal Financial Assistance (Single Audit Act)
 Exhibit F: Contract Payment Requirements
 * Exhibit G: FHWA Form 1273
 * Exhibit H: Alternative Advance Payment Financial Provisions
 * Exhibit I: State Funds Addendum
 * Exhibit J: State Financial Assistance (Florida Single Audit Act)
 * Exhibit K: Advance Project Reimbursement
 * Exhibit L: Landscape Maintenance
 * Exhibit M: Roadway Lighting Maintenance
 * Exhibit N: Traffic Signal Maintenance
 * Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

* Additional Exhibit(s): N/A.

*** Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT CITY OF KISSIMMEE

By:


Name: Mike Steigerwald
Title: City Manager

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By:


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

Legal Review:

DocuSigned by:

Daniel McDermott

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT A****PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 434916-1-58-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and
the City of Kissimmee (the Recipient)

PROJECT LOCATION:

- ☒ The project is on the National Highway System.
- ☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: See Project Description Below

PROJECT DESCRIPTION:

This project includes the construction of roadway improvements at the intersection of West Oak Street and John Young Parkway (State Road 600 / US 17 / US 92) in the City of Kissimmee. The project limits along West Oak Street begin approximately 662 feet west of John Young Parkway and end at approximately 607 feet east of John Young Parkway. The total length, along West Oak Street, is approximately 0.242 miles.

Improvements include widening West Oak Street to provide continuous through lanes along Oak Street, while maintaining the right and left turn lanes from the westbound direction and the left turn lane from the eastbound direction at the John Young Parkway intersection. The right turn only lane from the eastbound direction will be changed to a through lane, removing the right turn only restriction. The project will also include asphalt milling, overbuild and resurfacing, new asphalt pavement including base and stabilization, signalization, lighting, drainage improvements including underdrains, curb and gutter, traffic separators, sidewalks including a parcel access ramp, gravity wall, guiderail/handrail, driveway reconstruction, detectable warning surfaces, signing and pavement markings, and landscaping. Mobilization, maintenance of traffic, erosion control, clearing & grubbing, concrete removal, earthwork, and sod are also included.

All pedestrian features shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required. All work will be constructed within the existing or acquired right of way.

SPECIAL CONSIDERATIONS BY RECIPIENT:

Exhibit O – Terms and Conditions of Construction in Department Right-of-Way is included in all agreements. This exhibit is only applicable if the Project involves construction on, under, or over the Department's right-of-way.

Based on the Recipient's Moderate financial risk level, this project requires submission and review of the "Project Monitoring Status Report," invoices and supporting documentation on a quarterly basis. The initial invoice and progress report will be submitted within 180 days of the Department's Notice to Proceed and quarterly thereafter. Required documents should be submitted via email to D5-ConstructionSpecialProjects@dot.state.fl.us.

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

- a) Construction contract to be let (Bid Opening) by July 21, 2022.
- b) Construction Duration of 418 calendar days.
- c) Construction to be completed (Final Acceptance) by November 4, 2023.

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

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Invoice payments will be made on a pro-rata basis as a percentage of the federal funding amount compared to the actual award amount. Any contract changes/claims which result in federal aid ineligible cost and/or time will be the sole responsibility of the Recipient. Such changes may include, but are not limited to, premium costs due to Design or CEI errors or omissions, repairing items that had not been properly maintained, additional contract time and/or costs occurring from utility delays, differing site conditions or other unforeseen conditions.

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

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

CEI services for this project are being provided through the District's Continuing Services CEI contract (CSC). Federal funds in the amount of \$328,312.00, representing the negotiated CEI contract amount, have been programmed on the project (434916-2-62-01). Should costs for federally eligible items exceed the programmed amount and additional federal funding is not available, the Recipient will be solely responsible to provide the additional funds that are necessary to complete the Project. Federal funds utilized on the District CSC are not subject to Exhibit "E" - Federal Financial Assistance (Single Audit Act). The Recipient will be solely responsible for CEI costs for federally ineligible items that require CEI services.

The remainder of this page intentionally left blank.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS: City of Kissimmee 101 Church Street, Suite 301 Kissimmee, Florida 34741-5054	FINANCIAL PROJECT NUMBER: 434916-1-58-01
---	---

PHASE OF WORK By Fiscal Year	MAXIMUM PARTICIPATION			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
Design- Phase 38				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Design Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Right-of-Way- Phase 48				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Right-of-Way Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Construction- Phase 58				
FY: 2021-2022 (LAP)	\$ <u>1,341,938.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>1,341,938.00</u>
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Construction Cost	\$ 1,341,938.00	\$ 0.00	\$ 0.00	\$ 1,341,938.00
Construction Engineering and Inspection (CEI)- Phase 68				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total CEI Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
(Insert Phase)				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Phase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL COST OF THE PROJECT	\$ 1,341,938.00	\$ 0.00	\$ 0.00	\$ 1,341,938.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Precious L. Lewis

District Grant Manager Name

DocuSigned by:

Precious L. Lewis

6/6/2022 | 4:00 PM EDT

Signature

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT C****TITLE VI ASSURANCES**

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) **Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") **Title 49, Code of Federal Regulations, Part 21**, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) **Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) **Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation*, or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, or *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(7.) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

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

RESOLUTION NO. 06-2022

A RESOLUTION PROVIDING FOR THE CITY COMMISSION TO AUTHORIZE THE CITY MANAGER IS HEREBY AUTHORIZED TO MAKE, EXECUTE, AND DELIVER TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION THE LOCAL AGENCY PROGRAM AGREEMENT FOR WEST OAK ST AT JOHN YOUNG PARKWAY IMPROVEMENTS, FPN 434916-1-58-01.

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

WHEREAS, The State of Florida Department of Transportation and the City of Kissimmee desire to facilitate the West Oak Street at John Young Parkway improvement,

WHEREAS, the State of Florida Department of Transportation has requested the City of Kissimmee to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 434916-1-58-01.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Kissimmee that Mike Steigerwald, City Manager is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 434916-1-58-01.

DONE AND RESOLVED this 3rd day of May 2022.

This Resolution shall take effect immediately upon its passage.

Dated this 3rd day of May, 2022.

ATTEST:


City Clerk


Mayor-Commissioner

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT E

FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program Site: https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Award Amount: \$1,341,938.00
Awarding Agency: Florida Department of Transportation
Award is for R&D: No
Indirect Cost Rate: N/A

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code

<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code

<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Map-21 – Moving Ahead for Progress in the 21st Century, Public Law 112-141

<http://www.gpo.gov/fdsys/pkg/PLAW-112publ141/pdf/PLAW-112publ141.pdf>

Federal Highway Administration – Florida Division

<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)

<https://www.fsrs.gov/>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT F****CONTRACT PAYMENT REQUIREMENTS**
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT G

**FHWA FORM 1273
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – COMPLIANCE
WITH FHWA 1273.**

The FHWA-1273 version dated May 1, 2012 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:
<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT525-010-40L
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Page 1 of 1**EXHIBIT “L”****LANDSCAPE MAINTENANCE**

Paragraph 16 is modified to include the following provisions:

1. Until such time as the Project is removed from the right of way pursuant to paragraphs 3 and 4 of this Exhibit, the Recipient shall, at all times, maintain the Project in a reasonable manner and with due care in accordance with all applicable Department guidelines, standards, and procedures, hereinafter called “Project Standards.” Specifically, the Recipient agrees to:
 - a) Properly water and fertilize all plants, keeping them as free as practicable from disease and harmful insects;
 - b) Properly mulch plant beds;
 - c) Keep the premises free of weeds;
 - d) Mow and/or cut the grass to the proper length;
 - e) Properly prune all plants which responsibility includes removing dead or diseased parts of plants and/or pruning such parts thereof which present a visual hazard for those using the roadway; and
 - f) Remove or replace dead or diseased plants in their entirety, and remove or replace those plants that fall below original Project Standards.

The Recipient agrees to repair, remove or replace at its own expense all or part of the Project that falls below Project Standards in accordance with the provisions of this Exhibit. In the event any part or parts of the Project, including plants, has to be removed and replaced for whatever reason, then they shall be replaced by parts of the same grade, size, and specification as provided in the original plans for the Project. Furthermore, the Recipient agrees to keep litter removed from the project highway.

2. Maintenance of the Project shall be subject to periodic inspections by the Department. In the event that any of the aforementioned responsibilities are not carried out or are otherwise determined by the Department to not be in conformance with the applicable Project Standards, the Department, in addition to its right of termination under paragraph 9 of the Agreement, may at its option perform any necessary maintenance without the need of any prior notice and charge the cost thereof to the Recipient.
3. It is understood between the parties to this Agreement that any portion of or the entire Project may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the Department in order that the adjacent state road be widened, altered, or otherwise changed to meet with the future criteria or planning of the Department. The Recipient shall be given notice regarding such removal, relocation, or adjustment and shall be allowed 60 days to remove all or part of the Project at its own cost. The Recipient will own that part of the Project it removed. After the 60-day removal period, the Department will become the owner of the unresolved portion of the Project, and the Department then may remove, relocate, or adjust the Project as it deems best, with the Recipient being responsible for the cost incurred for the removal of the Project.
4. This Exhibit shall remain in force during the life of the originally installed landscaping and/or the life of any replacement landscaping installed with the mutual consent of the parties hereto until superseded by a Landscape Maintenance Agreement between the Department and the Recipient.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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EXHIBIT “M”
ROADWAY LIGHTING MAINTENANCE

Paragraph 16 is modified to include the following provisions:

1. Maintenance

a) The Recipient shall, at its sole cost and expense, maintain the existing or to-be-installed roadway lighting system throughout its expected useful life unless and until this exhibit is superseded by a State Highway Maintenance and Compensation Agreement.

b) In maintaining the roadway lighting system, the Recipient shall perform all activities necessary to keep the roadway lighting system fully and properly functioning, with a minimum of 90% lights fully functioning for any lighting type (e.g., high mast, standard, under deck, sign) or roadway system at all times for their normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage or acts of nature. Said maintenance shall include, but not limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the facilities (including the poles and any and all other component parts installed as part of the facilities), and the locating (both vertically and horizontally) of the facilities as may be necessary.

c) All maintenance shall be in accordance with the provisions of the following:

(1) Manual of Uniform Traffic Control Devices (MUTCD); and

(2) All other applicable local, state, or federal laws, rules, resolutions, or ordinances and Department procedures.

d) This Exhibit shall remain in force during the life of the originally installed roadway lighting system and/or the life of any replacement roadway lighting system installed with the mutual consent of the parties hereto until superseded by a Roadway Lighting System Maintenance Agreement between the Department and the Recipient.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Page 1 of 2**EXHIBIT "N"****TRAFFIC SIGNAL MAINTENANCE**

Paragraph 16. is modified to include the following provisions:

1. When the District Traffic Operations Engineer of the Department has served a request order on the Recipient, and the designated officer of the Recipient has favorably acknowledged the request order, the Recipient shall undertake the responsibilities to maintain and operate existing or new traffic signals and signal systems mentioned in the request order.
2. The proposed functional design and operation of new traffic signals and signal systems shall be reviewed by the Recipient in conjunction with the Department prior to installation. Such design and operation will be as energy efficient as possible.
3. The installation of signals or signal systems shall not endanger highway travel and shall be conducted in accordance with Part VI of the Manual on Uniform Traffic Control Devices (MUTCD), as amended, and with all applicable Department standards, specifications and plans governing traffic control for street and highway construction and maintenance.
4. The Recipient shall be responsible for the maintenance and continuous operation of the traffic signals and signal systems (central computer, cameras, message signs, and communications interconnect), school zone traffic control devices, intersection flashing beacons, illuminated street sign names, and the payment of electricity and electrical charges incurred in connection with the operation of such traffic signals and signal systems upon completion of their installation. In the case of construction contracts, the Recipient shall be responsible for the payment of electricity and electrical charges incurred in connection with the operation of the traffic signals and signal systems, and shall undertake the maintenance and continuous operation of said traffic signals and signal systems upon final acceptance of the installation by the Department. Repair or replacement and other responsibilities of the installation contractor and the Department, during the burn-in period between conditional and final acceptance, are contained in the most recent Department's Standard Specifications for Road and Bridge Construction.
5. The Recipient shall maintain and operate the traffic signals and signal systems in a manner that will ensure safe and efficient movement of highway traffic and that agree with maintenance practices prescribed by the International Municipal Signal Association (IMSA) and operational requirements of the MUTCD, as amended. The Recipient's maintenance responsibilities shall include, but not be limited to, preventive maintenance (periodic inspection, service, and routine repairs), and emergency maintenance (troubleshooting in the event of equipment malfunction, failure or damage). The Recipient shall record its maintenance activities in a traffic signal maintenance log which shall contain, as a minimum, traffic signal log details recommended by the IMSA.
6. The Recipient may remove any component of the installed equipment for repair; however, it shall not make any permanent modifications and/or equipment replacements unless the equipment provided is the same age or newer and is capable of performing the same functions. The Department shall not make any modifications and/or equipment replacements without prior written notice to the Recipient.
7. The Recipient shall set and maintain the timing and phasing of the traffic signals in accordance with the Department's timing and phasing plans, specifications or special provisions. The Recipient may make modifications in phasing of traffic signals and signal systems to accommodate changing needs of traffic provided prior written approval is obtained from the Department. Department approval shall be contingent upon an engineering report prepared by or for the Recipient in accordance with Section 1A.09, "Engineering Study and Engineering Judgment", of the MUTCD recommending such changes and signed and sealed by a qualified Professional Engineer licensed in the State of Florida. The Recipient may make changes in the signal timing provided these changes are made under the direction of a qualified Professional Engineer. The Recipient shall send a signed and sealed copy of the timings to the Department immediately after installation. The Department reserves the right to examine equipment, timing, and phasing at any time and, after consultation with the Recipient, may specify modifications. If the Department specifies modification in timing and/or phasing, implementation of such modifications shall be coordinated with, or made by the Recipient.

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8. The Recipient shall note in the maintenance log any timing and/or phasing changes and keep a copy of the timings and any approval documentation in a file.
9. The Recipient may enter into agreements with other parties pertaining to traffic signals and signal systems including, but not limited to, agreements relating to costs and expenses incurred in connection with the operation of traffic signals and signal systems on the State Highway System provided that such agreements are consistent with the mutual covenants contained in this Exhibit. The Recipient shall furnish a copy of such agreements to the Department.
10. This Exhibit shall remain in force during the life of the originally installed equipment and/or the life of any replacement equipment installed with the mutual consent of the parties hereto until superseded by a Traffic Signal Maintenance and Compensation Agreement between the Department and the Recipient.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT O

TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY

Section 17.g. of the Agreement is amended as follows for Construction on the Department's Right of Way.

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

- a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

- b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is D5-ConstructionSpecialProjects@dot.state.fl.us.
- c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

- g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.
- i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
- k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.
- o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

- p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- r. Restricted hours of operation will be from TO BE DETERMINED PRIOR TO CONSTRUCTION, (DAYS OF THE WEEK FOR RESTRICTED OPERATION TO BE DETERMINED), unless otherwise approved by the Operations Engineer, or designee.
- s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

D5-PIO@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

To: Kristen.Webb@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION FUNDS APPROVAL

G2962

6/1/2022

CONTRACT INFORMATION

Contract:	G2962
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	KISSIMMEE, CITY OF
Vendor ID:	F596000348006
Beginning Date of This Agreement:	05/31/2022
Ending Date of This Agreement:	03/31/2024
Contract Total/Budgetary Ceiling:	ct = \$1,341,938.00
Description:	West Oak Street Intersection Improvements at John Young Parkway

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 6/1/2022

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55054010508
Expansion Option:	AF
Object Code:	780000
Amount:	\$1,341,938.00
Financial Project:	43491615801
Work Activity (FCT):	215
CFDA:	20.205
Fiscal Year:	2022
Budget Entity:	55150200
Category/Category Year:	088717/22
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: \$1,341,938.00

Certificate Of Completion

Envelope Id: C19E8F3FA3FE40E7BDCF2456B04390E3

Status: Completed

Subject: Please DocuSign: 434916-1-58-01 (G2962) - LAP - Kissimmee - West Oak St @ JYP .pdf

Contract Number (ex. C9A12, optional): G2962

Document Contains Confidential Information?: No

Fin Proj Num (ex.123456-1-32-01, Optional): 434916-1-58-01

Office (contact Procurement if add is needed):

Local Programs

HR Action?: No

Source Envelope:

Document Pages: 34

Signatures: 3

Envelope Originator:

Certificate Pages: 2

Initials: 0

Lorien Wise

AutoNav: Enabled

605 Suwannee Street

Envelopeld Stamping: Enabled

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Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Tallahassee, FL 32399-0450

Lorien.Wise@dot.state.fl.us

IP Address: 156.75.252.6

Record Tracking

Status: Original

Holder: Lorien Wise

Location: DocuSign

6/2/2022 3:31:13 PM

Lorien.Wise@dot.state.fl.us

Signer Events

Precious L. Lewis

Precious.Lewis@dot.state.fl.us

District Local Program Administrator

Florida Department of Transportation

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:

Precious L. Lewis

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Timestamp

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Signature Adoption: Pre-selected Style

Signed by link sent to

Precious.Lewis@dot.state.fl.us

Using IP Address: 156.75.252.6

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Daniel McDermott

Daniel.McDermott@dot.state.fl.us

Senior Attorney

FL DOT

Signing Group: D5 General Law Legal Group

Security Level: Email, Account Authentication
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DocuSigned by:

Daniel McDermott

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Daniel.McDermott@dot.state.fl.us

Using IP Address: 156.75.252.6

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

C. Jack Adkins

jack.adkins@dot.state.fl.us

Director of Transportation Development

FDOT

Security Level: Email, Account Authentication
(None)

DocuSigned by:

C. Jack Adkins

1752524FC337485...

Sent: 6/6/2022 4:22:56 PM

Viewed: 6/6/2022 4:25:47 PM

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Signed by link sent to jack.adkins@dot.state.fl.us

Using IP Address: 156.75.252.6

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Kim Kipp Kim.kipp@dot.state.fl.us Paralegal Specialist Florida Department of Transportation Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/6/2022 4:00:40 PM
Linda Lee Linda.Lee@dot.state.fl.us FDOT Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/6/2022 4:00:41 PM Viewed: 6/7/2022 11:22:22 AM
Teresa Hutson Teresa.Hutson@dot.state.fl.us Precious L. Lewis Precious.Lewis@dot.state.fl.us Kristen Webb Kristen.Webb@dot.state.fl.us Lorien Wise Lorien.Wise@dot.state.fl.us Sarah McNamara Sarah.McNamara@dot.state.fl.us Signing Group: D5 Local Programs Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/6/2022 4:26:00 PM Resent: 6/6/2022 4:26:07 PM
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	6/6/2022 4:25:47 PM
Signing Complete	Security Checked	6/6/2022 4:25:56 PM
Completed	Security Checked	6/6/2022 4:26:00 PM
Payment Events	Status	Timestamps

RESOLUTION NO. _____

A RESOLUTION PROVIDING FOR THE CITY COMMISSION TO AUTHORIZE THE CITY MANAGER IS HEREBY AUTHORIZED TO MAKE, EXECUTE, AND DELIVER TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION THE LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT NO.1, AND ANY SUBSEQUENT DOCUMENTATION OR AMENDMENTS FOR THE WEST OAK STREET INTERSECTION IMPROVEMENTS PROJECT - FPN 434916-1-58-01

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

WHEREAS, the State of Florida Department of Transportation and City of Kissimmee desire to facilitate the West Oak Street Intersection Improvements Project and,

WHEREAS, the State of Florida Department of Transportation has requested City of Kissimmee to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 434916-1-58-01.

NOW, THEREFORE, BE IT RESOLVED by the Board of City of Kissimmee Commissioners that Mike Steigerwald, City Manager is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Supplemental Agreement # 1, and any subsequent documentation or amendments to the Local Agency Program Agreement for the aforementioned project, FPN 434916-1-58-0.

DONE AND RESOLVED this _____ day of _____, 2024.

This Resolution shall take effect immediately upon its passage.

Dated this _____ day of _____, 2024.

ATTEST:

Mayor-Commissioner

City Clerk

**LOCAL AGENCY PROGRAM
SUPPLEMENTAL AGREEMENT**

SUPPLEMENTAL NO.

1

FEDERAL ID NO. (FAIN)

D518 104 B

CONTRACT NO.

G2962

FEDERAL AWARD DATE

05/27/2022

FPN

434916-1-58-01

RECIPIENT UNIQUE ENTITY ID SAM NO.

DPHBBJP7RHY3

Recipient, (the City of Kissimmee), and the Florida Department of Transportation _____, desires to supplement the original Agreement entered into and executed on June 06, 2022 as identified above. All provisions in the original Agreement and supplements, if any, remain in effect except as expressly modified by this supplement.

The changes to the Agreement and supplements, if any, are described as follows:

PROJECT DESCRIPTION

Name West Oak Street Intersection Improvements Length ~ 0.242 miles

Termini at John Young Parkway

Description of Work:

This project includes the construction of roadway improvements at the intersection of West Oak Street and John Young Parkway (State Road 600 / US 17 / US 92) in the City of Kissimmee. The project limits along West Oak Street begin approximately 662 feet west of John Young Parkway and end at approximately 607 feet east of John Young Parkway. The total length, along West Oak Street, is approximately 0.242 miles.

Improvements include widening West Oak Street to provide continuous through lanes along Oak Street, while maintaining the right and left turn lanes from the westbound direction and the left turn lane from the eastbound direction at the John Young Parkway intersection. The right turn only lane from the eastbound direction will be changed to a through lane, removing the right turn only restriction. The project will also include asphalt milling, overbuild and resurfacing, new asphalt pavement including base and stabilization, signalization, lighting, drainage improvements including underdrains, curb and gutter, traffic separators, sidewalks including a parcel access ramp, gravity wall, guiderail/handrail, driveway reconstruction, detectable warning surfaces, signing and pavement markings, and landscaping. Mobilization, maintenance of traffic, erosion control, clearing & grubbing, concrete removal, earthwork, and sod are also included.

All pedestrian features shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination is required. All work will be constructed within the existing or acquired right of way.

Reason for Supplement and supporting engineering and/or cost analysis:

1. Pursuant to Paragraph 4.0 Project Cost of the Local Agency Program Agreement, the Recipient and the Department acknowledge and agree that the Schedule of Funding for Construction that includes the authorized and encumbered Federal funding and the Local funding contribution on the project shall be increased to an amount equal to the Recipient's construction contract award amount of \$3,341,154.00. This results in an increase of total construction funding by \$1,999,216.00. The federal funding is to be increased by \$1,883,985.00, which is the difference between previous federal funding of \$1,341,938.00 and the current federal funding of \$ 3,225,923.00. Local Funds will be increased by \$ 115,231.00, which is the difference between previous local funding of \$0.00 and the current local funding of \$ 115,231.00.

**LOCAL AGENCY PROGRAM
SUPPLEMENTAL AGREEMENT**

2. Revisions to the federal and local funding amounts attributed to the amounts referenced above are reflected in the Adjusted Exhibit "B" Schedule of Financial Assistance, and in Exhibit "E", Federal Financial Assistance (Single Audit Act), attached hereto and incorporated herein.
3. The Recipient Resolution authorizing entry into this Supplemental Agreement is attached and incorporated into this Supplemental Agreement as Exhibit "D".
4. Exhibit "H", Alternative Advance Payment Financial Provisions, is attached and incorporated herein.

The remainder of this page intentionally left blank.

LOCAL AGENCY PROGRAM

SUPPLEMENTAL AGREEMENT

ADJUSTED EXHIBIT "B" SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS: City of Kissimmee
101 Church Street, Suite 301
Kissimmee, Florida 34741-5054

FINANCIAL PROJECT NUMBER: 434916-1-58-01

PHASE OF WORK By Fiscal Year	FUNDING					
	(1) PREVIOUS TOTAL PROJECT FUNDS	(2) ADDITIONAL PROJECT FUNDS	(3) CURRENT TOTAL PROJECT FUNDS	(4) TOTAL LOCAL FUNDS	(5) TOTAL STATE FUNDS	(6) TOTAL FEDERAL FUNDS
Design FY: (Insert Program Name) FY: (Insert Program Name) FY: (Insert Program Name) Total Design Cost	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00
Right-of-Way FY: (Insert Program Name) FY: (Insert Program Name) FY: (Insert Program Name) Total Right-of-Way Cost	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00
Construction FY: 2021-2022 (LAP) FY: 2024-2025 (LAP) FY: (Insert Program Name) Total Construction Cost	 \$1,341,938.00 \$0.00 \$1,341,938.00	 \$0.00 \$1,999,216.00 \$1,999,216.00	 \$1,341,938.00 \$1,999,216.00 \$3,341,154.00	 \$0.00 \$115,231.00 \$115,231.00	 \$0.00 \$0.00 \$ 0.00	 \$1,341,938.00 \$1,883,985.00 \$3,225,923.00
Construction Engineering and Inspection (CEI) FY: (Insert Program Name) FY: (Insert Program Name) FY: (Insert Program Name) Total CEI Cost	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00
(Insert Phase) FY: (Insert Program Name) FY: (Insert Program Name) FY: (Insert Program Name) Total Phase Costs	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00	 \$ 0.00
TOTAL COST OF THE PROJECT	\$1,341,938.00	\$1,999,216.00	\$3,341,154.00	\$115,231.00	\$ 0.00	\$3,225,923.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Precious L. Lewis

District Grant Manager Name

Signature

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**LOCAL AGENCY PROGRAM
SUPPLEMENTAL AGREEMENT**

525-010-32
PROGRAM MANAGEMENT
03/22

Page 4 of 4

IN WITNESS WHEREOF, the parties have executed this Agreement on the date last ascribed herein.

RECIPIENT CITY OF KISSIMMEE

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: See Attached Signature Page

Name:

Title:

By: _____

Name: C. Jack Adkins

Title: Director of Transportation Development

Date: _____

Legal Review:

IN WITNESS WHEREOF, the parties have executed this Agreement on the date last ascribed herein.

RECIPIENT CITY OF KISSIMMEE

By: _____

Name: Mike Steigerwald

Title: City Manager

Legal Review:

City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT E****FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)****FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Site: https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Award Amount: \$3,225,923.00
Awarding Agency: Florida Department of Transportation
Award is for: No
R&D:
Indirect Cost: N/A
Rate:

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code

<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code

<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”)

<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.pdf>

Federal Highway Administration – Florida Division

<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)

<https://www.fsrs.gov/>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT H****ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS**

If payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes:

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Recipient's contractor(s) or consultant(s).
2. All of the Recipient's costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Recipient shall clearly separate the cost of the contractor(s) or consultant(s) from the Recipient's costs billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor's or consultant's invoice(s), to substantiate the cost on the invoice.
5. The Recipient must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Recipient must contain a statement from the Recipient that the previous month's cost incurred by the contractor(s) or consultant(s) has been paid by the Recipient to the contractor(s) or consultant(s).

ITEM 7.J

Ratification of Executive Order 2024-02 for Hurricane Milton

Request

Commission ratification of Executive Order 2024-02 issued by the City Manager declaring a state of emergency relating to Hurricane Milton.

Explanation

On October 7, 2024, the City Manager executed Executive Order 2024-02 declaring a state of emergency pursuant to Executive Order 24-214 and Amended Executive Order 24-214 issued by Governor DeSantis on October 5, 2024 due to the dangers presented by Hurricane Milton. City Code Section 14-20 empowers the City Manager to declare a local state of emergency whenever justified. The Code requires that the City Commission ratify the declaration as soon as practicable thereafter.

Recommendation

Approval to ratify Executive Order 2024-02 declaring the State of Emergency for Hurricane Milton.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Manager

Presenter:

Attachment(s):

1. Executive Order #2024-02 - Declaration of Emergency for Hurricane Milton (10-07-2024)

EXECUTIVE ORDER 2024-02
CITY OF KISSIMMEE, FLORIDA
LOCAL STATE OF EMERGENCY DECLARATION
RELATING TO MILTON

WHEREAS, On October 5, 2024, Governor DeSantis issued Executive Order 24-214, and Amended Executive Order 24-214 on October 6, 2024, declaring a state of emergency in thirty – five counties in the State of Florida, including Osceola County, where the City of Kissimmee is located, due to dangers presented by Hurricane Milton, which continues to strengthen as it moves eastward over central and eastern Gulf of Mexico on Wednesday; and

WHEREAS, the forecast models indicate a possibility of rapid intensification of this system, creating the threat of inclement weather, heavy rainfall, flash flooding, strong winds, and potential for isolated tornadic activity, which may lead to damage to property, including private homes, businesses and critical public and private infrastructure, and may pose threats to general health, safety and welfare to the residents of Kissimmee, Florida; and

WHEREAS, pursuant to Section 252.38, Florida Statutes, it is the innate responsibility of local governments to safeguard the life and property of its citizens; and

WHEREAS, The City Manager is the Chief Administrative Officer of the City and, pursuant to City Code Section 14-20, is empowered to declare a local state of emergency whenever he determines that a threat of a national disaster is imminent and requires immediate and expeditious action.

NOW, THEREFORE, I, MIKE STEIGERWALD, as City Manager of the City of Kissimmee, Florida, by the authority vested in me by City Code Chapter 14, titled “Civil Emergencies” and by the Florida Emergency Management Act, as amended and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. I declare that HURRICANE MILTON may pose a serious threat to the City of Kissimmee and hereby declare a LOCAL STATE OF EMERGENCY beginning October 7, 2024, which shall continue until I find the threat of danger no longer exists, but not longer than seven days from the date hereof, unless extended pursuant to provisions of Florida Statute Section 252.38.

Section 2. In responding to the emergency, the City may be required to suspend the application of specific rules, ordinances, and orders administered by the City. The City Manager or his designee may execute interlocal agreements, mutual aid agreements, or addendums to existing franchise agreements or enter into any other agreement for the benefit of the City to assist in the emergency operation as provided pursuant to City Code Chapter 14, Civil Emergencies.



ATTEST:

Tameara Crespo for
City Clerk

CITY OF KISSIMMEE

Mike Steigerwald
Mike Steigerwald, City Manager

ITEM 8.A

UCF Business Incubation Program - Kissimmee Annual Presentation and Approval of the 2024-2025 Agreement

Request

Approval of Agreement #20250018 with UCF Business Incubation Program - Kissimmee for the 2024-2025 program year in the amount of \$150,000.

Explanation

The University of Central Florida Business Incubation Program is a community partnership between the University of Central Florida, Orange, Osceola, Seminole and Volusia County, as well as the cities of Kissimmee, Apopka and Orlando. This partnership is specifically designed to assist businesses to create and sustain jobs in the community. The job growth spurs economic growth throughout Central Florida, increasing high-paying jobs and wages, and increasing capital.

The Business Incubation Program (BIP) has been active for over 13 years, attracting and nurturing entrepreneurs to be successful, increasing visibility for their businesses through website design and marketing educational programs. Approval of this agreement will ensure the success of many new entrepreneurs and business ventures.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
00122103-503434		Decrease	\$150,000	\$150,000

Financial Summary:

This funding is included in the Economic Development Department budget for the current fiscal year.

Recommendation

Approval of Agreement with UCF Business Incubation Program - Kissimmee for the 2024-2025 program year in the amount of \$150,000.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Economic Development
Presenter: Samia Singleton

Attachment(s):

City of Kissimmee

1. UCF Business Incubator Program Kissimmee Update - City of Kissimmee Commissioners Meeting
2. (S) 2024-2025 UCF Business Incubator Program Kissimmee Agreement



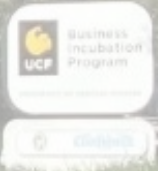
UCF Business Incubation Program

Smarter – Faster – Growth

UCF Business Incubator – Kissimmee

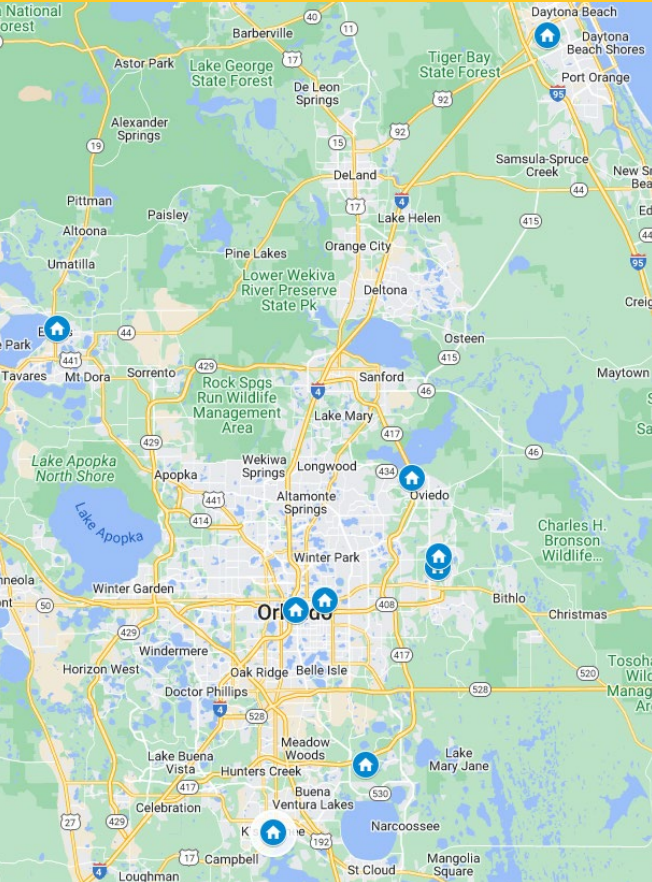
City of Kissimmee Commission Meeting

September 17, 2024



MISSION

Providing the tools, training and infrastructure
to help facilitate smarter, faster growth for
early stage scalable technology
innovation companies



CITY OF
KISSIMMEE
1883



Esther Vargas, MBA
Site Manager



Elizabeth Diuguid
Operations & Marketing
Coordinator

OUR FIVE AREAS OF FOCUS



**SPACE TECHNOLOGIES
AND SYSTEMS**



**ENTERTAINMENT AND
IMMERSIVE EXPERIENCES**



**HEALTH AND HUMAN
PERFORMANCE**



**ENERGY AND
SUSTAINABILITY**



**TRANSFORMATIVE
TECHNOLOGIES AND
NATIONAL SECURITY**

Program Tracks

- **Traction** – Moving a business entity with an existing prototype of a scalable innovative solution to initial customers with a go-to-market strategy and further product development.
- **Growth** – Moving an innovative solution with existing market traction into growth stage with sustainability
- **Soft Landing** – Supporting Orange County expansion for successful technology companies headquartered outside of Florida.

www.incubator.ucf.edu



Smarter + Faster = GROWTH

SUPPORT SERVICES



MENTORSHIP



BUSINESS
DEVELOPMENT OPERATIONS



BUSINESS
OPERATIONS



CAPITAL



LEADERSHIP
DEVELOPMENT



SPECIALIZED
SPACE

incubator.ucf.edu



UCF



UNIVERSITY OF CENTRAL FLORIDA

Business Incubation Program

Kissimmee Incubator – Current Clients



American Instruments

Medical Device Manufacturing



Aviation & Military Innovation



Marketing
Intelligence Platform



Custom Software Development



**CCI
ENGINEERING
SERVICES**

Patent-pending
bathymetric drone



Eco-friendly Merchandising
Solutions for Consumer Brands



InSeconds
real-time management

Lead Generation & Sales
Optimization Software



MEDSTAFF AI

On-Demand Medical
Staffing Solution



Digital platform dedicated to
empowering young women



Connected Worker Safety &
IOT Enterprise Solution



SUNTIC

Cybersecurity Data
Management Solution



UNIVERSITY OF CENTRAL FLORIDA

Business Incubation Program

Kissimmee Incubator – Graduate Clients

TRIACINTER
INTELLIGENT SECURITY AND ENERGY MANAGEMENT SOLUTIONS



UNDERGROUND
REFUSE SYSTEMS

VOXtell
giving voice to business



REACH



myoob
CONSULTING
Start-Up. Manage. Grow Your Business.



CogniTutor

COMMUNITY
BENEFITS GROUP, INC.
Helping you find the right benefits solution.



WOMAN

QUALIFIZE
| Staffing & Consulting |



sofriendly



Connected Across the Community

Just a few of the local partners we collaborate with...



Business Incubation Program

UNIVERSITY OF CENTRAL FLORIDA



AMERICA'S SBDC Florida SBDC
at the University of
Central Florida
Helping Businesses Grow & Succeed



PLUGANDPLAY

the Osceola  Library
system





EVENTS & TRAINING



PRESENTING THE GROW OSCEOLA BUSINESS SERIES 2024

OBJECTIVE:

To empower local businesses for success by offering a monthly hands-on training series on relevant business growth topics

HOSTED BY CITY OF KISSIMMEE
AND OSCEOLA COUNTY BOARD OF
COUNTY COMMISSIONERS

Monthly Sessions
8:30 AM - 10:30 AM*
Includes light breakfast

Location: UCF Business
Incubator-Kissimmee...
and other local venues

BROUGHT TO YOU BY:



TOPIC AND SPEAKER LINEUP



**Business Planning: 360°
Perspective On Your Business**
Esther Vargas
Site Manager
UCF Business Incubator-Kissimmee

February 9



**Strategic Hiring for
Maximum Impact and Profit**
Nilda Blanco, MPA
Sr. VP of Workforce Operations
CareerSource Central Florida

March 20



**Precision Marketing:
Strategies to Attract Targeted
Traffic to Your Business**
Jason Levy
CEO
Around My Town

April 23



**Are You Ready for Hurricane
Season?... Weathering the
Storms of Life and Business**
Bill Litton
Emergency Management Director
OC Office of Emergency Mgmt

June 5



**Library Resources for
Business Growth**
Paola Grimes
Digital Services Librarian
Osceola Library System

July 30



**What Are Your Numbers
Telling You?**
Orlando Dominguez
CEO & Founder
Protectus Business Consulting

September 5



**Technology:
AI for Business**
TBA
Title
Organization

October



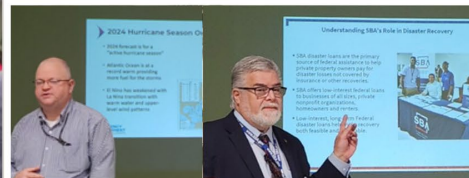
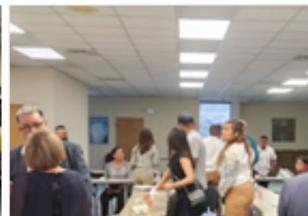
**'Tis the Season:
Effective Holiday
Marketing**
TBA
Title
Organization

November



**Clients &
Partners
Expo/
Open House**

December



UPCOMING TRAINING & NETWORKING EVENTS



Grow Osceola Business Series 2024-2025



Osceola Neovates



#KISSINC Connections



KISSINC Open House



Collaboration Events w/Partners

Thank you for your support!

UCF Business Incubator – Kissimmee

Esther.Vargas@ucf.edu

Elizabeth.Diuguid@ucf.edu

Web: www.incubator.ucf.edu/Kissimmee-incubator

Twitter: <https://twitter.com/UCFBIP>

LinkedIn: <https://tinyurl.com/59vkcw88>

Facebook: <https://facebook.com/UCFBIP>



INTERLOCAL AGREEMENT BY AND AMONG
THE CITY OF KISSIMMEE, FLORIDA,
OSCEOLA COUNTY FLORIDA and
THE UNIVERSITY OF CENTRAL FLORIDA RESEARCH FOUNDATION, INC.
RELATING TO THE UCF INCUBATOR
FISCAL YEAR 2025

THIS AGREEMENT is made this 1st day of October 2024, by and between, the City of Kissimmee, a Florida municipal corporation, (hereinafter referred to as “City”), Osceola County, a political subdivision of the State of Florida, (hereinafter referred to as “County”), collectively referred to as the “Local Governments”, and the University of Central Florida Research Foundation, Inc., a 501(c)(3) Not For Profit Corporation (hereinafter referred to as “UCFRF”) and a direct support organization and instrumentality of the University of Central Florida Board of Trustees (hereinafter referred to as “UCF”), and each Party to this Agreement represent as follows:

WITNESSETH

WHEREAS, Chapter 166.021, Florida Statutes, authorizes the City to exercise any power for municipal purposes, except when expressly prohibited by law or constitution; and

WHEREAS, Chapter 125.045, Florida Statutes, authorizes the County to conduct economic development; and

WHEREAS, Chapter 163.01, Florida Statutes, authorizes local governments to enter into Interlocal Agreements for the mutual benefit of regional governmental entities or divisions thereof; and

WHEREAS, the Local Governments find that it is in the best interest of its residents and the local economy to invest in programs and projects, both public and private, which introduces new business and industry that diversifies the economy, advance research and technology, and creates new employment and higher wage opportunities for our residents; and

WHEREAS, the UCF Business Incubation Program (UCFBIP) has provided vital business development resources resulting in over 450 local startup companies reaching their potential faster and graduating into the community where they continue to grow and positively impact the local economy. In 2023, current incubator clients supported over 1,200 employees and generated over \$170M in revenue. Twenty-one companies graduated from the program and remained in the local community.

WHEREAS, since the opening of UCFBIP, UCF and UCFRF have partnered with local governments in Orange, Osceola, Seminole, and other counties and municipalities across the state to create additional businesses and technology incubator facilities in the Central Florida region; and

WHEREAS, the Local Governments wish to provide certain funding to UCFRF, in

accordance with this Agreement, for purpose of continuing operation of the developed general business incubator (hereinafter referred to as "Project"), located within the City of Kissimmee, and UCFRF wishes to accept said funding and work with the Local Governments by providing the management, operation, recruitment, publicity, as well as other services relating to the Project; and

WHEREAS, the Local Governments have determined that it shall serve the public interest and economic advantage of all Parties to enter into an Interlocal Agreement for the Project as same is a powerful economic development engine designed to accelerate growth and promote the success of entrepreneurial companies through business support resources, services developed by the incubator management and through a network of contacts. Companies utilizing the resources and services of the Project have the potential to create jobs and economic improvement for the community, develop and commercialize new technologies, and strengthen the local and regional economies; and

NOW THEREFORE, in consideration of the terms, conditions, provisions and covenants hereinafter set forth, the Parties agree as follows:

Section 1. Recitals Incorporated. The above recitals are true and correct and incorporated herein.

Section 2. Purpose. The purpose of this Agreement is to provide continued funding to UCFRF to operate a general business incubator in Osceola County and to memorialize the Parties' respective duties and responsibilities.

Section 3. Term. The term of this Agreement shall be for one (1) year beginning on October 1, 2024, and ending on September 30, 2025. Any Party may terminate the Agreement effective at the end of each year by delivering written notice to the other Parties at least 30 days prior to the end of the year.

Section 4. Description of the Project. The Project will be a general business incubator with emphasis on local and regional targeted industries. UCFRF will operate the incubator, provide management, technical assistance and coaching and mentoring services to businesses. It will provide office space, meeting rooms, shared equipment, and basic technology support. It will advertise and market the incubator to attract early stage and aspiring entrepreneurs, with a focus on scalable technology innovations and emphasis on microelectronics, semiconductors, aviation tech and medical industries all with a goal of retaining at least ten (10) incubator client companies at any single time. The goal of this Project is to produce healthy firms and successful businesses that are no longer dependent on the services of the incubator, and which graduate from the Project financially viable, freestanding, and having created new jobs. The facility in which the Project is housed shall be named the UCF Business Incubator-Kissimmee.

Section 5. Covenant of UCFRF. UCFRF covenants and agrees it shall:

- A). Occupy the County owned building for a term of one (1) year, approximately 11,700 square feet of space located at 400 W Emmett Street, Kissimmee. The lease space includes office

space, common meetings/conference rooms, shared common areas for equipment, kitchen/breakroom, and other support spaces, as necessary.

B). Retain one full-time professional incubator manager and one full-time administrative assistant. These individuals shall be UCF employees and will be subject to UCF and UCFRF policies and procedures.

C). UCFRF will submit quarterly reports to the County and the City no more than thirty (30) days following the end of each quarter until this Agreement is terminated. Within this report, the UCFRF must show the amount of tenant space leased, the types of businesses present, the number of jobs created the number of workshops held, and other mutually agreed upon metrics that track project performance.

Section 6. Covenant of City. The City covenants and agrees it shall:

A). The City shall pay One Hundred Fifty Thousand Dollars (\$150,000.00), at the start of this Agreement.

B). The City's performance and obligation to pay under this Agreement for fiscal year 2025 are contingent upon a specific appropriation by the City Commission. UCFRF acknowledges that this Agreement is not a commitment of future appropriations. Failure by the City to annually appropriate funds specified herein shall be considered timely notice of termination pursuant to Section 3.

Section 7. Covenant of the County. The County covenants and agrees to the following terms governing Project funding provided by the County: The maximum funding provided by the County for the entire term of this Agreement shall not exceed Sixty Thousand Dollars (\$60,000.00). Said funding shall be used solely for expenses incurred for the staffing and operations which are directly related to the Project Facility. Disbursement of the funding shall be as follows:

A). The County shall pay Sixty Thousand Dollars (\$60,000.00) at the start of this agreement.

B). The County's performance and obligation to pay under this Agreement for fiscal year 2025 are contingent upon a specific appropriation by the Board of County Commissioners. UCFRF acknowledges that this Agreement is not a commitment of future appropriations. Failure by the County to annually appropriate funds specified herein shall be considered timely notice of termination pursuant to Section 3.

C) UCFRF will continue to lease the County-owned property located at 400 W. Emmett St. in Kissimmee in accordance with the terms of the lease agreement executed on September 16, 2019. Per Section 3.03(a) the term of the lease is to be extended without further action of the Parties to match the term of any renewal or extension of the Interlocal Funding Agreement.

D). In the event the County issues a purchase order, memorandum, letter or any other instrument addressing the services, work and funding to be provided and preformed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter or other instrument is for the County's internal purposes only, and any and all terms, provisions and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement, and shall have no force or effect thereon.

Section 8. Press Releases. The Parties agree to notify each Party of any press or publicity, regarding the subject matter of this Agreement. Any press releases or known media exposure should be forwarded to the person designated in the notices.

Section 9. Accounting, Inspection and Auditing Requirements. UCFRF agrees to maintain accurate accounting information and financial records regarding the Project in conformity with generally accepted accounting principles. The Local Governments shall have the right, at its own expense, and upon reasonable notice to conduct an audit of records and accounting procedure during normal business hours at the office of UCFRF where said records are stored. The records shall be retained by UCFRF for a period of three (3) years after the termination or completion of this Agreement or until a full audit is completed, whichever comes first. The Local Governments shall retain the right to audit the records during the three (3) year retention period. The Local Governments shall also retain the right to conduct during normal business hours an audit, at its own expense and upon reasonable notice, within sixty (60) days of the effective date of this Agreement to determine whether UCFRF has the ability to fulfill its contractual obligations to the satisfaction of any Local Government. Each Local Government has the right to terminate this Agreement based upon the findings in its audit without regard to any notice requirement for termination. No later than thirty (30) days prior to the first year of operation anniversary date and each year's anniversary date thereafter, UCFRF shall submit to the Local Governments a financial statement for the Project and its operation for the current year. Said financial statement shall contain a report specific to the use of each Local Government's funding.

Section 10. Project Records Requirements. UCFRF agrees to maintain accurate project information and incubator records regarding the Incubatee's participation in the Project. Such records include the name of the business, the type of business, graduate business, exit business (exit without graduation) and such other relevant information to examine the success of the incubator.

Section 11. Incubator Advisory Board. The City, County and UCFRF shall establish a Project Advisory Board ("Board") for the purpose of reviewing operations and funding to assist and help create a working synergy between the Facility and existing local business and industry, and to provide general support to the Project Staff. The Board shall be comprised of two (2) members appointed by the City, two (2) members appointed by the County, and two (2) members appointed by UCFRF. Rules and procedures for the Board shall be established by the Board, as soon as practical and as deemed necessary, after the Board's first meeting. The Board shall meet as frequently as is required to accomplish the purposes contained herein; however, not less than

two (2) times per year. In addition, UCFRF shall allow one (1) member appointed by the City be a part of the UCFRF Incubation Program Advisory Board which oversees all of the incubators operated by UCFRF, when said Advisory Board is active.

Section 12. Assumption of Risk. All persons employed to perform hereunder on behalf of UCFRF are employees of UCF. To the extent permitted by law and without waiving any sovereign immunity it may enjoy, UCFRF and UCF assume any and all risks of personal injury and property damage attributable to the negligent acts or omissions of UCFRF and UCF and its officers, employees, servants, and agents thereof while acting within the scope of their employment by UCFRF and/or UCF. To the extent permitted by law and without waiving any sovereign immunity it may enjoy, the City assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of the City's officers, employees, servants and agents or other persons acting or engaged to act by the City in furtherance of the obligations of the City under this Agreement, not inconsistent with Florida law.

To the extent permitted by law and without waiving any sovereign immunity it may enjoy, the County assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of the County's officers, employees, servants and agents, or other persons engaged to act by the County in furtherance of obligations of the County under this Agreement.

Nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

Section 13. Insurance. UCFRF shall maintain general liability insurance as is customary and usual for facilities similar in nature to the Project Facility. The Local Governments acknowledge that UCF is self-funded for liability for both public and property. UCFRF shall also provide the Local Governments certificates of insurance and a written verification of all insurance covering the Project Facility, upon Local Governments request.

Section 14. Force Majeure. In the event UCFRF or the Local Governments fail to satisfy a requirement of this Agreement in a timely manner due to a hurricane, flood, tornado, a war, terrorist act, major upheaval or other acts of God or force majeure, then said party shall not be in default hereunder; provided, however, that performance shall recommence upon such event ceasing its effect, to the extent such performance is practicable after such event.

Section 15. Default. If any party is found by any other to be in default of any terms of provisions of this Agreement, the Party or Parties not in default must notify the Party in default in writing. Said default shall be remedied or brought into compliance by the Party in default within thirty (30) days receipt of the notice. In the event the defaulting party fails to timely correct or remedy the event of the default, unless the time to cure period is extended in writing by the Parties,

the non-defaulting party may declare the Agreement in default and pursue any remedy available by law or equity against the defaulting Party. Each Party waives the right to dispute resolution pursuant to Chapter 164, Florida Statutes.

Section 16. Compliance with Laws and Regulations. In performing under this Agreement, the Parties shall abide by all applicable laws, statutes, ordinances, rules, and regulations pertaining to, or regulation the performance set forth herein, including those now in effect and hereafter adopted. Any material violation of said laws, statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement. UCFRF, at its sole expense, shall obtain all required Federal, State, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

Section 17. Disclaimer of Third-Party Beneficiaries. This Agreement is solely for the benefit of the formal Parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third Party not a formal Party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon or give any person or corporation other than the Parties hereto any right, remedy or claim under or by reason of this agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties hereto and their respective representatives, successors and assigns.

Section 18. Assignment. This Agreement, and the rights and privileges established by it shall not be assigned or transferred in whole or in part by any Party without the advanced written consent of all other Parties, which consent may be granted or withheld in any Party's sole discretion, and any attempted assignment or transfer without the consent of all other Parties shall be null, void and of no legal effect.

Section 19. Modification of Agreement. Any waiver, alteration, or modification of any part of provision of this Agreement, or the cancellation or replacement of this Agreement shall not be valid unless in writing and executed by all Parties.

Section 20. Applicable Law, Venue and Waiver of Jury Trial. The laws of the State of Florida shall govern the validity, performance, and enforcement of this Agreement. Venue of all actions shall be Osceola County, Florida. Each Party waives the right to a jury trial.

Section 21. Time. Time of the essence in this Agreement and this provision shall apply to all terms and conditions contained herein.

Section 22. Notices. Whenever either Party desires to give notice to the other, notice may be sent to:

City of Kissimmee
Attn: City Manager
101 Church Street
Kissimmee, FL 34741

University of Central Florida Research Foundation, Inc.
Attn: Amanda Coveney
12201 Research Parkway, Ste. 501
Orlando, FL 32826-3246

Osceola County
Attn: Osceola County Manager
1 Courthouse Square, Suite 4700
Kissimmee, FL 34741

Either Party may change by written notice as provided herein, the addresses or persons for receipt of notices. All notices and other communications given pursuant to this Agreement to be served, given, or delivered upon either Party shall be in writing and shall be sent by registered mail, or return receipt requested, or by a national overnight receipt delivery service (e.g., Federal Express). Such notices shall be deemed served, given and delivered on the earlier of the following: (i) the date of actual receipt; (ii) the fifth (5th) business day after any registered or certified notice was deposited in a sealed envelope in the U.S. mail, postage prepaid; (iii) the next business day after any notice was delivered (on a business day) to a receipted overnight delivery service of said notice accepted same).

Section 23. Public Records

Local Governments acknowledges that UCFRF is a direct support organization of UCF, and accordingly, acknowledge UCFRF's exemption to section 119, Florida Statutes, as provided under section 1004, Florida Statutes. If UCFRF will act on behalf of the Local Governments as a "contractor", as provided under section 119.0701, Florida Statutes, then UCFRF, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall to the extent permitted by law:

1. Keep and maintain public records required by the Local Governments to perform the service.
2. Upon request from the Local Government's custodian of public records, provide the Local Government 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 Florida 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 for the duration of the contract term and following completion of the contract if the UCFRF does not transfer the records to the Local Government.
4. Upon completion of the contract, transfer, at no cost, to the Local Government all public records

in possession of the UCFRF or keep and maintain public records required by the Local Government to perform the service. If the UCFRF transfers all public records to the Local Government upon completion of the contract, the UCFRF shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirement. If the UCFRF keeps and maintains public records upon completion of the contract, the UCFRF shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Local Government, upon request from the Local Government's custodian of public records, in a format that is compatible with the information technology systems of the Local Government.

5. If the UCFRF acts as a "contractor", as provided under section 119.0701, and if the UCFRF does not comply with a public records request, the Local Governments shall enforce the contract provisions in accordance with the contract.

Section 24. No Partnership. Nothing in this Agreement shall be construed to establish an agency, partnership or joint venture relationship between the Local Governments and UCFRF or UCF, nor any employer/employee relationship with any Incubatee. In addition, it is agreed by the parties hereto that, at all times and for all purpose within the scope of this Agreement, UCFRF and UCF are independent of the Local Governments, and UCFRF and UCF, and their employees, subcontractors, representatives and the like, shall not be entitled to any of the rights, privileges or benefits of an employee of any of the Local Governments.

Section 25. Headings. All sections and descriptive headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

Section 26. Severability. If any provision, term, or clause of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, shall be severable, the remainder continuing in full force and effect, but only to the extent that the remainder does not become unreasonable or otherwise contrary to the purpose and intent of this Agreement.

Section 27. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.

Section 28. Construction of Agreement. This Agreement has been fully reviewed and approved by the parties hereto and their respective counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provisions being interpreted.

Section 29. No Public Rights Created. Nothing herein shall create or be construed to be created any rights in and/or for the benefit of the general public, except as may be expressly permitted by Grantee.

Section 30. Entire Agreement. This Agreement constitutes the entire Agreement between the

Parties and supersedes all previous discussions, understandings and Agreements between the Parties relating to the subject matter of this Agreement.

Section 31. Waiver. Failure of the Parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement, or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition or right of election, but same shall remain in full force and effect.

Section 32. Conflict of Interest. UCFRF certifies that it and UCF have not employed or retained any company or person, other than a bona fide employee working solely for UCFRF or UCF, to solicit or secure this Agreement and that he/she has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this paragraph, the Local Governments shall have the right to terminate this Agreement immediately without liability and without regard to the notice requirements of Section 22 hereof.

Section 33. Equal Opportunity Employer. UCF is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. UCFRF will further ensure that all individuals, corporations, or other entities it utilizes for the Project will comply with all equal opportunity employment laws.

Section 34. Bankruptcy or Insolvency. If UCFRF shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of UCFRF shall be appointed in any proceeding brought by or against UCFRF, or if UCFRF shall make an assignment for the benefits of creditors, or proceedings shall be commenced on or against UCFRF's operations of the premises, the Local Governments may terminate this Agreement immediately.

Section 35. Other Funding Sources. Nothing contained in this Agreement herein shall prevent the City, County or UCFRF from seeking funding from other sources for purposes to include, but not to be limited to, expanding the Project, offsetting operating costs, the purchase of tangible assets or other available funding to offset funding already committed or issued by the City or County.

In Witness Whereof the Parties have executed this Agreement for the purposes herein expressed the day and year first written above.

Witnesses:

Peter Catalao

Peter Catalao

Printed Name

Tracy Cole

Tracy Cole

Printed Name

Witnesses:

Printed Name

Printed Name

UCF Research Foundation, Inc.

A Coveney 10/2/2024

Amanda Coveney, Assistant Director

ATTEST:

City of Kissimmee, Florida

ATTEST:

Approved as to form and Legality

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the later of the dates that each party signed this Agreement.

**BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA**

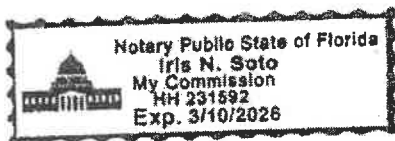
By: Beth Anne Knight
County Manager/Designee

Date: 9/25/2024

STATE OF Florida
COUNTY OF Osceola

The foregoing instrument was executed before me by means of ☒ physical presence or, ☐ online notarization, this 25th day of September, 2024, by Beth Anne Knight, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the County, and who is personally known to me OR has produced N/A as identification.

Iris N. Soto
NOTARY PUBLIC, State of Florida
Iris N. Soto
(stamp)



ITEM 8.B

Approval of Agreement with LandDesign, Inc. for Vine Street landscape design services.

Request

Approval of an agreement with LandDesign, Inc., Contract #20250000, for Vine Street landscape design services and a budget transfer for associated costs.

Explanation

In 2022, the Vine Street Community Redevelopment Agency (CRA) approved the Vine Street Landscape Master Plan. In 2023, the CRA approved an application for a Florida Department of Transportation (FDOT) District Five Landscape Program Grant specifically for funding for landscape improvements along FDOT roads. In February 2024, the Vine Street CRA Board approved acceptance of the FDOT grant in the amount of \$1,775,366, specifically funding plants and plant materials, and select ancillary items. Per the FDOT District Five Landscape Program Grant guidelines, the CRA is responsible for the design, contract, construction and maintenance of the project.

LandDesign, Inc. has been involved in the landscape project since 2022. The CRA originally engaged LandDesign, Inc., for landscape planning and grant-writing services. However, the contract excluded landscape design services. Due to LandDesign, Inc.'s familiarity with the project, staff re-engaged the consultant to enter into a piggyback agreement using the City of Orlando bid to ensure timeliness and consistency in all phases of the project. Staff is requesting approval of the piggyback agreement, its scope of services and a budget transfer for associated costs, which include but are not limited to:

1. Preliminary design and documentation formatting
2. Construction documentation
3. Permitting
4. Irrigation design

The CRA is responsible for the costs associated with the landscape design. FDOT will reimburse the CRA in the amount of \$1,775,366 for the purchase and installation of plants and plant materials, and select ancillary items.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10722200-509276		Decrease		185,500
10722203-503434		Increase		185,500

Financial Summary:

The CRA has sufficient funds to support this request, which is estimated not to exceed \$185,500.

City of Kissimmee

Recommendation

Approve the LandDesign, Inc. Contract #20250000 for Vine Street landscape design services and the budget transfer for associated costs.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Economic Development

Presenter: Samia Singleton

Attachment(s):

1. (S) Vine Street CRA & LandDesign Agreement
2. FDOT Landscape Program Fact Sheet

**AGREEMENT BETWEEN VINE STREET
COMMUNITY REDEVELOPMENT AGENCY
AND LAND DESIGN, INC**

THIS AGREEMENT is made this _____ day of _____, 2024 by and between the **VINE STREET COMMUNITY REDEVELOPMENT AGENCY**, of the City of Kissimmee 101 Church Street, Kissimmee, Florida 34741, hereinafter “**CRA**”, and **LANDDESIGN, INC.**, whose address is 100 S. Orange Ave., Suite 200, Orlando, FL 32801, hereinafter “**CONTRACTOR**” and each represents as follows:

WITNESSETH

WHEREAS, CRA desires to retain the services of a competent and qualified Contractor to provide professional landscape architectural and related services for the City’s ‘Vine Street Landscape Improvements’ project (the “**Project**”) within the City of Kissimmee; 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, the CRA may procure goods and services from bid or proposals from any government subdivisions when its in the best interest of the City of Kissimmee; and

WHEREAS, Pursuant to a competitive bidding and selection process the City of Orlando, Florida, as a Lead Public Agency, entered “**AGREEMENT RQS23-0001-4**” (the “**Master Agreement**”) on October 01, 2023, with **CONTRACTOR**, as the lowest, responsive bidder in accordance with the attached hereto as **Exhibit “A”** and made a binding part hereof; and

WHEREAS, CRA has determined that the specifications in Master Agreement are similar in nature to the work needed by the CRA, and therefore it is economically advantageous and in the best interest of the CRA to enter into a cooperative purchase agreement with **CONTRACTOR**, who is certified and qualified to provide the necessary services as they arise within the **CITY** from time to time.

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 RQS23-0001-4**”, entered by the City of Orlando, Florida and **CONTRACTOR**, 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. As such, the following modifications to the Master Agreement shall apply:

- a. The term "CITY" as used in the Master Agreement shall also refer to the CRA as defined in this Agreement.
- b. For purposes of **Section 1. Basic Services of Consultant**: The Contractor shall provide the services at the fee amount specified in "**Exhibit B**" for the Vine Street CRA Project. Any additional services must be requested in writing, in accordance with **Subsection 1.1.2** of the Master Agreement.
- c. For purposes of **Section 4. Period of Service**: The term of this Agreement shall be through September 30, 2025, and may be extended when in the best interest of the CRA
- d. For purposes of **Section 5.5 Records**, the Parties agree to comply with the Florida Public Records Act (Chapter 119, Florida Statutes) to the fullest extent applicable. As such, the Contractor shall keep and maintain public records required by the City to perform the service. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORD RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT: (407) 518-2313, cityclerkemail@kissimmee.gov, and 101 Church Street, Kissimmee, Florida 34741.**
- e. For purposes of **Section 11. Notices**: Notices shall be sent to the following:
 - i. The CRA Project Manager's contact information is as follows:

Economic Development / Vine Street CRA
Attn: CRA Manager
101 Church Street
Kissimmee, FL 34741
 - ii. The CONTRACTOR Project Manager's contact information is as follows:

Chad Kovaleski, PLA
Principal
LandDesign, Inc.
100 South Orange Avenue, Suite 200
Orlando, FL 32801

- f. For purposes of **Section 14. City Representative**: the language "Director of Public Works" shall be replaced with "Economic Development Director".

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

LANDDESIGN, INC.

By: *Chad Kovalski*

Title: Partner

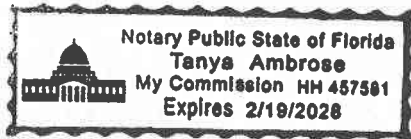
Date: September 12, 2024

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 12th day of September, 2024, by means of ☒ physical presence or ☐ online notarization, by Chad Kovalski as Partner for LandDesign, Inc., a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:

Notary: *Tanya Ambrose*
Print Name: Tanya Ambrose
My Commission Expires: 2/19/2028



**VINE STREET COMMUNITY
REDEVELOPMENT AGENCY**

Olga Gonzalez, CRA Board Chair

Date: _____

Attest:

City Clerk

Approved as to form & legality

City Attorney

EXHIBIT A
CITY OF ORLANDO AGREEMENT RQS23-0001-4
(MASTER AGREEMENT)

Continuing Professional Consulting Agreement

between

City of Orlando, Florida

and

LandDesign, Inc.

Initial Term: 10/1/23 to 9/30/25

Renewal Option: 10/1/25 to 9/30/26

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CONTINUING PROFESSIONAL CONSULTING AGREEMENT

THIS AGREEMENT (“Contract”) is made and entered into effective the 1st day of October, 2023, by and between the **City of Orlando, Florida**, a municipal corporation existing under the laws of the State of Florida (CITY), and **LandDesign, Inc.**, a North Carolina corporation (CONSULTANT).

WHEREAS, the CITY shall have the option to use the CONSULTANT's professional landscape architecture and related services (Services), as further described below, for a variety of City projects as may be assigned by the City (Project(s)); and

WHEREAS, the CONSULTANT is willing and able to perform the Services for the CITY on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and mutual covenants given one to the other, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1 General.

1.1.1 The CONSULTANT shall provide Services for the CITY in all phases of a Project to which this Contract applies as hereinafter provided. These Services shall include serving as the CITY's professional landscape architecture representative for Projects, providing professional landscape architecture services consultation and advice, and by itself or with Subconsultants furnishing customary civil, architectural, structural, mechanical, environmental, transportation, stormwater, irrigation, landscaping, and electrical engineering services, and other related services as may be appropriate. The CONSULTANT shall perform any and all Project Services in a timely, efficient and cost-effective manner and in accordance with the generally accepted standards of its profession.

1.1.2 The CITY shall, from time to time at its sole discretion, authorize the CONSULTANT in writing to provide Services by means of a Services Authorization under the terms of this Contract. A Services Authorization shall, by mutual agreement of the parties, set forth, (1) the Scope of Services, (2) the time for performance, (3) method and amount of compensation, (4) the provisions of Sections 1 and 2 of this Contract which are applicable, and (5) the Deliverables, if any (which are the items to be provided to the CITY as a result of the Services).

1.1.3 The CITY does not guarantee, warrant, or represent that any number or any particular type of Project will be assigned to the CONSULTANT under the terms of this Contract. Furthermore, the purpose of this Contract is not to authorize a specific Project, but to set forth certain duties, obligations, rights, and responsibilities that may be incorporated by reference into any Services Authorization that may be mutually agreed to by the parties. The CITY shall have the sole discretion to select the Project(s), if any, that may be given to the CONSULTANT. Assignments will be in accordance with any dollar limitations contained in Section 287.055 of the Florida Statutes, as may be amended from time to time, related to the use of continuing professional services contracts.

1.2 Study and Report Phase.

During the Study and Report Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.2.1 Consult with the CITY to clarify and define the CITY's requirements for the Project, and to review available data.

1.2.2 Advise the CITY as to the necessity of the CITY's providing (or obtaining from others) data or services of the types described in Subsections 3.2 and 3.3, and assist the CITY in obtaining such data and services.

1.2.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project, participate in consultations with such authorities, and, where applicable, prepare grant-funding documents and applications.

1.2.4 Provide analyses of the CITY's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5 Provide a general economic analysis of the CITY's requirements applicable to various alternatives.

1.2.6 Prepare a Report or feasibility study containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to the CITY and setting forth the CONSULTANT's findings and recommendations. This Report will be accompanied by the CONSULTANT's cost estimate for the Project, including the following, which shall be separately itemized: construction costs, allowance for consulting costs and contingencies, and (on the basis of information furnished by others) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, legal fees, project management fees, for interest and financing charges and for other Services identified as pertinent to the Project. The total cost of all such costs, expenses, etc. are hereinafter called "Total Project Costs."

1.2.7 Furnish the number of copies as identified in the applicable Services Authorization of the Study and Report documents and review them in person with the CITY.

1.3 Preliminary Design Phase.

During the Preliminary Design Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.3.1 Make a personal examination of the proposed Project site, and, as may reasonably be discoverable, note site conditions and impediments that pertain to or might adversely affect the timely, efficient, and economical completion of any phase of the Project, or the Project as a whole. The CONSULTANT shall promptly report any adverse site conditions to the CITY.

1.3.2 Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3 Provide Services to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the CITY or others to the CONSULTANT. Such verification Services shall be set forth in the applicable Services Authorization.

1.3.4 Advise the CITY if additional data or Services are necessary for preliminary design, and assist the CITY in obtaining such data and Services.

1.3.5 Based on the information contained in the preliminary design documents, submit a revised Total Project Cost estimate to the CITY.

1.3.6 Furnish the number of copies identified in the Services Authorization of the above Preliminary Design documents, and present and review them in person with the CITY.

1.4 Final Design Phase.

During the Final Design Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.4.1 On the basis of the accepted Preliminary Design documents and the Total Project Cost estimate, prepare for incorporation in the Construction Contract Documents final drawings (Drawings) to show the general scope, extent and character of the work to be furnished and performed by the Project Contractor(s), and specifications (Specifications) (which will be prepared in conformance with the sixteen-division format of the Construction Specifications Institute).

1.4.2 Prepare and furnish to the CITY such documents and design data as may be required by the CITY, so that the CITY may apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project. The CONSULTANT shall also assist the CITY in obtaining such approvals by submitting, participating and/or leading in negotiations with appropriate authorities, and the Services Authorization shall define the CONSULTANT's role in this regard.

1.4.3 In conjunction with furnishing the related drawings and specifications to the CITY, advise the CITY promptly, in writing, at the thirty percent (30%), sixty percent (60%), and ninety percent (90%) completion stages of any Project, of the estimated Project construction cost.

1.4.4 Advise the CITY of any significant adjustments to the latest Total Project Cost estimate caused by changes in Project extent or design requirements or by variations in construction costs and furnish a revised Total Project Cost estimate based on the latest drawings and specifications.

1.4.5 Prepare for review and approval by the CITY, Invitations For Bid, Bid Forms (where appropriate), Supplementary Conditions and assist in the preparation of other related documents.

1.4.6 Furnish number of copies as identified in the Services Authorization of the drawings and specifications and present and review them in person with the CITY.

1.5 Bidding or Negotiating Phase.

During the Bidding and Negotiation Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.5.1 Assist the CITY in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment, and services; and, when authorized in the applicable Services Authorization, attend pre-bid conferences.

1.5.2 Issue addenda as appropriate to interpret, clarify or expand the bidding documents or in response to written questions received during the Bid Phase.

1.5.3 Consult with and advise the CITY as to the acceptability of the prime Contractor as well as subcontractors, suppliers and other persons and organizations proposed by the prime Contractor(s) for those portions of the work where determination of such acceptability is required by the bidding documents.

1.5.4 Consult with the CITY concerning, and determine the acceptability of, substitute materials and equipment proposed by the Contractor(s) when substitution is allowed by the bidding documents.

1.5.5 Assist the CITY in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6 Construction Phase.

During the Construction Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.6.1 General.

Consult with and advise the CITY and act as its representative as provided in the CITY's Standard Construction Contract Documents (Construction Contract Documents). The CITY shall have sole discretion as to the form of these contract documents, or as how they are to be amended pursuant to any Project, or as how they may otherwise be amended from time to time.

1.6.2 Pre-Construction Meeting.

Prepare for and attend a pre-construction meeting conducted by the CITY with representatives of the Contractor(s), subcontractor(s), utility companies, etc., for each Project, as determined necessary by the CITY.

1.6.3 Work in Progress.

In connection with observations of the work of Contractor(s) while it is in progress:

1.6.3.1 The CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as the CONSULTANT deems necessary, and in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. In addition, the CONSULTANT may provide, if requested by the CITY in a Services Authorization, the services of a Construction Manager and/or Field Representative (and assistants as agreed) at the site to assist the CONSULTANT and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, the CONSULTANT shall determine in

general if such work is proceeding in accordance with the Construction Contract Documents, drawings and specifications, and the CONSULTANT shall inform the CITY on the progress of the work.

1.6.3.2 If authorized in the Services Authorization, the Construction Manager and/or Field Representative (and any assistants) will be the CONSULTANT's agent or employee and under the CONSULTANT's supervision. The duties and responsibilities of the Construction Manager and/or Field Representative (and assistants) are set forth in the Construction Contract Documents, or as may otherwise be agreed in a Services Authorization. Daily Reports generated by the Construction Manager and/or Field Representative(s) shall be in a form acceptable to the CITY, and shall be submitted to the CITY on a weekly basis throughout the construction phase of the Project (from Notice to Proceed through Final Acceptance of the work).

1.6.3.3 The purpose of the CONSULTANT's visits to and representation by the Construction Manager and/or Field Representative (and assistants, if any) at the site will be to enable the CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by the CONSULTANT during the Construction Phase, and, in addition, by exercise of the CONSULTANT's efforts as an experienced and qualified design professional, to provide confidence for the CITY that the completed work of the Contractor(s) will conform to the Construction Contract Documents, drawings and specifications and that the integrity of the design concept as reflected in the aforesaid documents has been implemented and preserved by the Contractor(s). The CONSULTANT shall not, however, during such visits or as a result of such observations of the Contractor(s)' work in progress, supervise, direct or have control over the Contractor(s)' work, nor shall the CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Contractor(s), for safety precautions and programs incident to the work of the Contractor(s), or for any failure of the Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor(s)' furnishing and performing their work. Accordingly, the CONSULTANT can neither guarantee the performance of the construction contract by the Contractor(s), nor assume responsibility for the Contractor(s)' failure to furnish and perform their work in accordance with the Construction Contract Documents, drawings and specifications.

1.6.4 Defective Work.

During such visits and on the basis of such observations, the CONSULTANT shall keep the CITY informed of the progress of the work, shall endeavor to guard the CITY against defects and deficiencies in such work, and may disapprove of or reject the Contractor(s)' work while it is in progress if the CONSULTANT believes that such work will not produce a completed Project that conforms generally to the Construction Contract Documents, drawings and specifications or that it will prejudice the integrity of the design concept of the Project as reflected in the Construction Contract Documents, drawings and specifications. The CONSULTANT shall advise the CITY in a timely manner of defect(s) in the Contractor's or Subcontractor's work, and of the action taken to have the defect(s) corrected.

1.6.5 Shop Drawings.

The CONSULTANT agrees that all Shop Drawings shall be stamped (or otherwise labeled) with one of the following notations and language:

APPROVED	☐
APPROVED AS CORRECTED	☐
REVISE AND RESUBMIT	☐
NOT APPROVED	☐

Approval is only for general conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other actions shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. The Contractor is responsible for dimensions to be confirmed and correlated at the job site; for information that pertains solely to the fabrication processes or to techniques of construction; and for coordination of the work of all trades."

Furthermore, the CONSULTANT agrees that it shall devise a separate tracking system for Shop drawings previously disapproved, or for which corrections, modifications, or changes are necessary. The tracking system shall be both timely and efficient, and shall account for the status and party responsible to correct all previously submitted Shop Drawings until their complete approval and acceptance. The tracking system shall include, but not be limited to, the following CONSULTANT activities: subsequent to any Contractor's being ordered to start construction work, the CONSULTANT shall transmit to the CITY, if required by Services Authorization and at such frequency as defined therein, a list of Shop Drawings anticipated for such construction contract, the names of Shop Drawings, their due dates (in accordance with Shop Drawing schedules submitted by the Contractor(s)) required from the Contractor(s); their dates of issue, receipt, checking, return for correction, resubmission, and approval; and any information that will clearly provide the CITY with the progress of Project Shop Drawings; provided, however, that in any event all Shop Drawings that have been submitted to the CONSULTANT (whether for approval or reapproval) shall be reviewed and returned by the CONSULTANT within twenty (20) days of submission.

1.6.6 Interpretations and Clarifications.

The CONSULTANT shall issue necessary interpretations and clarifications of the drawings and specifications and in connection therewith prepare work directive changes and change orders as required. In addition, the CONSULTANT shall respond, in writing, to all "Requests for Information" (RFI). All RFIs and responses thereto shall be submitted to the CITY.

1.6.7 Substitutes.

The CONSULTANT shall evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor(s).

1.6.8 Inspections and Tests.

The CONSULTANT shall have authority, as the CITY's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testings and approvals required by laws, rules, regulations, ordinances, codes, orders and terms of the drawings and specifications (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the drawings and specifications) and, in addition, the CONSULTANT shall have authority, as the CITY's representative, to act as initial interpreter of the requirements of the drawings and specifications.

1.6.9 Applications for Payment.

Based on the CONSULTANT's on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, the CONSULTANT

shall determine the amounts owing to the Contractor(s) and recommend in writing payments to the Contractor(s) in such amounts: such recommendations of payment will constitute a representation to the CITY, based on such observations and review, 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 such work is generally in accordance with the Construction Contract Documents, drawings and specifications (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due to the Contractor(s); but by recommending any payment, the CONSULTANT will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by the CONSULTANT to check the quality or quantity of the work or impose on the CONSULTANT responsibility to supervise, direct, or control such work, or for the means, methods, sequences, techniques or procedures of construction or safety precautions or program incident thereto, or that the CONSULTANT has made an examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or that title to any of the work, materials or equipment has passed to the CITY free and clear of any lien, claims, security interests or encumbrances, or that the Contractor(s) have completed their work exactly in accordance with the Contract Documents, drawings and specifications.

1.6.10 Review Record Drawings.

If providing Construction Manager and/or Field Representative Services, the CONSULTANT shall periodically review the Record Drawings as prepared by the Contractor(s) and verify the accuracy and completeness thereof prior to recommendation to the CITY of the release of progress payments for the work in question.

1.6.11 Track Progress of Contractor.

If providing Construction Manager and/or Field Representative Services, the CONSULTANT shall track the progress of the Contractor(s) and submit a written report to the CITY, at the 30%, 60% and 90% stages of the construction (as identified by the Contractor(s) original approved schedule) or as defined in the Services Authorization, documenting the progress of the Contractor relative to the original approved Schedule.

1.6.12 Minimize Claims.

The CONSULTANT shall endeavor to minimize the potential areas for Contractor claims by initiating timely, thorough, and complete communication among the CITY and the design and construction contract principals; other local, state, or federal parties (when directed by the CITY); or private entities that may also be involved. Upon identification of a potential Contractor claim, the CONSULTANT shall immediately notify the CITY of all data relevant to the potential Contractor claims, and of which the CONSULTANT is aware.

1.6.13 Resolve Construction-Related Operational Difficulties.

The CONSULTANT shall report to the CITY the status of all significant construction-related system operational and system quality concerns, as well as the actions taken by the CONSULTANT to encourage effective communication and timely resolution thereof. Once a problem area is identified, the CONSULTANT shall keep a detailed log on the item in question, and pursue the timely resolution of that item.

1.6.14 Contractor(s) Completion Documents.

The CONSULTANT shall receive and review maintenance operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by the Contractor(s)

in accordance with the Construction Contract Documents (but such review will only be to determine that their content complies with the requirements of, and, in the case of certificates of inspection, tests, and approvals, the results certified will indicate compliance with the Construction Contract Documents, drawings and specifications); and shall transmit them to the CITY with written comments.

1.6.15 Inspections.

The CONSULTANT shall conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in general accordance with the Construction Contract Documents, drawings and specifications, so that the CONSULTANT may recommend, in writing, final payment to each Contractor, and may give written notice to the CITY and the Contractor(s), that the work is acceptable (subject to any conditions, therein expressed). In addition, the CONSULTANT shall conduct a warranty inspection and report to the CITY, in writing, the results of the inspection, including any warranty related defects identified.

1.6.16 Limitation of Responsibilities.

The CONSULTANT shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except the CONSULTANT's own Subconsultants, employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; provided, however, that nothing contained in Subsections 1.6.1 through 1.6.15, inclusive, shall be construed to release the CONSULTANT from liability for failure to properly perform duties and responsibilities assumed by the CONSULTANT.

1.6.17 Subcontractors and Subconsultants.

In performing the Services and to see them to a timely, efficient, and cost-effective completion, the CONSULTANT shall have the right to employ other firms, consultants, contractors, subcontractors, and so forth (Subconsultants). While the CITY shall make no demand that the CONSULTANT hire any particular Subconsultant for any specific Project, by acquiescing to or accepting a Subconsultant hired by the CONSULTANT, the CITY does not guarantee or warrant the reliability or effectiveness of that entity's services.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 General.

The CITY may, at its sole discretion, provide the CONSULTANT with a Services Authorization to furnish or obtain (from others) Additional Services of the following types which are not considered normal or customary Basic Services, as described above. These additional services may include, but are not limited to, the following:

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services resulting from significant changes in the previously approved extent of the Project or its design including, but not limited to, changes in size, complexity, the CITY's schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design documents

or Construction Contract Documents when such revisions are due to causes beyond the CONSULTANT's control.

2.1.3 Providing measured drawings, renderings or models for the CITY's or the CONSULTANT's use.

2.1.4 Preparing documents for alternate bids requested by the CITY for the Contractor(s)' work, or documents for out-of-sequence work.

2.1.5 Investigations involving detailed consideration of operations, maintenance and overhead expenses; value engineering during the course of design; cash flow and economic evaluations not envisioned in a preliminary consulting report; rate schedules and appraisals; assistance in obtaining financing for the Project; processes available for licensing and assisting the CITY in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by the CITY.

2.1.6 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, environmental, architectural, transportation, stormwater, irrigation, landscaping, and electrical engineering); and for providing data or services beyond those described as Basic Services, herein.

2.1.7 Services resulting from the award of more than a separate prime contract for construction, materials, equipment or services for the Project, and services resulting from the arranging for performance by persons (other than the prime Contractors) of services for the CITY and administering the CITY's contracts for such services.

2.1.8 Services during out-of-town travel required of the CONSULTANT, other than visits to the site or the CITY's office which are necessary for the performance of Basic Services.

2.1.9 Providing any type of field surveys for design purposes and engineering surveys and staking to enable the Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.10 Where applicable, and with approval of the CITY, preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial start up, testing, adjusting and balancing); and training personnel for operation and maintenance.

2.1.11 Preparing to serve (or serving) as a consultant or witness for the CITY in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for assistance in consultations included as part of Basic Services).

2.1.12 Services in connection with change orders to reflect changes requested by the CITY, and making revisions to drawings and specifications occasioned thereby.

2.1.13 Preparing for the CITY, on request, a set of reproducible record prints of signed and sealed drawings showing those changes made during the construction process. Such prints shall be based on the marked-up prints, drawings and other data furnished by the Contractor(s) to the CONSULTANT and which the CONSULTANT considered significant (Record Drawings). If the CITY requests the original Record Drawings so prepared by the CONSULTANT, the CONSULTANT may have them delivered to a printer that will not unreasonably delay the delivery of the record drawings. It is anticipated that the printer may deliver to the CONSULTANT a copy of the original reproducible mylars. Both the original

and copy of the original reproducible mylars will be at no cost to the CITY. The CITY agrees to receive the original reproducible record drawings directly from the printer. The CITY will acknowledge, in writing to the CONSULTANT, its receipt of the original reproducible mylars. This receipt, however, shall not be construed as the CITY's acceptance or waiver of any errors or omissions, or both of these things, that may be contained in the signed and sealed Record Drawings themselves. Upon receipt of the original reproducible mylars, the CITY agrees that, as the CONSULTANT has not retained a reproducible copy of the documents, the CONSULTANT will not produce further copies of these documents for the CITY.

2.1.14 Additional or extended service during construction made necessary by, (1) work damaged through means beyond control of the CONSULTANT, (2) a significant amount of defective or neglected work of the Contractor(s) not resulting from the inadequate performance of the CONSULTANT under the terms of the Contract, (3) prolongation of contract time of any prime Contractor by more than thirty (30) days, (4) acceleration of the progress schedule involving Services beyond normal working hours, and (5) default by the prime Contractor(s).

2.1.15 Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any construction contract for the Project.

2.1.16 Assistance in the preparation of ordinances.

2.1.17 Assistance in the preparation of agreements between the CITY and others (including, but not limited to, other units of government, developers, districts, and authorities).

2.1.18 Special studies, reports, investigations or analyses.

2.1.19 Services in connection with any partial utilization of any part of the Project by the CITY prior to Substantial Completion.

2.1.20 Evaluating an unreasonable or extensive number of claims submitted by the Contractor(s) or others in connection with the work, such unreasonableness and extensiveness to be at the CITY's request and determination.

2.1.21 The filing of a written Status Report with the CITY concerning, 1) a description of the Services performed and completed to a date certain, 2) the results of such Services and work (i.e., their relation to the total Project Work, the percentage of Project Services then completed), and 3) any other observations or comments that the CONSULTANT believes or should reasonably believe will affect the successful completion of the Project, or that should otherwise be brought to the CITY's attention. The frequency of such reports shall be set forth in each Services Authorization.

2.1.22 Preparing design criteria packages and design reviews for design build and other solicitations.

2.1.23 Providing design criteria packages, independent professional reviews, and consultation regarding solicited and unsolicited private public partnership proposals and solicitations.

2.1.24 Evaluation of permits and permit applications as requested by the City and providing City staff consultation and advice regarding such matters.

2.1.25 Additional services in connection with the Project not otherwise defined in the Basic Services, or as described elsewhere herein, and including but not limited to start-up services that shall be defined in the appropriate Services Authorization.

SECTION 3 - CITY'S RESPONSIBILITIES

3.1 Requirements for the Project.

The CITY shall provide all criteria and full information as to the CITY's requirements for the Project in a timely manner, including design objectives and constraints; space, capacity and performance requirements; flexibility and expandability matters; and any budgetary limitations; and furnish copies of all design and construction standards which the CITY will require to be included in the drawings and specifications.

3.2 Information Pertinent to the Project.

The CITY shall assist the CONSULTANT by placing at the CONSULTANT's disposal available information pertinent to the Project (including previous reports and any other data relative to design or construction of the Project), and the CITY shall advise the CONSULTANT as to what information, if any, the CITY believes to be accurate. The CONSULTANT is ultimately responsible for satisfying itself as to accuracy of any Data provided, and, furthermore, the CONSULTANT is responsible for bringing to the CITY's attention, for the CITY's resolution, any material inconsistencies or errors in such Data which come to the CONSULTANT's attention. If the CITY requires the CONSULTANT's assistance in resolving any error or inconsistency, such Services may be provided by mutual agreement of the parties, and shall be reimbursed by the CITY pursuant to Subsection 2.1.22, above.

3.3 Access to Property.

The CITY shall arrange for access to and make provisions for the CONSULTANT to enter upon public and private property as required for the CONSULTANT to perform its Services.

3.4 Examination.

The CITY shall examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the CONSULTANT, and render, in writing, decisions pertaining thereto within a reasonable time.

3.5 Approvals and Permits.

The CITY shall obtain approvals and permits, with the active assistance of the CONSULTANT (and as budgeted in the applicable Services Authorization), from all governmental authorities having jurisdiction over the Project, and such approvals and consents from others as may be necessary for successful completion of the Project.

3.6 Other Professional Services.

The CITY shall provide such (accounting, independent cost estimating, and insurance counseling) services as may be required for the Project, to ascertain that the construction Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the Project work.

3.7 City Project Manager.

The CITY shall appoint a City Project Manager for any Services Authorization. The City Project Manager shall be the Director of Public Works (Director) or the Director's designee, and, except as otherwise expressly provided in this Contract, shall issue any and all written authorizations to the CONSULTANT that the Project may require, or that may otherwise be defined or referred to in this Contract. The City Project Manager shall also, 1) act as the CITY's agent with respect to the Services rendered hereunder; 2) transmit instructions to and receive information from the CONSULTANT; 3) communicate the CITY's policies and decisions to the CONSULTANT regarding the Services; 4) determine, initially, whether the CONSULTANT is fulfilling its duties, responsibilities, and obligations hereunder; and 5) determine, initially, the merits of any allegation by the CONSULTANT respecting the CITY's non-performance of any Project obligation. All determinations made by the City Project Manager, as outlined above, shall be final and binding upon the CONSULTANT in regard to further administrative review, but shall not be binding upon the CONSULTANT in regard to general appearances before or appeals to the Orlando City Council, or appearances before or appeals to a court of competent jurisdiction.

3.8 Notice and Extension of Term.

The CITY shall give prompt written notice to the CONSULTANT whenever the CITY observes or otherwise becomes aware of any development that affects the scope or timing of the CONSULTANT's Services, or any defect in the work of the Contractor(s). If the CONSULTANT has been delayed in completing its Services through no fault or negligence of its own, and, as a result, will be unable to complete performance fully and satisfactorily under the provisions of any Services Authorization, then, in the Director's sole discretion, and upon the submission to the Director of evidence of the causes of the delay, the CONSULTANT shall be granted an extension of its Project schedule equal to the period the CONSULTANT was actually and necessarily delayed.

3.9 CITY's Construction Management.

The CITY may provide Construction Manager(s) and Field Representative(s) to monitor construction activities. When the CITY provides Construction Manager(s) and Field Representative(s), his duties, responsibilities and limitations of authority shall be as set forth in the Construction Contract Documents and the following will apply:

3.9.1 The Construction Manager will provide instructions to the Field Representative(s) on procedures to be followed, and will schedule inspections of construction. The Field Representative(s) shall be responsible for proper execution of the Construction Manager's instructions.

3.9.2 The CITY's Construction Manager(s) and Field Representative(s) shall have prior construction experience, or shall be trained by the CITY to assure that the foregoing have sufficient understanding of their duties and personal job safety precautions on the subject Project. The CONSULTANT, has no responsibility for training of the CITY's representative(s), or for general duties of a representative on the subject Project, or for general job safety precautions on the subject Project.

3.10 Additional Services.

The CITY shall furnish, or direct the CONSULTANT to provide, necessary Additional Services as stipulated in Section 2 of this Contract, or other Services as required, or as mutually agreed pursuant to a Services Authorization.

3.11 Incidental Costs.

The CITY shall bear all costs incident to compliance with the requirements of this Section.

SECTION 4 - PERIOD OF SERVICE

4.1 Continuing Contract.

This term of this Contract shall commence on October 1, 2023 and end on September 30, 2025, unless terminated in accordance with SECTION 8. The parties shall have the option of extending the term one (1) year upon mutual agreement. The above time periods may be exceeded to complete a Project already in progress at the end of the term.

4.2 Services Authorization.

Each Services Authorization shall specify the Period of Service agreed to by the CITY and the CONSULTANT for Services to be rendered under that Services Authorization.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 General.

5.1.1 The CITY will pay the CONSULTANT for the Services as detailed in each of the CONSULTANT's narrative monthly invoices (Invoices), and in accordance with the schedule of Fees and reimbursable expenses as provided in each Services Authorization. The invoices shall be in a format approved by the Project Manager.

5.1.2 The CONSULTANT fully acknowledges and agrees that if at any time it performs Services on a Project contemplated by the parties, such Services which have not been, a) fully negotiated, reduced to writing, and formally executed by both the CITY and CONSULTANT; b) or reduced to writing by the CITY and signed by the CITY's Chief Procurement Officer or other authorized person; then the CONSULTANT shall perform such Services without liability to the CITY, and at the CONSULTANT's own risk.

5.1.3 For other than lump-sum contracts, the CITY shall only be obligated to pay for those Services that the CONSULTANT can demonstrate are reasonable, provable, and within the Scope of Services of any Services Authorization.

5.1.4 The CITY has established a maximum multiplier of 3.0 to be applicable to the Wage Cost Multiplier method of compensation, as set forth below.

5.2 Methods of Compensation.

Within the Services Authorization associated with each Project, the CITY and the CONSULTANT may agree on, but not be limited to, one of the methods of compensation outlined in Subsections 5.2.1, et seq. If a different method of compensation is to be used, the Services Authorization will set forth the basis for such compensation.

5.2.1 Wage Cost Multiplier.

5.2.1.1 General. One method of compensation shall be calculated by a wage or salary cost times (multiplied by) an actual audited overhead factor (Wage Cost Multiplier); provided, however, that in no instance shall the factor exceed 3.0 (Multiplier) without the written approval of the City's Chief Financial Officer. Reimbursable expenses shall be compensation times a factor of 1.0, and Subconsultants times a factor of up to 1.1 (applicable to the fee but not to reimbursable expenses). Reimbursable expenses include the pass-through costs incurred by the CONSULTANT. After application of the Multiplier, the personnel costs shall include:

- a) Salary
- b) Social Security
- c) Federal and State Unemployment Taxes
- d) Worker's Compensation Insurance
- e) Sick Leave
- f) Vacation and Holiday Pay
- g) Retirement and Medical Insurance Benefits
- h) General and Administrative Overhead Costs
- i) Quality Control (to ensure normal standard of care)
- j) Profit (not to exceed 10%)
- k) Incidental Reproduction and Secretarial (not attributable to a specific Project)
- l) Office Support Costs (including accounting work necessary for the maintenance of Project billings)

5.2.1.2 Wage Cost Multiplier for Construction Phase Services on Major Projects. (This Subsection may apply to assignments which require one or more full-time field personnel assigned to a Project.) If this method of compensation is used, the CITY shall pay the CONSULTANT an amount based on the direct salaries and wages of office and field personnel times (multiplied by) a mutually agreed upon factor set forth in the Services Authorization, not to exceed the maximum factors as set forth below without the written approval of the City's Chief Financial Officer, for Services rendered by officers, principals, and employees assigned to the Project; plus reimbursable expenses times a factor 1.0; plus the cost of Subconsultants times a factor of up to 1.1 (applicable to the fee but not to reimbursable expenses). The maximum factors that can be applied to direct salaries and wages are as follows, unless the prior written approval of the City's Chief Financial Officer is obtained:

Factor

Office Services, defined as personnel assigned to and based in the CONSULTANT's regular places of business

Max 3.0

Field Services, defined as personnel assigned to and based in a furnished field office which is

provided by, 1) the construction Contractor, 2) the CITY, or 3) by the CONSULTANT as a reimbursable expense.

Max 2.55

5.2.2 Lump Sum.

For Services rendered, the CITY shall pay the CONSULTANT a lump-sum fee, including or excluding reimbursable expenses as mutually agreed upon and set forth in the Services Authorization. Unless otherwise agreed in a Services Authorization, the CONSULTANT will invoice the CITY monthly, based upon the CONSULTANT's estimate of the portion of the total Services actually completed at the time of billing.

5.3 Reimbursable Expenses.

"Reimbursable Expenses" means the actual, necessary and reasonable expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto for travel outside Orange and Seminole Counties; obtaining bids or proposals from Contractor(s); furnishing and maintaining field office facilities; toll telephone calls and telegrams; reproduction of reports, drawings and specifications, and similar Project-related items; as provided in the CITY's written procurement policies and directives.

5.4 Payments by Owner.

5.4.1 All Services' payment (Payment) shall be made by the City to the CONSULTANT within thirty (30) calendar days of the City's invoice receipt thereof (Payment Period), unless, within the Payment Period, the CITY, 1) notifies the CONSULTANT of an objection to the Payment amount, and 2) either provides the CONSULTANT with a determination of the proper Payment, or 3) requests further information from the CONSULTANT so that a proper Payment can be derived and agreed upon by the parties.

5.4.2 The CITY's objection to the Payment amount shall be accompanied by the CITY's remittance of any undisputed portion of the Payment. If the objection is resolved in favor of the CONSULTANT, then the CITY shall pay the CONSULTANT the amount so determined, minus any Payment amount previously paid to the CONSULTANT with respect to the objection, plus interest at one percent (1%) simple interest, per month, on the unpaid amount. If it is determined that the CITY has overpaid the CONSULTANT, then the CONSULTANT shall, within thirty (30) calendar days, refund to the CITY the overpayment amount, and interest, at one percent (1%) simple interest, per month.

5.5 Records.

The CONSULTANT also agrees to maintain, and to cause each Subconsultant to maintain, complete and accurate books and records (Books) in accordance with sound accounting principles and standards, and relating to all Services and the Project, and the related costs and expenditures to the CITY that have been contracted for and paid during the life of any Specific Authorization. The Books shall identify the Services rendered during each month of the Services Authorization, the date that each Project expense was incurred, and whether the expense was Service or reimbursable-related. These Books shall be maintained for the longer of (i) five (5) years following Final Payment; (ii) five (5) years following termination of any Services Authorization; or (iii) the conclusion of all audits and litigation (including all appeals) related to this Contract (including any Services Authorizations) or any Project which was the subject of a Services Authorization pursuant to this Contract. To the extent applicable, CONSULTANT shall comply with

Florida public records laws, including Sections 119.0701(2) (b) 1 through 4 of the Florida Statutes. **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT C/O DEPUTY CITY CLERK, RECORDS@CITYOFORLANDO.NET, TELEPHONE NUMBER (407) 246-3538, 400 S. ORANGE AVE., ORLANDO, FL 32801.**

5.6 Late Payment.

If the CITY fails to make any payment due the CONSULTANT for Services and expenses within forty-five (45) days after receipt of the CONSULTANT's invoice therefor, the amounts due the CONSULTANT shall include a charge at the rate of one percent (1%) per month simple interest from the thirtieth (30th) day, and, in addition the CONSULTANT may, after giving seven (7) calendar days' prior written notice to the CITY, suspend Services under this Contract until the CONSULTANT has been paid, in full, amounts due it for Services and expenses. Any portion of an invoice that is objected to or questioned by the CITY in accordance with Subsection 5.4 shall not be considered due for the purposes of this Subsection.

5.7 Overtime.

Overtime will be paid by the CITY only if authorized in advance by the Director for work to be performed to meet a particular deadline for which there is insufficient time to accomplish the task during normal hours, through no fault of the CONSULTANT.

5.8 Scope, Cost and Fee Adjustment.

5.8.1 General.

The CONSULTANT or the CITY may at any time notify the other of requested changes to the Scope of Services as set forth in a Services Authorization. The notification shall state the Scope modification and an adjustment of the cost estimate and fee specified in the subject Services Authorization to reflect such modification. The cost and fee adjustment due to modification in the Scope of Services may be calculated utilizing the same method of compensation applicable to the Services Authorization prior to the Scope modification. The CONSULTANT and the CITY understand that, unless the cost and fee adjustment is within a previously approved budget, any change to the Scope of Services must be approved or authorized by the Orlando City Council. If the cost and fee adjustment is within a previously approved budget to the Scope of Services for the overall Project, the change may be approved by the Director.

5.8.2 Scope Reduction.

The Director shall have the sole right to reduce (or eliminate, in whole or in part) the Scope of any Project at any time and for any reason, upon written notice to the CONSULTANT specifying the nature and extent of the reduction. In such event the CONSULTANT shall be fully compensated for the Services already performed, including payment as defined in Section 5 of all Project-specific fee amounts due and payable prior to the effective date stated in the Director's notification of the reduction and for a maximum of five (5) days' demobilization costs. The CONSULTANT shall also be compensated for the Services remaining to be done and not reduced or eliminated on the Project.

5.8.3 Scope Suspension.

The Director may, at any time and for any reason, direct the CONSULTANT to suspend work (in whole or in part) under this Contract. Such direction shall be in writing, and shall specify the period during which Services shall be stopped. The CONSULTANT shall resume its Services upon the date specified, or upon such other date as the Director may thereafter specify in writing. The period during which the Services are stopped by the CITY shall be added to the applicable Services Authorization term; provided, however, that any work stoppage not approved or caused by the actions or inactions of the CITY shall not give rise to any claim against the CITY by the CONSULTANT. The CITY agrees to compensate the CONSULTANT for its reasonable and provable costs, profits, and losses (including overhead costs, reimbursable, demobilization, remobilization, and Subconsultant expenses incurred) attributable to any delay caused by the actions or inactions of the CITY.

5.9 Sales Tax.

Under present Florida law, Chap. 212, *Fla. Stat.* (2005), the CITY is exempt from sales taxes imposed upon professional services when the CITY purchases such services directly. The CITY agrees to pay actual taxes (exclusive of any multiplier) imposed upon the CONSULTANT, for CITY Projects, for the CONSULTANT's purchase of Subconsultant services, or materials, except for qualified sales for resales. The CITY and the CONSULTANT agree that this Subsection may be modified by Services Authorization, in the event of future changes to Chap. 212, that affect the parties, terms, or conditions of this Contract.

5.10 Payment Withheld.

When the Director has reasonable ground for belief, or information to believe that, 1) the CONSULTANT will be unable to perform the Services under any Services Authorization within the related Project Term; or 2) a meritorious claim exists against the CONSULTANT or the CITY arising out of the CONSULTANT's negligence or the CONSULTANT's breach of any provision of this Contract or any Services Authorization; then the Director may withhold a Payment otherwise due and payable to the CONSULTANT; provided, however, that the Director shall not unreasonably withhold other Services Authorization payments that may not otherwise be in dispute. Any Payment so withheld may be retained by the CITY for such period as it deems advisable to protect the CITY against any loss or deprivation that the CITY may incur pursuant to this Subsection, or as may be determined by a court of competent jurisdiction. This provision is intended solely for the benefit of the CITY, and no person shall have any right against the Director or claim against the CITY by reason of the Director's failure or refusal to withhold a Payment. Interest [one percent (1%) simple interest, per month] shall only be payable by the CITY, on any amounts withheld under this provision if the Director has acted unreasonably. This provision is not intended to limit or in any way prejudice any other right the CITY may have in this regard, or any right or defense that the CONSULTANT might choose to exercise against the CITY.

5.11 Termination.

Upon the termination of this Contract, the CONSULTANT shall prepare a final and complete Payment Statement for all Services and reimbursable expenses incurred since the posting of the last Payment Statement, and through the date of termination. The final Payment Statement shall be subject to all of the provisions described in Section 5.

5.12 Final Payment.

The acceptance by the CONSULTANT, its successors, or assigns, of any final Payment due upon the termination of this Contract or any Services Authorization, shall constitute a full and complete release of the CITY from any and all claims or demands regarding further compensation for authorized Services rendered prior to such Final Payment that the CONSULTANT, its successors, or assigns have or may have against the CITY under the provisions of this Contract, unless otherwise previously and properly filed pursuant to the provisions of this Contract, or in a court of competent jurisdiction. This Subsection does not affect any other portion of this Contract that extends obligations of the parties beyond Final Payment.

5.13 Living Wage.

The CONSULTANT, as well as its subcontractors (first tier only), shall pay to all of their employees providing services pursuant to a contract with the City, a living wage for the time spent providing services to the City. (This provision does not include general administrative personnel unless they are assigned to a City project.) "Living wage" means compensation for employment of not less than \$15.00 per hour for straight time, exclusive of FICA, unemployment taxes, and workers compensation insurance and employee benefits. Necessary payroll documentation shall be provided to confirm compliance with this provision or the Respondent shall allow the City to audit (at Respondent's place of business) its payroll records to determine if compliance has been achieved. Failure to comply with the provision may result in termination of the contract and/or preclusion from future City contracts at the sole option of the City. This provision shall apply to all contracts which involve City expenditures that exceed \$100,000.00 per year. The Living Wage policy does not apply to part time employees, or the part time employees of all subcontractors. Furthermore, the workers of temporary employment agencies are not covered by the City's Living Wage Policy.

SECTION 6 - CONSTRUCTION COST AND OPINIONS OF COST

6.1 Consultant's Construction Cost, General.

If the CITY requests in a Services Authorization that a Project construction cost estimate be given by the CONSULTANT as part of Preliminary and Final Design Services, then the CONSULTANT shall develop a CONSULTANT's estimate of probable construction cost at such points in the design phase as defined herein or otherwise agreed to in the Services Authorization. The construction cost of the entire Project (Construction Cost Estimate) means the total cost to the CITY of those portions of the entire Project designed and specified by the CONSULTANT, but will not include the CONSULTANT's compensation and expenses, the cost of land rights-of-way, or compensation for or damages to properties, unless the applicable Services Authorization so specifies; nor will it include the CITY's legal, accounting, insurance-counseling, or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to the CITY.

6.2 Consultant's Estimate of Probable Construction Cost.

6.2.1 General.

Since the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the CONSULTANT's opinions of Total Project Cost and Construction Cost Estimate provided for hereinabove are to be made on the basis of the CONSULTANT's experience and qualifications, and represent the CONSULTANT's best judgment as an experienced and qualified professional which is familiar with the construction industry; but the CONSULTANT cannot and does not guarantee that

proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by the CONSULTANT.

6.2.2 Construction Cost.

If a Construction Cost Estimate is required to be provided by the CONSULTANT pursuant to a Services Authorization, then the following will apply:

6.2.2.1 The acceptance by the CITY at any time during the Basic Services of a revised opinion of Total Project Cost or Construction Cost Estimate in excess of the then established cost limit will constitute a corresponding revision in the Construction Cost Estimate limit to the extent indicated in such revised opinion.

6.2.2.2 If a Construction Cost Estimate is established, the CONSULTANT will be permitted, with review and approval by the CITY, to determine what types of materials, equipment and component systems are to be included in the drawings and specifications and to make reasonable adjustments in the general scope, extent and character of the Project to bring it within the cost estimate.

6.2.2.3 If the Bidding or negotiating Phase of a Project has not commenced within six (6) months after completion of the Final Design Phase, the established Construction Cost Estimate will not be binding on the CONSULTANT, and the CITY shall consent to any reasonable adjustment in the Construction Cost Estimate commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.

6.2.2.4 If the lowest bona fide proposal or bid exceeds the established Construction Cost Estimate by 15% or more, the CITY may, (1) give written approval to increase such Construction Cost Estimate, (2) authorize negotiating or rebidding of the Project within a reasonable time, or (3) cooperate in revising the Project's general scope, extent or character to the extent consistent with the Project's requirements and with sound professional practices. In the case of (3), the CONSULTANT shall modify the drawings and specifications as necessary to bring the construction cost within the Construction Cost Estimate. In lieu of other compensation for Services in making such modifications, the CITY shall pay the CONSULTANT's cost of such Services, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to the CONSULTANT on account of such Services; and the CONSULTANT's providing these modification Services shall be the extent of the CONSULTANT's cost-estimating liability as memorialized in this Subsection.

SECTION 7 - SETTLEMENT OF CLAIMS

The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Contract, or any breach hereof, shall be Orange County, Florida.

SECTION 8 - TERMINATION

8.1 General.

This Contract may be terminated, 1) by the CITY, following fifteen (15) days prior written notice to the CONSULTANT, as stated below, 2) by the CONSULTANT, following fifteen (15) days prior written

notice to the CITY, as stated below, and 3) by the mutual agreement of the parties. In the event of the termination of this Contract, any liability of one party to the other arising out of any Services rendered, or any act or event occurring prior to the termination, shall not be terminated or released.

8.2 Failure to Perform.

In addition to any other termination provisions that may be provided in this Contract, the CITY may terminate this Contract in whole or in part if the CONSULTANT makes a willfully false Payment Statement or substantially fails to perform any obligation under this Contract and does not remedy the failure within fifteen (15) calendar days after receipt by the CONSULTANT of written demand from the CITY to do so, unless, however, the nature of the failure is such that it cannot, in the exercise of reasonable diligence, be remedied within fifteen (15) calendar days, in which case the CONSULTANT shall have such time as is reasonably necessary to remedy the failure, provided the CONSULTANT promptly takes and diligently pursues such actions as are necessary therefor. The CONSULTANT may terminate this Contract if the CITY substantially fails to perform any obligation under this Contract, and does not remedy the failure within fifteen (15) calendar days after receipt by the CITY of written demand from the CONSULTANT to do so, unless, however, the nature of the failure is such that it cannot, in the exercise of reasonable diligence, be remedied within fifteen (15) calendar days, in which case the CITY shall have such time as is reasonably necessary to remedy the failure, provided it promptly takes and diligently pursues such actions as are necessary therefor.

8.3 Termination for Convenience.

The CITY may, without prejudice to any other rights or remedies, terminate this Contract in whole or in part at any time for its convenience by giving the CONSULTANT fifteen (15) days written notice. The CONSULTANT shall be paid for Services completed, or partially completed, up to the termination effective date and for reasonable termination settlement costs relating to commitments which had become firm prior to the termination; however, payment to the CONSULTANT will exclude any and all anticipated supplemental costs, administrative expenses, overhead and profit on uncompleted Services.

8.4 Payment Upon Termination.

Upon termination of this Contract, the CITY shall pay the CONSULTANT for those Services actually rendered and contracted for under a Services Authorization, and those reasonable and provable expenses required by any Services Authorization and actually incurred by the CONSULTANT for Services prior to the effective date of termination. Such payments, however, shall be, 1) reduced by an amount equal to any additional costs incurred by the CITY as a result of the termination (if the Contract is terminated for cause by the CITY), or 2) increased by an amount equal to the reasonable and provable expenses incurred by the CONSULTANT (to close out its Services) that are directly attributable to the termination, and for which the CONSULTANT is not otherwise compensated (if the Contract is terminated for the convenience of the CITY).

8.5 Delivery of Materials Upon Termination.

In the event of termination of this Contract (or any Services Authorization) by the CITY, prior to the CONSULTANT's satisfactory completion of all the Services described or alluded to herein, the CONSULTANT shall promptly furnish the CITY, at no additional cost or expense, with one (1) copy of the following items (Documents), any or all of which may have been produced prior to and including the date of termination: data, specifications, calculations, estimates, plans, drawings, construction documents,

photographs, summaries, reports, CD-ROM files, memoranda; and any and all other documents, instruments, information, CD-ROM disks, and materials (whether or not completed) generated or prepared by the CONSULTANT, or by any Subconsultant, in rendering the Services described herein, and not previously furnished to the CITY by the CONSULTANT pursuant to this Contract, or any Services Authorization. The Documents shall be the sole property of the CITY, and the CITY shall be vested with all rights provided therein of whatever kind and however created. The CONSULTANT shall also require that all such Subconsultants agree in writing to be bound by the provisions of this Subsection.

SECTION 9 - SUSPENSION

9.1 General.

The CITY has the right to suspend the CONSULTANT's Services pursuant to any Services Authorization. However, if the CITY suspends the CONSULTANT's Services pursuant to any Services Authorization, the CITY will add to the Period of Service for such Services Authorization a period not less than the duration of such suspension and compensate the CONSULTANT for its reasonable and provable costs, and losses (including overhead costs, Reimbursable and Subconsultant expenses incurred) associated with demobilization and remobilization for such suspended Service.

SECTION 10 - MATERIALS, REUSE OF DOCUMENTS, AND CONFIDENTIALITY

10.1 General.

One reproducible copy of all data, inspector's reports, job files, test reports, copies of Shop Drawings, construction photographs, cost control and scheduling data, computer printouts, Contractor's submittals, summaries, CD-ROM files, memoranda; and other written work, documents, instruments, information, CD-ROM disks, and materials (whether or not completed) generated or prepared by the CONSULTANT especially for the Services rendered hereunder; shall be supplied to the CITY at the CITY's request by the CONSULTANT, and at the CITY's cost. The final work product of all such materials (e.g., signed and sealed drawings and specifications, and CD-ROM disks used to record design and as-built conditions; studies; analyses; and so forth), along with all formal CONSULTANT-CITY correspondence concerning any Project (e.g. letters, tapes, memoranda, etc.) shall be the sole property of the CITY. All materials described above shall be retained by the CONSULTANT for the longer of the period set forth in Section 5.5 above or the statutory period for claims (§95.11, Fla. Stat., as it may be from time-to-time amended), or as may otherwise be agreed by the parties in a Services Authorization. Furthermore, the CITY may reuse them at no additional cost. All materials described above shall be a "work made for hire" and the CITY shall be vested with all rights of whatever kind and however created that may be in existence thereto.

10.2 Reuse of Documents.

The CITY acknowledges that the materials described immediately above are not intended for use in connection with any Project or purpose other than the Project and purpose for which the materials are prepared. Any use by the CITY of such materials in connection with a Project or purpose other than that for which such materials were prepared, without the prior written consent of the CONSULTANT, shall be at the CITY's sole risk, and the CONSULTANT shall have no responsibility or liability related thereto.

SECTION 11 - NOTICES

All notices denominated as such by this Contract, or the City Code, or Florida law, required to be given to the CONSULTANT hereunder shall be in writing, and shall be given by hand-delivery or United States mail, postage prepaid, addressed to:

Chad Kovaleski, PLA
Principal
LandDesign, Inc.
100 South Orange Avenue, Suite 200
Orlando, Florida 32801

All notices required to be given to the CITY shall be in writing, and shall be given by hand-delivery or United States mail, postage prepaid, to the Director and the City's Chief Procurement Officer, separately, at:

Corey F. Knight, P.E.
Public Works Director
City of Orlando
City Hall, 8th Floor
400 South Orange Avenue
Orlando, Florida, 32801

With a copy to: David Billingsley, CPSM, C.P.M.
Chief Procurement Officer
City of Orlando
City Hall, 4th Floor
400 South Orange Avenue
Orlando, Florida, 32801

Either party may change its address, for the purposes of this Subsection, by written notice to the other party given in accordance with the provisions of this Subsection.

SECTION 12 - CONFLICTS OF INTEREST

The CONSULTANT represents and warrants unto the CITY that no officer, employee, or agent of the CITY has any interest, either directly or indirectly, in the business of the CONSULTANT to be conducted hereunder. The CONSULTANT further represents and warrants to the CITY 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 Contract, and that it has not paid, or agreed to pay, or given or offered any fee, commission, percentage, gift, loan, or anything of value (Value) to any person, company, corporation, individual, or firm, other than bona fide Personnel working solely for the CONSULTANT, in consideration for or contingent upon, or resulting from the award or making of this Contract. Further, the CONSULTANT also acknowledges that it has not agreed, as an expressed or implied condition for obtaining this Contract, to employ or retain the services of any person, company, individual or firm in connection with carrying out this Contract. It is absolutely understood and agreed by the CONSULTANT that, for the breach or violation of this Subsection, the CITY shall have the right to terminate this Contract without liability and at its sole discretion, and to deduct from any amounts owed, or to otherwise recover, the full amount of any Value paid by the CONSULTANT.

SECTION 13 - WAIVER OF CLAIM

The CONSULTANT and the CITY hereby mutually waive any claim against each other, their elected or appointed officials, agents, and employees, for any loss of anticipated profits caused by any suit or proceedings brought by any third party directly or indirectly attacking the validity of this Contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this Contract null, void, or voidable, or delaying the same, or any part thereof, from being carried out.

SECTION 14 – CITY REPRESENTATIVE

The CITY's Director of Public Works or any of his authorized designee(s) for the Project, including but not limited to the Project Manager, may act as the CITY's agent with respect to the Services to be rendered by the CONSULTANT hereunder, and, except as expressly set forth below, shall have full authority to take all actions on behalf of the CITY related to this Contract, including but not limited to transmitting all instructions, receiving information, notifying CONSULTANT of any breaches of this Contract or improperly performed work, and communicating the CITY's policies and decisions to the CONSULTANT. The CITY's Director of Public Works' authority to act shall be in addition to any authority granted to specific CITY employees in other sections of this Agreement. Any action that may be taken by the CITY's Director of Public Works or his designee related to this Contract, may also be taken by the CITY's Chief Procurement Officer or his designee. Notwithstanding the preceding, any final action by the CITY to terminate this Contract in whole, whether for cause or convenience, may only be taken by the CITY's Chief Procurement Officer or his designee; provided, however, that nothing herein shall be deemed to preclude the Director of Public Works or his designee from suspending work or terminating work, in whole or in part, under a particular Services Authorization.

SECTION 15 - CONSULTANT'S PROJECT TEAM

The CONSULTANT shall assign members of its staff as the CONSULTANT's Principal-in-Charge, Project Manager and Key Personnel (Project Team), who shall collectively devote such working time and attention as may be reasonably required to ensure that the Services are properly, economically, and efficiently performed. The CONSULTANT shall indicate to the CITY, as a part of each Services Authorization, the authority and powers that the CONSULTANT's Project Team shall possess during the life of that Project. The CONSULTANT agrees that the CITY shall have the right to approve the CONSULTANT's Project Team, and that the CONSULTANT shall not change any member of its Key Personnel without written notice to the CITY. Furthermore, if any member of the CONSULTANT's Project Team is removed from his Project duties, or his employment is otherwise terminated or curtailed by the CONSULTANT, or if the CONSULTANT's Project Team member terminates his employment with the CONSULTANT, then the CONSULTANT shall promptly replace its Project Team member with a person of comparable experience and expertise, who shall also be subject to the CITY's approval. The CITY agrees that its approval shall not be unreasonably withheld.

SECTION 16 - INDEMNIFICATION AND INSURANCE

16.1 Indemnification and Repair of Damage.

16.1.1 Consultant's Indemnification of City.

The CONSULTANT shall indemnify and hold harmless the CITY, its employees and officers, from liabilities, damages, losses and costs including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Contract. This provision shall survive the expiration or termination of the Contract.

16.2 Insurance.

16.2.1 General.

CONSULTANT and its Subconsultants of all tiers will be required at their own expense to maintain in effect at all times during the performance of Services insurance coverages with limits not less than those set forth below with insurers and under forms of policies satisfactory to the CITY. It shall be the responsibility of the CONSULTANT to maintain the required insurance coverages and to assure that Subconsultants maintain required insurance coverages at all times. Failure of CONSULTANT to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation. The requirements specified herein as to types, limits, and CITY's approval of insurance coverage to be maintained by CONSULTANT and its Subconsultants are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the CONSULTANTS and its Subconsultants under a contract. Any insurance carried by the CITY that may be applicable shall be deemed to be excess insurance and the CONSULTANT's insurance primary for all purposes despite any conflicting provision in the CONSULTANT's policies to the contrary. Failure of the CONSULTANT or its Subconsultants to maintain insurance as specified herein or to otherwise comply with the provisions of this Section 16.2 shall be grounds for termination of this Contract as specified in Section 8.

16.2.2 Certificates of Insurance.

Prior to commencing work, and as a condition precedent to the CONSULTANT's and its Subconsultants' initiation of performance, the CONSULTANT and its Subconsultants shall furnish the CITY with certificates of insurance as evidence that policies providing the required coverage and limits of insurance are in full force and effect. The certificates shall provide that any company issuing an insurance policy for the work under a contract shall provide not less than thirty (30) days advance notice in writing to the CITY prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, the CONSULTANT shall immediately provide written notice to the CITY upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type (except the Errors and Omissions policy).

16.2.3. Additional Insureds.

All insurance coverages furnished except Professional Liability, Workers' Compensation and Employers' Liability shall include the CITY and its officers, elected officials, and employees as additional insureds with respect to the activities of the CONSULTANT and its Subconsultants. The CITY shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

16.2.4 Waiver of Subrogation.

The CONSULTANT and its subconsultants shall require their insurance carriers, with respect to all insurance policies except the Errors and Omissions policy, to waive all rights of subrogation against the CITY, its officers, elected officials, agents and employees and against other contractors and subcontractors.

16.2.5 Types of Coverage to be Provided.

The CONSULTANT (and its Subconsultants to the same extent and on the same terms as set forth below for CONSULTANT) shall maintain the following coverages and furnish the certificate(s) of insurance on

the policies and renewals thereof which indicate that insurance coverage has been obtained meeting the requirements of the contract:

16.2.5.1 Workers' Compensation and Employer's Liability.

This insurance shall protect the CONSULTANT against all claims under applicable state workmen's compensation laws. The CONSULTANT shall also be protected against claims for injury, disease, or death of employees that, for any reason, may not fall within the provisions of a workmen's compensation law. This policy shall include an "all states" or "other states" endorsement. Exemption certificates shall be accepted if valid during the term of the contract, but only for those eligible corporate officers pursuant to Chapter 440 of the Florida Statutes. Proof of workers' compensation coverage must still be provided for all employees, sub-contractors not eligible for exemption. The liability limits shall not be less than:

Workers' compensation:	Statutory
Employer's Liability:	\$100,000 each occurrence

16.2.5.2 Comprehensive Automobile Liability.

This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicle, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability limits shall not be less than:

Bodily injury and	\$1,000,000 combined single
Property damage:	limit each occurrence

16.2.5.3 Commercial General Liability.

This insurance shall be an "occurrence" type policy (excluding automobile liability) written in comprehensive form and shall protect the CONSULTANT and the additional insureds against all claims arising from bodily injury, sickness, disease, or death of any person or damage to property of the CITY or others arising out of any act or omission of the CONSULTANT or its agents, employees, or subcontractors. This policy shall also include protection against claims insured by usual bodily injury liability coverage, a "contractual liability" endorsement to insure the contractual liability assumed by the CONSULTANT under this Contract with the City, and "completed Operations and Products Liability" coverage (to remain in force for 2 years after final payment and subsequent to project completion). If the CONSULTANT's work, or work under its direction, requires blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of structures, or damage to underground property. The liability limits shall not be less than:

Bodily injury and	\$1,000,000 combined single
Property damage:	limit each occurrence

16.2.5.4 Consultant's Errors and Omissions Policy.

The CONSULTANT shall also purchase, maintain, and keep in full force, effect, and good standing, a professional liability/errors and omissions insurance policy having minimum limits of \$1,000,000, with a maximum deductible of \$125,000, or the CONSULTANT shall provide the CITY with policy coverage wherein the insurer agrees to pay claims (up to the limits of coverage), and will thereafter recover the deductible from the insured-CONSULTANT. The errors and omissions policy shall be in effect and shall insure the CONSULTANT's performance on CITY projects.

16.2.6 City's Right to Inspect Policies.

The CONSULTANT shall, upon thirty (30) days' written request from the CITY, deliver copies to the CITY of any or all insurance policies that are required in this Contract.

SECTION 17 - MISCELLANEOUS PROVISIONS

17.1 Non-Exclusive Contract.

This Contract is non-exclusive, and may be terminated at the CITY's convenience with the proper notice having been given to the CONSULTANT pursuant to Section 8, above. It is understood and acknowledged that the rights granted herein to the CONSULTANT are non-exclusive, and the CITY shall have the right, at any time, to enter into similar agreements with other engineers, architects, landscape architects, planners, consultants, contractors, subconsultants, and so forth, to have them perform such professional services as the CITY may desire.

17.2 Local, State and Federal Obligations.

17.2.1 Discrimination.

The CONSULTANT, for itself, its delegates, successors-in-interest, and its assigns, and as a part of the consideration hereof, does hereby covenant and agree that, 1) in the furnishing of Services to the CITY hereunder, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in regard to this Contract on the grounds of such person's race, color, creed, national origin, disability, religion, age, sex, sexual orientation, gender identity or marital status; and 2) the CONSULTANT shall comply with all existing requirements concerning discrimination imposed by any and all applicable local, state, and federal rules, regulations, or guidelines, and as such rules, regulations, or guidelines may be from time to time amended. In the event of a breach of any of the nondiscrimination covenants described in this Subsection, the CITY shall have the right to terminate this Contract, with cause, as described above.

17.2.2 Compliance with Law.

The CONSULTANT and its employees shall promptly observe, comply with, and execute the provision of any and all federal, state, and local laws, rules, regulations, requirements, ordinances, and orders which may pertain or apply to the Services that may be rendered hereto, or to the wages paid by the CONSULTANT to its employees. The CONSULTANT shall also require, by contract, that all Subconsultants shall comply with the provisions of this Subsection.

17.2.3 Licenses.

The CONSULTANT shall, during the life of this Contract, procure and keep in full force, effect, and good standing all necessary licenses, registrations, certificates, permits, and other authorizations as are required by local, state, or federal law, in order for the CONSULTANT to render its Services or Work as described herein. The CONSULTANT shall also require all Subconsultants to comply by contract with the provisions of this Subsection.

17.2.4 Compliance With New Regulations.

The CONSULTANT agrees that at such time as the local, state, or federal agencies modify their grant procedures in order for the CITY or the CONSULTANT to qualify for local, state, or federal funding for the Services to be rendered by the CONSULTANT, then the CONSULTANT shall consent to and make such modifications or amendments in a timely manner. If the CONSULTANT is unable to comply with

applicable local, state, or federal laws and regulations governing the grant of such funds for Services to be rendered herein, then the CITY shall have the right, by written notice to the CONSULTANT, to terminate this Contract for convenience. Furthermore, if the CONSULTANT's compliance with such laws, regulations, rules, or procedures causes a material change to a term or condition of this Contract, or to any Services Authorization, then the CITY agrees, upon sufficient proof of material changes as may be presented to it by the CONSULTANT, to amend all related CITY/CONSULTANT contractual obligations, and to revise such Project budgets accordingly.

17.2.5 License Fee and Royalties.

The CONSULTANT agrees that any invention, design, process, product, device, proprietary system, or proprietary process for which an approval (of any type) may be necessary, shall be detailed by CONSULTANT in the Services Authorization, and shall be secured by the CONSULTANT (or, at the CONSULTANT's direction, by the Contractor during the CONSULTANT's construction phase services as may be memorialized in a Services Authorization) before the completion of any Services Authorization.

17.3 Consultant Not Agent of City.

The CONSULTANT is not authorized to act as the CITY's agent hereunder and shall have no authority, expressed or implied, to act for or bind the CITY hereunder, either in CONSULTANT's relations with Subconsultants, or in any other manner whatsoever except as otherwise stated in a Services Authorization.

17.4 Subconsultants.

17.4.1 General.

The CONSULTANT shall have the right, conditioned upon the CITY's prior consent (which shall not be unreasonably withheld), to employ Subconsultants; provided, however, that the CONSULTANT shall, 1) inform the CITY as to what particular Services the Subconsultants shall be employed to do; 2) inform the CITY as to what extent (what percentage) of the total Project Services each Subconsultant shall be employed to do; 3) be solely responsible for the performance of all of its Subconsultants, including but not limited to their maintenance of schedules, correlation of Services, or both of these things, and the resolution of all differences between them; 4) promptly terminate the use and services of any Subconsultants upon written request from the CITY (which may be made for the CITY's convenience); 5) promptly replace each such terminated Subconsultant with a Subconsultant of comparable experience and expertise; 6) cause a Subconsultant to remove any employee(s) from a Project as the CITY shall request (again for the CITY's convenience); and 7) assure that such employee(s) shall be promptly replaced by other employee(s) of comparable experience and expertise and who are otherwise acceptable to the CITY. After the Subconsultant has received notice of the termination, or two (2) business days after the CITY has notified the CONSULTANT in writing of the required termination of the Subconsultant or the Subconsultant's employee, whichever shall occur first, the CITY shall have no obligation to reimburse the CONSULTANT for the Services subsequent to the notice of termination of any Subconsultant or employee who may be terminated pursuant to the provision of this Subsection; provided, however, that the CITY shall reimburse the CONSULTANT for the CONSULTANT's reasonable and provable Subconsultant demobilization or remobilization costs, as defined in Subsection 5.8.3 ("Suspension"), if the CITY terminates a Subconsultant for convenience; but provided, however, that the CONSULTANT shall receive no reimbursement for demobilization costs if a Subconsultant is terminated for cause. It is also understood that the CITY does not, by accepting a Subconsultant, warrant or guarantee the reliability or effectiveness of that entity's Services.

17.4.2 Work Outside Scope and Time of Payment.

The CITY shall have no obligation to reimburse the CONSULTANT for the services of any Subconsultant not previously made known to the CITY, or that are otherwise outside of the Scope of any particular Project Services Authorization, unless and until the CITY has given written approval of such reimbursement. The CONSULTANT agrees to pay all such Subconsultants for their Project-related Services no later than thirty (30) calendar days after the CONSULTANT's receipt of payment from the CITY for work performed by the Subconsultants, unless such payment is disputed by the CONSULTANT, and the CITY receives written notice thereof.

17.4.3 Subconsultant Contracts.

The CONSULTANT shall provide a copy of all relevant provisions of this Contract to all Subconsultants hired by it, or for which it may have management responsibilities as described in a Services Authorization and shall inform all Subconsultants that all Services performed hereunder shall strictly comply with the Contract terms and provisions. The CONSULTANT shall also furnish the CITY, upon demand, with a copy of all CONSULTANT-Subconsultant contracts.

17.5 Assignment and Delegation.

The CITY and the CONSULTANT bind themselves and their partners, successors, executors, administrators, and assigns, to the other party of this Contract in respect to all duties, rights, responsibilities, obligations, provisions, conditions, and covenants of this Contract; except that the CONSULTANT shall not assign, transfer, or delegate its rights or duties, or both of these things, in this Contract without the prior written consent of the CITY. The CITY has the absolute right to withhold such consent at its convenience, and, furthermore, if the CONSULTANT attempts to assign, transfer, or delegate its rights or duties in violation of these provisions without the CITY's consent, then the CITY may immediately terminate this Contract upon written notice as a breach of contract by the CONSULTANT and a failure by the CONSULTANT to substantially perform its obligations hereunder, and any such assignment shall be null, void, and of no legal effect. The CITY shall have the right to assign its rights (or any part of them) or to delegate its duties and obligations (or any part of them) to another entity that shall be bound by all applicable terms and conditions as provided in this Contract.

17.6 Audits.

17.6.1 Periodic Auditing of Consultant's Books.

The CITY shall have the right, at any reasonable time either directly or through any of its designated agents or representatives, to inspect and audit the Books for the purpose of verifying the accuracy of any Payment Statement or Completion Report. In addition to the above and upon request of the CITY, the CONSULTANT shall prepare an audit (for the most recent fiscal year) for the CITY, which shall include the CONSULTANT's paid salary, fringe benefits, general and administrative overhead costs, profit and the total amount of money paid by the CITY to the CONSULTANT. The Fiscal Report shall be certified as true and correct by, and shall bear the signature of, the CONSULTANT's chief financial officer or its certified public accountant.

17.6.2 Overcharge.

If it is established by the audit, or by any other means, that the CONSULTANT has overbilled or overstated its costs, fees, or reimbursable expenses (Overcharge) to the City, then the amount of any Overcharge shall be refunded by the CONSULTANT, together with interest at the rate of one percent (1%) per month and the CITY's reasonable and provable costs (including the auditing expenses) in discovering the Overcharge and effecting its repayment.

17.7 Truth in Negotiations.

The CONSULTANT shall execute a Truth-in-Negotiation Certificate in the form attached hereto and made a part hereof, by reference, as Exhibit I. It is agreed by the CONSULTANT that any Project or Services Authorization price, and any additions thereto, shall be adjusted to exclude any significant sums [plus interest at twelve percent (12%) per annum simple interest on the sums, from the date of payment by the CITY] by which the CITY determines that the price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

17.8 Entire Agreement.

This Contract, including the Exhibits hereto, constitutes the entire agreement between the parties, and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth therein, and that specifically related to the execution of this particular document.

17.9 Amendment.

This Contract may be amended or modified only by a Services Authorization, or an Amendment, and as duly authorized and executed by the parties.

17.10 Validity.

The validity, interpretation, construction, and effect of this Contract shall be in accordance with and governed by the laws of the State of Florida, only. In the event any provision hereof is determined to be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Contract, which shall remain in full force and effect. To that extent, this Contract is deemed severable.

17.11 Headings.

The headings of the Sections or Subsections of this Contract are for the purpose of convenience only, and shall not be deemed to expand, limit, or modify the provisions contained in such Sections or Subsections.

17.12 Timeliness.

The CITY and the CONSULTANT acknowledge and understand that time is of the essence in this Contract, and that the Services shall be performed in as expeditious a manner as may be in accord with the nature of each Project.

17.13 Public Entity Crime.

Any Person or affiliate, as defined in 287.133 of the *Florida Statutes*, shall not be allowed to contract with the CITY, nor be allowed to enter into a subcontract for work on this Contract, if such a person or affiliate has been convicted of a public entity crime within three (3) years of the date this Contract was advertised for proposals, or if such person or affiliate was listed on the State's convicted vendor list within three (3) years of the date this Contract was advertised, whichever time period is greater. A public entity crime means a violation of any state or federal law with respect to and directly related to the transaction of business with any public entity or agency (federal, state or local), involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, forgery, falsification of records, receiving stolen property or material misrepresentation. Any Contract with the CITY obtained in violation of this Section shall be subject to

immediate termination for cause without cure upon notice by the CITY to CONSULTANT. A Subconsultant who obtains a subcontract in violation of this Section shall be removed from the Project and promptly replaced by a Subconsultant acceptable to the City.

17.14 Force Majeure.

The parties acknowledge that adverse weather conditions, acts of God, or other unforeseen circumstances of a similar nature, may necessitate modifications to a Services Authorization, such modifications to include, but not limited to the particular Services Authorization's Scope, Term, and Fee. If such conditions and circumstances do in fact occur, then the CITY and CONSULTANT shall mutually agree, in writing, to the modifications to be made to any Services Authorization.

17.15 Rights Cumulative; No Waiver.

No right or remedy herein conferred upon or reserved to either party hereto is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of a default hereunder. The failure of either party hereto to insist, at any time, upon the strict observance or performance of any of the provisions of this Contract, or to exercise any right or remedy as provided in this Contract, shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this Contract to the parties hereof may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

17.16 Venue.

The venue of any litigation or other judicial proceeding between the parties shall be the courts of Orange County, Florida.

17.17 MBE/WBE Participation.

17.17.1 Chapter 57, Articles II and III, of the Orlando City Code, establishes goals of 18% and 6%, respectively, of the CITY's annual monetary value of contracts for supplies, services and construction to be awarded to City certified or recognized Minority Business Enterprises (MBE) and City certified or recognized Women-Owned Business Enterprises (WBE).

17.17.2 The CONSULTANT agrees to make a good faith effort to provide that 18% of the dollar amount of the services awarded to the CONSULTANT pursuant to the Contract is performed by MBEs and 6% of the dollar amount of the Contract is performed by WBEs. CONSULTANT shall make a good faith effort to utilize the MBEs and WBEs for the services and in the amounts identified in its Qualification Statement.

17.17.3 The CONSULTANT may, under limited circumstances, substitute a MBE or WBE firm from a firm identified in a Services Authorization. However, substitution shall only be allowed upon good cause shown as determined by the CITY's MBE Coordinator. The CONSULTANT must receive written approval of the MBE Coordinator before substitution will be allowed. Failure to comply shall result in the CITY imposing penalties on the CONSULTANT; such penalties may include suspension or debarment from obtaining future CITY contracts.

17.17.4 The CONSULTANT shall submit monthly audits to the CITY through the MBE Office's B2G Contract Compliance System, documenting its compliance with the MBE/WBE participation obligations of this Contract. The audit shall be completed by the 5th of each month after the execution of the first Services Authorization. CONSULTANT shall enter such information as may be requested by the system.

17.17.5 Each Services Authorization shall be evaluated by the CITY for MBE/WBE participation. The extent and meaningfulness of such participation shall be reviewed. The participation must be such that the MBE/WBE firms are performing services in accordance with their area of certification.

17.17.6 There shall be no third party beneficiaries of the Minority Business Enterprise or Women-Owned Business Enterprise provisions of this Contract. The CITY shall have the exclusive means of enforcement of the MBE/WBE Ordinance and contract terms. No right of action for non-signatories of the Contract is intended or implied. The CITY is the sole judge of compliance and whether a good faith effort has been made under the Ordinance and the Contract.

17.18 Prohibition Against Contracting with Scrutinized Companies.

In accordance with Section 287.135(2) of the Florida Statutes, "[a] company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of:

- (a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing a contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- (b) One million dollars or more if, at the time of bidding on, or submitting a proposal for, or entering into or renewing such contract, the company is:
 - 1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or
 - 2. Is engaged in business operations in Cuba or Syria."

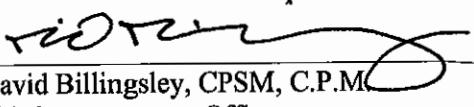
Section 215.473 of the Florida Statutes defines a company to include "all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit." CONSULTANT certifies that it and those related entities of CONSULTANT as defined above by Florida law above are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, CONSULTANT certifies that it and those related entities of CONSULTANT as defined above by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. CONSULTANT shall be required to recertify the aforementioned certifications at each renewal of the Contract. The CITY may terminate this Contract if CONSULTANT or any of those related entities of CONSULTANT as defined above by Florida law are found to have submitted a false certification or any of the following occur with respect to the CONSULTANT or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) if this Contract ever exceeds one million

dollars, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the CITY reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the CITY determine that the conditions set forth in Section 287.135(4) of the Florida Statutes are met.

17.19 Employment Eligibility; E-Verify System. This Contract is subject to the terms, conditions, provisions and requirements of Section 448.095 of the Florida Statutes which is incorporated herein by this reference. Pursuant to Section 448.095 of the Florida Statutes, CONSULTANT represents and warrants that it has registered with and uses the E-Verify System to verify the work authorization status of all newly hired employees and shall continue to do so at all times during the term of the Contract. If CONSULTANT enters into a contract with a subcontractor, the subcontractor must provide the CONSULTANT with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

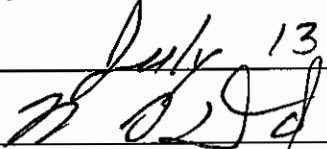
IN WITNESS WHEREOF, this Contract has been fully executed on behalf of the parties hereto and by its duly authorized representatives, as of the date first written above.

City of Orlando, Florida

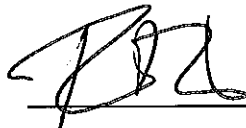
By: 
David Billingsley, CPSM, C.P.M.
Chief Procurement Officer

Date: July 14, 2023

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida, only.


_____, 2023
Michael S. O'Dowd
Assistant City Attorney
Orlando, Florida

LandDesign, Inc.

By: 
Raymond Waugh
(Print Name)

Title: Managing Partner

STATE OF FLORIDA }

COUNTY OF Orange }

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 10th day of July, 2023, by Raymond Waugh (name of person) as Managing Partner (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for LandDesign, Inc. (name of entity/party on behalf of whom instrument was executed).



Tanya Ambrose
Signature of Notary Public – State of Florida
Print, Type, or Stamp Notary Name: Tanya Ambrose

(Affix Notary Stamp or Seal Above)

☒ Personally Known or ☐ Produced Identification

Type of Identification Produced N/A

TRUTH-IN-NEGOTIATION CERTIFICATE

The CONSULTANT hereby certifies that all wage rates, and any and all other unit costs supporting the compensation to be paid to the CONSULTANT pursuant to a Services Authorization for the Services as set forth therein, will be accurate, complete, and current at the date of the Services Authorization's execution.

LandDesign, Inc.

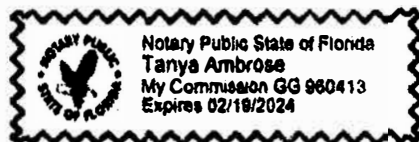
By: 
Raymond Waugh
(Print Name)

Title: Managing Partner

STATE OF FLORIDA }

COUNTY OF Orange }

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 10th day of July, 2023, by Raymond Waugh (name of person) as Managing Partner (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for LandDesign, Inc. (name of entity/party on behalf of whom instrument was executed).



Tanya Ambrose
Signature of Notary Public – State of Florida
Print, Type, or Stamp Notary Name: Tanya Ambrose

(Affix Notary Stamp or Seal Above)

☒ Personally Known or ☐ Produced Identification

Type of Identification Produced N/A

EXHIBIT B
SCOPE OF SERVICES & FEES



JULY 8, 2024

**AGREEMENT FOR
PROFESSIONAL SERVICES**

VINE STREET (US 192) LANDSCAPE IMPROVEMENTS

VINE STREET COMMUNITY REDEVELOPMENT AGENCY
LandDesign PN: 8123038A

This Agreement is made and entered into as of the _____ day of _____, 20____, by and between Vine Street Community Redevelopment Agency (the "Client") located at 101 Church Street, Suite 110, Kissimmee, FL 34741 and LandDesign, Inc. (the "Consultant") located at 100 S Orange Ave, Suite 200, Orlando, FL 32801.

The Client desires to retain the services of the Consultant to provide landscape architecture services for the Client's Vine Street Landscape Improvements (the "Project") pursuant to the terms and conditions herein.

ARTICLE 1: CONSULTANT'S RESPONSIBILITIES

1.1 Consultant shall perform its services consistent with the professional skill and care ordinarily provided by like professionals practicing in the same or similar locality under the same or similar circumstances. Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly process of the Project. Consultant does not guarantee a schedule for an approval process and will not be responsible for delays attributable to any review agency. Consultant agrees to provide complete and timely responses to any comments by any reviewing agency, to the extent that the comments relate to the Consultant's services.

1.2 Consultant shall identify a representative authorized to act on behalf of the Consultant with respect to the Project. Consultant shall use a sufficient number of competent, qualified and experienced employees in connection with carrying out its responsibilities under this Agreement.

1.3 Consultant shall reasonably cooperate with the Client's consultant(s) and shall provide said consultant(s) with such information, upon written request, as may be deemed reasonable, but only to the extent that providing the requested information does not conflict with any of the terms and conditions of this Agreement or otherwise compromise the Consultant's services. Consultant (a) shall have no responsibility for any act, error or omission arising from any service provided by any consultant retained by the Client and (b) shall not be responsible for the accuracy or completeness of any work provided by the Client's consultants. The Client shall require that its consultants be professionally licensed and be covered under professional liability insurance and shall further require that they sign and seal their own design documents where applicable.

1.4 Consultant shall employ professional care to provide its services in compliance with all applicable locale, state and federal laws, ordinances, codes, rules and regulations pertaining to its services.

ARTICLE 2: CONSULTANT'S BASIC SCOPE OF SERVICES

2.1 Consultant's Basic Services consist of those described in Scope of Services (the "Scope of Services"), as well as any services set forth in this Agreement. The Scope of Services are annexed hereto as Exhibit "A" and incorporated herein. All references to the Agreement shall also include all terms and conditions in the Scope of Services. For the purpose of this Agreement, any schematic design documents, construction documents and any other drawings, specifications and documents prepared by the Consultant pursuant to this Agreement shall be referred to as the

“Consultant’s Documents”.

2.2 Consultant is entitled to compensation for services (if any) provided by the Consultant for the Project prior to the date of the Agreement (“Pre-Agreement Services”). Consultant shall be compensated for Pre-Agreement Services at the rate(s) set forth in this Agreement.

2.3 Consultant shall not be responsible for a Client’s directive or substitution made without the Consultant’s written approval.

2.4 Any service requested by the Client and/or provided by the Consultant which is not otherwise described as a Basic Service in the Agreement and/or is an Additional Service, for which the Consultant is entitled to compensation at the rates set forth in the Agreement and paid by the Client, in addition to, and in the same manner as, the compensation for the Basic Services.

2.5 Site visits, if required, are for the purpose of becoming generally familiar with the process and quality of the portion of the completed work only, and to determine, in general, if that work, when fully completed, will be in accordance with the Consultant’s Documents. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work and shall not be responsible for any defect or deficiency in the work created by a contractor. The Consultant’s site visits, if required, and this section of the Agreement shall be limited to completed work specified in the Consultant’s Documents.

2.6 Consultant shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, nor shall the Consultant be responsible for any contractor’s failure to perform its work in accordance with the requirements of the Consultant’s Documents. Consultant shall not have control over or charge of, and shall not be responsible for, acts or omissions of the contractor, its subcontractors, or of any other persons or entities performing any portion of the work.

2.7 Consultant’s review of any submittal, including, but not limited to, shop drawings, if required, shall be the limited purpose of checking for conformance with the design intent of the Consultant’s Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems. Nor shall Consultant’s review constitute approval of safety precautions or construction means, methods, techniques, sequences, or procedures. The accuracy of dimensions, quantities, installation and performance of equipment or systems, means and methods for execution shall be solely the contractor’s responsibility.

2.8 Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous or toxic materials or substances in any form at the Project, including, but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

2.9 Consultant and its subconsultants shall not be responsible for any cost or expense associated with (a) any latent defect(s) in any existing structure, or (b) any other existing conditions of the Project, or on the Project’s property, which was not readily apparent or which could not have been visually verified at the start of the Project without uncovering any system or member or without utilizing other invasive or destructive means.

2.10 Consultant shall not be responsible for, amongst other things, waterproofing specifications and design, wetland delineation, evaluation, survey or permitting with the US Army Corps of Engineers, environmental assessments, easement acquisitions, soil borings and condemnation maps and exhibits. The items identified under Section 2.10 are not intended to be, nor are they, an exhaustive list of work excluded under this Agreement. Section 2.10 does not modify work which

shall be considered Additional Services under Section 2.4.

ARTICLE 3: CLIENT'S RESPONSIBILITIES

3.1 The Client will work cooperatively with Consultant to bring the Project to a successful conclusion, and will timely provide Consultant with all complete and accurate information regarding the Project requirements including budget, schedule and any landlord/owner or building requirements.

3.2 Client will provide all information regarding the requirements of the Project, including Client's objectives, schedule, criteria, budget and site requirements, as well as geotechnical investigation surveys to describe physical characteristics, soil capacity, legal limitations and utility locations of the Project site, to the extent necessary for the Consultant to carry out its services.

3.3 Prior to the commencement of detailed planning, the Client will provide Consultant with a complete written list of any requirements to be considered and included in the Consultant's Documents.

3.4 The Client designates _____ as its representative authorized to act on the Client's behalf with respect to the Project. The Client, through its authorized representative, will examine all Consultant's Documents and other documents submitted by Consultant and render all decisions promptly to avoid unreasonable delay in the progress of the services or Project schedule.

3.5 Client will provide Consultant prompt written notice if it becomes aware of any development that affects the scope or timing of the services or observes or otherwise becomes aware of any fault or defect in the Project, deficiency in the services of Consultant or nonconformance with the contract documents and/or Consultant's Documents.

3.6 Client agrees that Consultant and its subconsultants shall have no liability arising out of any changes or substitutions from the Consultant's Documents allowed or authorized by the Client that were not previously approved in writing by Consultant.

3.7 Client will, at its own expense, retain the services of all consultants, as required by the scope of the Project, and will provide tests, inspections, and special inspections and reports required by law or by the contract documents. Consultant shall have no responsibility for errors, omissions or other deficiencies in the services of any of the Client's consultants, design professionals or design-build contractors, rendering design, engineering or related services, and Consultant shall be entitled to rely on the sufficiency, accuracy and completeness thereof and the compliance of the documents and services furnished by them with all applicable laws, codes, ordinances, rules and regulations. Consultant shall have no responsibility to review or verify any of the computations or designs provided by the Client's consultants, design professionals or design-build contractors, and Consultant's sole responsibility in connection with the service of such other consultants, design professionals or design-building contractors shall be to reasonably cooperate with the Client's consultants in accordance with Section 1.3.

3.8 Client shall hold harmless the Consultant for any conflicts or changes required in design or construction resulting from discrepancies between actual field conditions and the information utilized for design unless such conflicts and changes are due to the negligence of Consultant.

3.9 Client shall be responsible for all costs associated with permit approvals and construction of the facilities designed under this Agreement.

ARTICLE 4: COMPENSATION & REIMBURSABLE EXPENSES

4.1 Client's compensation and reimbursable expenses shall be paid by the Client to Consultant pursuant to the rates, payment schedule and terms set forth in the Fees, annexed here to as Exhibit "B". Absent agreement to the contrary, billing for contracts shall be on a monthly basis. Invoices are due upon receipt. Payment not received within thirty (30) days of invoice date will be subject to a service charge in the amount of one and one-half percent (1.5%) per month. If account is not paid per the terms of this Agreement, Client agrees to reimburse and indemnify Consultant for any and all reasonable attorney fees associated with the collection of the outstanding fees from Client.

ARTICLE 5: INSURANCE & INDEMNIFICATION

5.1 Consultant shall maintain the following minimum insurance for the duration of this Agreement. Consultant represents that it will pay all associated deductibles and premiums and provide the Client with certificates evidencing such insurance coverage, upon request.

- i. General Liability insurance policy limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate.
- ii. Automobile Liability insurance policy limits of One Million Dollars (\$1,000,000) combined single limit.
- iii. Umbrella/Excess Liability insurance policy limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate.
- iv. Workers' Compensation insurance policy limits of One Million Dollars (\$1,000,000) each accident, each employee and policy limit.
- v. Professional Liability insurance covering liability of Consultant arising out of its negligent acts, errors or omissions in the rendering of professional services in the amount of Three Million Dollars (\$3,000,000) per claim and in the aggregate.

5.2 The Client will procure and maintain general liability and property insurance to protect Client and its property from all risks, hazards and liabilities in the minimum amount of the initial cost of the Project's constructions, plus the value of subsequent modifications. The parties waive all rights against the other for damages to the extent covered by property insurance, except such rights they may have to the proceeds of such insurance and shall require similar waivers from their contractors and consultants.

5.3 To the fullest extent permitted by law, the Client shall indemnify and hold harmless the Consultant and its subconsultants, against all claims, actions, judgments, damages and costs, including reasonable attorneys' fees, and all their costs of defense to which they may be subjected or which they may suffer that are allegedly caused by, or arise out of, any negligent act, error or omission of the Client, or any entity or individual retained by the Client in connection with the Project.

5.4 To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the Client against all claims, actions, judgments, damages and costs, including reasonable attorneys' fees, and all their costs of defense to which they may be subjected or which they may suffer that are allegedly caused by, or arise out of, any negligent act, error or omission of the Consultant, or any entity or individual retained by the Consultant in connection with the Project.

5.5 Consultant's liability to Client for any claim, loss, or damage asserted by Client, including but not limited to liability pursuant to section 5 of the Agreement, which arises out of an alleged breach of this Agreement or any other negligent act, error, or omission of Consultant, shall not exceed the proceeds of professional liability insurance at the time of resolution of the claim.

5.6 Neither the Client nor Consultant will have any liability to the other for any punitive, incidental or consequential damages resulting from claims, disputes or other matters arising out of or relating to this Agreement.

5.7 The indemnity provisions set forth in Sections 5.4 and 5.5 shall survive the termination of this Agreement.

5.8 It is intended by the parties to this Agreement that Consultant's services in connection with the Project shall not submit Consultant's partners, members, individual employees, or their respective heirs and assigns to any personal legal exposure for the risks associated with the Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that any claim, demand or suit arising out of or relating to the Project or the services provided under this Agreement shall be directed and/or asserted only against Consultant, and not against any of Consultant's partners, members, individual employees, or their respective heirs and assigns. The Client expressly waives any claim it has or may claim to have against any and all such individuals.

ARTICLE 6: TERMINATION OR SUSPENSION

6.1 This Agreement may be terminated by either party upon at least seven (7) days' written notice should the other party fail to substantially perform the terms of this Agreement, through no fault of the party initiating the termination. The Client's failure to make payment in accordance with this Agreement will be considered its failure to substantially perform, and cause for termination by Consultant. In the event of the Client's failure to substantially perform, Consultant may elect to suspend all of its services until the Client's failure is cured and all amounts due prior to the suspension, plus and expenses incurred on account of the interruptions and resumption of services, are fully paid. Consultant shall not be liable for any delay or damages resulting from such suspension of services.

6.2 Client acknowledges that the Consultant's fees set forth in this Agreement contemplate prompt commencement by Consultant of the work to which such fees relate. Accordingly, Consultant shall have the right to terminate the Agreement should Client not authorize Consultant to promptly commence and complete performance of the work to be performed by Consultant. Consultant further reserves the right to renegotiate its fees if the work is not completed within two years from the date of this Agreement.

6.3 If any portion of the Project or the services is stopped or suspended for more than thirty (30) days in the aggregate, Consultant may terminate this Agreement upon seven (7) days' written notice to the Client.

6.4 If the Client suspends the Project, Consultant shall be compensated for services performed prior to notice of such suspension. When Project is resumed, Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. Consultant's fees for the remaining services and the time schedule shall be equitably adjusted.

6.5 The Client may terminate this Agreement upon not less than seven (7) days' written notice to the Consultant for the Client's convenience and without cause.

6.6 In the event of termination of the Consultant, Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

ARTICLE 7: OWNERSHIP AND USE OF DOCUMENTS

7.1 The Consultant's Documents, including those in electronic form, prepared by Consultant and its subconsultants are for use solely with respect to this Project, Consultant and its subconsultants are the authors and owners of their respective Consultant's Documents, and retain all common

law, statutory and other reserved rights, including copyrights. Consultant grants to Client a nonexclusive license to use the Consultant's Documents for the limited purposes of constructing, completing, using and maintaining the Project, provided Consultant is fully compensated pursuant to the terms of this Agreement.

7.2 In the event this Agreement is terminated by either party, whether for convenience or for cause, the license to use the Consultant's Documents shall likewise terminate unless and until a licensing fee is paid by the Client to Consultant as compensation for Client's continued use of Consultant's Documents after termination of the Agreement.

7.3 The Client shall not use the Consultant's Documents for the completion of this Project without fully compensating Consultant pursuant to the terms of this Agreement. The Client shall not use the Consultant's Documents for future additions or alterations to this Project or for other projects unless Client obtains the prior written consent of Consultant and its subconsultants. Any unauthorized use of the Consultant's Documents shall be at the Client's sole risk and without liability to Consultant and its subconsultants and Client agrees that Consultant will not have any liability for any use of, revision to or deviation from the Consultant's Documents occurring subsequent to Consultant's completion of services under this Agreement or earlier termination in accordance with the terms of this Agreement. To the fullest extent permitted by law, the Client shall indemnify, defend and hold Consultant and its subconsultants harmless from any claims, actions, damages, judgment or expense, including reasonable attorneys' fees, resulting from or relating to the Client's unauthorized use or deviation from the Consultant's Documents.

7.4 Should Client, Client's consultants or contractors or their respective subconsultants or subcontractors (of whatever tier, the "Requesting Party") request to use of Consultant's electronic files for convenience in performing services or work on the Project, Consultant will provide those electronic files within a reasonable time of receipt of an "Electronic Files Release Agreement" executed by the Requesting Party.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.1 This Agreement, together with the Scope of Services, annexed hereto as Exhibit "A", and with the Fees, annexed hereto as Exhibit "B", represents the entire and integrated agreement between Client and Consultant, supersedes all prior negotiations, representations or agreements (either oral or written) between Client and Consultant and may be amended only by written instrument signed both Client and Consultant.

8.2 Consultant shall have the right to photograph, publicize or promote its relationship to the Project and to include representations of its design of the Project among Consultant's promotional and professional materials.

8.3 Neither party shall assign this Agreement or any part hereof without prior written consent of the other party, which approval shall not relieve the assigning party from any of its obligations under this Agreement. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns to the parties hereto.

8.4 This Agreement shall be governed by, and construed in accordance with the law of the State of Florida, United States of America.

8.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the Client or Consultant.

8.6 Any notice required or permitted to be given under this Agreement shall be in writing and shall be delivered in person or deposited in the United States mail, first-class certified or registered mail, postage pre-paid, return receipt requested, addressed as follows (or to such other address or

individual as either party may specify from time to time by written notice in the manner provided in this section).

- a. If to Consultant, addressed to:

LandDesign, Inc.
PO Box 36959
Charlotte, NC 28236
223 N. Graham Street (28202)

- b. If to Client, addressed to:

Vine Street Community Redevelopment Agency
101 Church Street, Suite 110
Kissimmee, FL 34741

8.7 Client and Consultant agree that any dispute arising from this Agreement shall be brought in the appropriate State of Federal Court located in the State of Florida, which shall have exclusive jurisdiction of said dispute.

8.8 In the event any provision of this Agreement if found to be legally unenforceable, such unenforceability shall not prevent the enforcement of any other provision.

8.9 In the event either party is required to enforce this Agreement, in court or otherwise, the prevailing party shall be entitled to recovery of its attorneys' fees and costs.

This Agreement was entered into as of the day and year first written above.

LANDDESIGN, INC.

BY: _____ DATE: _____
Chad Kovaleski for LandDesign, Inc.
Partner

VINE STREET COMMUNITY REDEVELOPMENT AGENCY

BY: _____ DATE: _____
Tom Tomerlin, Economic Development Director

EXHIBIT A

SCOPE OF SERVICES

LandDesign is pleased to have the opportunity to submit this proposal for the above-referenced project to provide design services for the City of Kissimmee. This proposal describes our understanding of the project, discusses the intended scope of services, and presents the associated compensation for our services.

It is our understanding that the City of Kissimmee (Client) desires LandDesign to provide landscape architectural design services for US-192 / Vine Street (Project) consistent with the Vine Street Landscape Master Plan – see Exhibit C for Project Limits. LandDesign understands that the Project will be developed consistent with the Florida Department of Transportation (FDOT) Florida Design Manual (FDM).

The Project includes:

- Approximately 4.2 miles in length and extends from just west of N. Hoagland Blvd (10 Pin) to Denn John Ln. to the east.
- 40, 45 and 50 MPH design/posted speeds are present
- Irrigation design will be included for the medians only (will not include small, secluded medians with no trees)

We anticipate that no utility relocations will be required. Existing lighting fixtures and signs shall remain in place.

LandDesign proposes to offer the following services as part of this proposal:

I. PRELIMINARY DESIGN AND DOCUMENTATION FORMATTING

PHASE 300

The following items will be provided as part of this phase:

1. LandDesign will attend a kickoff meeting with the Client and FDOT to discuss the Project scope of work, schedule, applicable design criteria, document formatting and base content.
2. Following the kickoff meeting, LandDesign will conduct a site visit to field verify median widths and other site conditions with aerial mapping. This will include verifying other existing conditions such as billboard locations, driveways, and visible overhead utilities.
3. It is understood that FDOT Right of Way (ROW) Maps will be used as the document base. Additional surveying may be needed at intersections and medians where changes have occurred since the ROW Maps were created but is not included in this scope of services. We will coordinate with FDOT personnel on the US-192 resurfacing projects to obtain any available survey files.
4. It is understood that the FDOT ROW Maps will be used to establish visual sightlines at intersections and to measure median tree curb setbacks. LandDesign will include dimensions of the tree setbacks from the curb on the plan set.
5. LandDesign will field verify the FDOT ROW Maps for consistency with existing conditions. Variations between the plans and the existing conditions will be addressed with Client and FDOT in order to understand if additional survey will be needed.
6. In preparation for developing the 60% Construction Documents, LandDesign will assemble the base maps by utilizing pdf FDOT ROW Maps and inputting the centerline, ROW limits and other information from these maps into digital format with FDOT APLUS aerials.
7. LandDesign will show clear site triangles at intersections based on FDM requirements as well as clear sight triangles on plans at intersections and driveways that will affect the median and roadway planting areas.

8. LandDesign will prepare a 30% CD submittal at the end of this phase for review by the FDOT prior to beginning Construction Document phase. This would include landscape design only. This submittal is to confirm all the document formatting is in compliance with the FDOT standards.

II. CONSTRUCTION DOCUMENTATION – LANDSCAPE ARCHITECTURE

PHASE 400

The following items will be provided as part of this phase:

1. Based upon the approved landscape Master Plan, LandDesign will prepare 60% and 90% landscape construction drawings for the roadway medians and roadsides. The landscape construction drawings will be consistent with FDOT FDM and District 5's Landscape Grant requirements and the Department's Landscape Initiative. The landscape plans will address plant species, location, quantity, size, spacing and planting techniques for proposed plant material.
2. Review and delineate on the construction documents all existing fiber and power within the project limit of work as recorded with cflsmartroads.com.
3. Prepare 90% irrigation construction drawings for the roadway medians only indicating Point of Connection (POC), mainline routing, details and notes for the Project. *Fee included in Phase 900.* It is understood that:
 - o It is unknown if the City currently has existing irrigation POCs in the vicinity. Methods for irrigation connection will need to be further evaluated as part of this project.
4. Prepare and submit to the Client and FDOT 60% documents which will include:
 - o Construction Landscape Plans
 - o Site Triangle Analysis
 - o Preliminary Opinion of Probable Construction Costs
5. Attend one (1) review meeting with the Client and FDOT to review the 60% submittal drawings in order to receive input prior to preparing the 90% construction drawings.
6. Update the Preliminary Opinion of Probable Construction Costs based on the 90% drawings.
7. Prepare a Lane Closure Analysis at the 90% level.
8. Based upon the input received, LandDesign will prepare and submit to the Client and FDOT 90% documents which will include:
 - o Construction Landscape Plans
 - o Irrigation Plans (medians only). *Fee included in Phase 900*
 - o Opinion of Probable Construction Costs
 - o Lane Closure Analysis
 - o Site Triangle Analysis
 - o Maintenance of Traffic Notes
 - o Landscape Technical Maintenance Plan and Notes
 - o CEI Man-hour Breakdown Cost Estimate
 - o Draft Bid Documents – City to provide front-end bid documents
 - o Specifications
9. Attend up to three (3) review meetings with the Client and FDOT Project Manager to review the 90% submittal drawings in order to receive input for the final 100% construction drawings for bidding.
10. Based upon the input received, LandDesign will prepare and submit to the Client 100% documents for bidding which will include:
 - o Construction Landscape Plans
 - o Irrigation Plans (medians only). *Fee included in Phase 900*
 - o Opinion of Probable Construction Costs

- Lane Closure Analysis
- Site Triangle Analysis
- Maintenance of Traffic Notes
- Landscape Technical Maintenance Plan and Notes
- CEI Man-hour Breakdown Cost Estimate
- Draft Bid Documents – City to provide front-end bid documents
- Specifications

III. PERMITTING – LANDSCAPE ARCHITECTURE

PHASE 500

The following items will be provided as part of this phase:

1. Based upon Client and FDOT review input, LandDesign will provide Permitting and Bidding landscape and irrigation drawings.
2. LandDesign will provide the City and FDOT with signed and sealed construction documents.
3. LandDesign anticipates up to three (3) rounds of comments with FDOT based on the submitted 90% plan set and up to one (1) round of comments from the City based on the submitted 60% plan set for site plan review. Comment responses will be included for each.
4. The scope does not include major utility relocations, hence FDEP drinking water and domestic wastewater permits are not required. Further, the general grading of the medians and amount of impervious area shall stay relatively the same, so the project should be exempt from Water Management District permitting.

IV. IRRIGATION DESIGN – SUBCONSULTANT

PHASE 900

LandDesign will partner with a consultant to provide irrigation design services for the project which will include medians only.

V. BIDDING ASSISTANCE AND CONSTRUCTION PHASE SERVICES

PHASE 050

LandDesign can assist the City during the bidding phase by providing hourly services for:

1. Attending one (1) pre-bid conference
2. Addressing contractor RFI's
3. Reviewing project bid

Design team involvement during the construction phase can help to resolve issues that may arise, clarify contractor questions, provide oversight for material selection, and during construction observation site visits. It is understood that CEI services will be contracted with another firm as required by FDOT. However, LandDesign will function as the Client's representative and can perform the following services on an hourly basis:

1. LandDesign's landscape architect will attend one (1) preconstruction meeting with the Client and Project contractor.
2. LandDesign will review contractor submittals and shop drawings.
3. LandDesign will address contractor RFI's.
4. LandDesign will visit two (2) area nurseries, within a 3-hour distance from Orlando, to review contractor selected plant material.
5. LandDesign will attend up to four (4) site visits during the course of construction as well as one (1) substantial completion visit and one (1) final completion site visit – six total. Each site visit will include a memo identifying observations made while on site. LandDesign will also provide a letter of certification indicating that the landscape has been installed consistent with the permitting plans.

ADDITIONAL SERVICES

Additional services shall be provided only when authorized in writing by the Client and shall be paid for by the Client as hereinafter provided. Any work required in addition to that outlined under Scope of Services or additional work requested by the Client, but not required to secure regulatory agency permits, will be billed on an hourly basis according to the attached rate schedule or a negotiated lump sum fee. Extra work will include, but not be limited to:

1. Change of Scope of Services
2. Modifications requested due to VE changes after construction document submittal. All VE direction should be given prior to entering the 90% Construction Document phase
3. Preparation of additional schematic site design(s) or alternative analysis for review and approval by Owner or agencies.
4. Hardscape design and site furnishings
5. Structural engineering
6. Traffic Counts, Traffic Studies, or Traffic Signalization Design
7. Electrical Engineering, site lighting and photometrics
8. Permitting submittals beyond those identified
9. Construction phase services beyond those identified
10. Attendance at regular coordination meetings or conference calls will be addressed as an additional service and invoiced on an hourly basis.
11. Retaining wall designs.
12. Additional Meetings with FDOT and City staff beyond those identified.
13. Rendered site plans or exhibits for public, community, or neighborhood meetings.
14. Zoning changes, appeals, neighborhood meetings to review elements of design or approvals, easement documents, rendered plans, or other related services not included in the above-described scope of services.
15. Preparation of a traffic study on adjoining or nearby public streets.
16. Additional Construction document packages such as "fast-tracked" or phased drawing releases, other than described above.
17. Off-site improvements (including utilities, drainage, roads, etc.), public improvements on- or off-site or easements for any required public improvements.
18. Design or evaluations of water, waste water, or storm water pumping stations or treatment systems (should it be determined that any are required to serve any portion of the site).
19. Environmental assessments, studies or evaluations for Corps 404 Permits, FEMA submittals, hazardous or toxic waste investigations, wetland determinations, or EPA water quality-permitting analysis not included in the above-described scope of services.
20. Making revisions to the drawings for changes required by the owner, developer, or coordination of other disciplines after drawings have been submitted for review and permitting.
21. Closing item assistance, including utility availability and engineering letters for lenders approval.

22. Making revisions in drawings or other documents when such revisions are inconsistent with written approvals or instructions previously given; required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; and/or due to other causes not solely within the control of LandDesign.
23. Providing services made necessary by the default of the contractor, or by defects or deficiencies in the work of the contractor.
24. Surveying Services including locating underground utilities.

EXHIBIT B

FEES

COMPENSATION SUMMARY

<u>DESCRIPTION</u>	<u>PHASE (S)</u>	<u>FEE</u>
Preliminary Design and Documentation Formatting	300	\$24,000
Construction Documentation – LA	400	\$93,000
Permitting – LA	500	\$23,000
Irrigation Design – Subconsultant	900	\$8,500
Lump Sum Total:		\$148,500
 Bidding Assistance and Construction Phase Services – LA (Hourly Not-To-Exceed)	 050	 \$36,000
 Expenses – At Cost, As incurred	 EXP	 \$1,000

HOURLY RATES

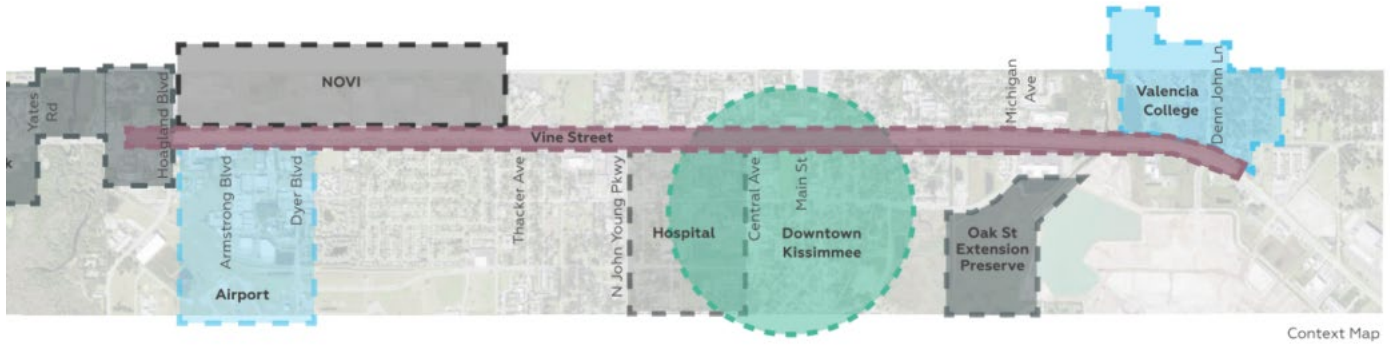
Partner	\$200.00 - \$320.00/Hour	Construction Administration Manager	\$100.00 - \$150.00/Hour
Principal	\$190.00 - \$290.00/Hour	Survey Manager	\$130.00 - \$220.00/Hour
Director	\$150.00 - \$280.00/Hour	Professional Surveyor	\$120.00 - \$210.00/Hour
Studio Leader	\$130.00 - \$260.00/Hour	Field Survey Party	\$180.00 - \$240.00/Hour
Senior Designer	\$120.00 - \$220.00/Hour	Survey CAD Technician	\$ 80.00 - \$200.00/Hour
Designer	\$ 80.00 - \$200.00/Hour	Project Assistant	\$ 60.00 - \$ 90.00/Hour

All billing rates are subject to periodic adjustments at the discretion of Consultant.

REIMBURSABLE EXPENSES

Expenses incurred by Consultant solely in the interest of the project shall be reimbursable and billed at our direct costs. Reimbursable expenses shall include but not be limited to all shipping and mailing costs, courier services, travel, long distance telephone and facsimile transmittals, supplies, printing, and photographic reproductions.

EXHIBIT C – PROJECT LIMITS





District Five Landscape Program

Fact Sheet

Revised 8/18/21

State funding is available to pay for **plant materials** and **select ancillary items** used in Local Government landscaping projects along **State Roads** (roads on the Florida Department of Transportation State Highway System). This is a reimbursement program with no match required.

This program is the result of a law passed by the Florida Legislature in 2001, FS334.044(26).

Funds Disbursement

The Local Government must design, contract, oversee construction and maintain the landscape project. The Florida Department of Transportation (Department) will reimburse those items allowed by the program. Any project elements not specifically allowed by the program will not be reimbursed and are the sole responsibility of the Local Government.

The Local Government will enter into a Joint Participation Agreement (JPA) with the Department. The agreement cannot be with a homeowner's association or other non-governmental entity. Reimbursement will be via a one-time lump-sum payment after the work is complete or, if included in the JPA, progress payments based on a percentage of completion (or as otherwise agreed to in the agreement).

Reimbursable Items allowed under the program

Plants and Plant Materials:

Eligible items are:

Cost of purchase for plants, fertilizer, soil amendments, mulches, staking, and the cost for labor associated with the installation of the planting.

Ancillary Items:

In addition to plant and plant material reimbursement, the program now sets aside a specific amount per project to help pay cost of ancillary type items associated with landscaping projects.

Eligible ancillary items are:

Sod, clearing & grubbing, erosion control, sediment barrier, inlet protection, consultant Construction Engineering and Inspection (CEI) cost, maintenance of traffic (MOT), and/or mobilization.

Set aside amount:

The per project amount set aside for ancillary items is 15% of the eligible plant and plant material estimate. The initial set aside amount will be established and programmed based on the initial estimate received with application. This amount could be revised with the 90% plans estimate if the estimate does not exceed the total programmed amount.

Note: The total amount reimbursed for eligible ancillary items cannot exceed the set aside amount specified. Any item(s) not listed above is not reimbursable under the program.

Requirements

The following requirements will be included in the JPA and will be part of the design review by the Department. This is a partial list. Additional requirements are detailed in the agreement:

- Landscaping must be along a State Road within Department owned right of way (property).
NOTE: The landscape project does not have to follow a FDOT roadway project.
- To the greatest extent practical, at least 50 percent of the plant material cost shall be allocated for large plant materials and the remaining for other plant materials. Large plant materials have been defined by the FDOT to be seven (7) gallon or larger containers as defined by the Florida Department of Agriculture's "Grades and Standards for Nursery Plants"
- Except as prohibited by applicable federal law or regulation, all plant materials shall be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis.
- Local Government is responsible for the design and associated cost.
- 90% design plans must be complete and approved by the Department before the JPA can be drafted and/or executed.
- Design must be done by a Registered Landscape Architect.
- It is the DEPARTMENT's recommendation that the LOCAL GOVERNMENT retains a Registered Landscape Architect meeting FDOT consultant prequalifications for Landscape Architect (Work Type Group 15.0). At a minimum, the Registered Landscape Architect of record shall demonstrate 5 years of experience in roadway landscaping projects.
- Design must follow the Department's Landscape Initiative as defined in this document.
- Local Government must maintain the landscaping. Maintenance costs are not reimbursable by the Department.
- All existing fiber and power within the project limits shall be shown and labeled as "FDOT Fiber and power" on the plans. The Local Government shall use cflsmartroads.com to obtain a .kmz file showing all existing fiber and power within the district to utilize in plan development.
- The Local Government shall provide sight triangles one half mile from all cameras to ensure clearance of the proposed landscaping.
- All plantings shall maintain ten (10) feet clear path, five (5) feet either side, of all microwave vehicle detection systems (MVDS) across the entire roadway, including the median.
- Lane closures will require submittal of a lane closure analysis (LCA). The LCA should be submitted with the design plans for approval by the Department.
- The Local Government must use current Standard Plans, Florida Design Manual, and Standard Specifications corresponding to the letting. Location for the latest landscaping Special Provision Specification 580 can sent out upon request.
<https://fdotewp1.dot.state.fl.us/SpecificationsPackage/Package/Workbook/LAPSpecificationSelection.aspx>

- Local Government must hire a Department pre-qualified CEI firm to perform construction oversight.

Meetings

Meeting between the Local Government and the Department will be required and scheduled after application approval and before programmed in the Department's Five-Year Work Program. Purpose of the meeting is to review expectations and answer questions in more detail to help ensure a successful project delivery. Meeting can be virtual via Microsoft TEAMS or in person at the district office in Deland.

In addition, Kick Off and Progress Meetings may be required once the design consultant is on board.

Application and Process

Applications are accepted year-round and are generally awarded in the order received, based on funding availability. The application process takes six to eight weeks from time the application received by the Department.

A "high level" concept plan, including location map showing the general area of the proposed landscaping, along with a cost estimate must be submitted with the application. The concept plan and/or estimate do not have to be developed by a landscape architect but need to convey the intent of the project and estimated cost.

Application approval is made by the District Secretary or Director of Transportation Development. The decision is based on but not limited to:

- o Location and type of landscaping proposed,
- o Amount of funding requested (is the cost reasonable),
- o Impact to current or future Department projects
- o Availability of funding at the time of proposed construction
- o Review of concept plan by Department

During the application review the Department may contact the Local Government to discuss options if there are issues or areas of concern with the application or proposed project.

Note: Projects are programmed in the first three years of the Department's Five-Year Work Program.

To request an application or to discuss program requirements, please contact Steve Smith. To apply for the program, please complete an application and send via email or regular mail to:

Steve Smith
Production Management Office
Florida Department of Transportation
719 South Woodland Boulevard
Deland, Florida 32720
Email: steve.smith@dot.state.fl.us Phone: 386.943.5451

Florida Department of Transportation District Five Landscape Initiative

To create instant, aesthetically pleasing, low maintenance roadside landscapes that fit well into the community and can help attract and grow business in Florida.

The following general guidelines are to be incorporated into the design:

- More emphasis on trees and less on shrubs. Typically, more large trees and fewer shrubs can instantly increase “curb appeal” and wow factor of the landscaping. It can also cost much less to maintain than extensive masses of ornamental shrubs or other high maintenance material.
- Does not prohibit shrubs. Shrubs can be used when and where they are part of the best design solution.
- The Right Plant, Right Place – does the palette fit the surroundings?

Note: During the design process, the design plans will be reviewed by the Department to see if all guidelines are being followed.

Landscape Program FAQ

- **Does funding include design, construction, and CEI?** Funding only covers eligible construction costs, potentially including eligible ancillary items up to 15% of eligible plant and plant material estimate; however, funding is capped at the programmed funding amount. Design is ineligible for reimbursement. Please refer to the Landscape Program Fact Sheet for additional information.
- **What is the required match for each project?** No match is required. However, any project costs not covered by the programmed funding, such as ineligible items, or costs above the programmed value, will be the responsibility of the local agency.
- **What happens if bids come in higher than expected?** The local agency is required to cover any costs above the programmed amount.
- **What is the deadline to complete each project?** The Joint Participation Agreement will need to be executed before June 30 of the funded year and the expiration date of each agreement will be based on the construction schedule for that project.
- **Does design have to be completed to apply for landscape funds?** No, it does not but we do require a landscape concept plan showing proposed planting materials and locations along with high level estimate be submitted with application.
- **Does design have to be completed before executing the landscape agreement (JPA)?** 90% plans reviewed and approved by DOT is required before executing the agreement in year of funding.

- Is the project specific JPA agreement(s) available? A boilerplate JPA template can be provided. The project-specific Agreements will typically be drafted as the design nears completion.
- For CEI, is the Local Agency required to issue an RFQ? The Local Agency must utilize a FDOT Pre-qualified Consultant for CEI. The CEI consultant must be obtained following CCNA requirements.
- We have two landscape projects. Are they expected to be done in parallel? The local agency may pursue the projects in parallel or separately.
- If the two projects are roughly concurrent, can we use the same design firm, CEI firm, and possibly the same contractor? While the design consultant may not be the same consultant as the CEI firm, the same designer may be used for both projects and the same contractor/CEI firms may be utilized on the projects. Please bear in mind that the projects will have separate agreements and will need to be invoiced separately during construction.
- Can the two projects be bid as one Local Agency contract (with costs separated between the two locations)? The Local Agency may bundle the projects at its preference. Yes, the costs would need to be separated for each project.
- What is the process and how long does it take once I apply? Once the application is received it takes approximately six to eight weeks to complete our internal review. During this time, the application goes through a series of reviews with various departments within DOT. Part of this review is meeting with the local agency (see program info sheet). The results are reviewed by our Transportation Director and decision is made to accept or reject.

ITEM 8.C

Resolution to amend the Rates & Charges Policy for Kissimmee Gateway Airport

Request

Approval to amend the Rates & Charges Policy by Resolution for Kissimmee Gateway Airport (KISM) approved on October 20, 2020.

Explanation

The City of Kissimmee operates KISM as an enterprise fund, meaning revenues produced by the airport are utilized to offset the annual operating and capital expenses. KISM operates self-sufficiently with the goal of requiring no general funds from the public. To ensure this continues, rates and charges are set based on the operating and capital improvement forecast over a five-year projection.

Although costs have significantly risen over the past two decades, FAA funding entitlements for general aviation (GA) airports have remained stagnant. GA airports face financial challenges and have limited revenue sources compared to those typically available to commercial airline airports. GA airports may also struggle to compete for Airport Capital Improvement Program discretionary dollars, and funding for some key airfield components, such as crosswind runways or aircraft parking aprons, typically considered low priority items for the FAA.

Since 2015, KISM has utilized \$1,027,549.00 from reserve funds to finance several capital improvement projects, usually leveraging federal and state grants. FY'25 – FY'30 capital improvement projects total approximately \$71M requiring \$5M from reserve funds, (\$833,333 average per year/6 years). This does not include an additional \$56M, requiring \$1.1M from reserves (\$188,000 average per year/6 years) if the Runway 15/33 Rehabilitation Project and major Apron Projects are introduced (FAA recommendation). KISM's reserves realize approximately \$200,000 per year under its current revenue structure requiring additional revenue.

Implement Transient Aircraft Landing Fees

Implementing transient aircraft landing fees is a viable strategy endorsed by the FAA to enhance airport financial stability – if following grant assurances and guidance to ensure reasonable rates and financial accountability. GA landing fees are popular in certain regions, with the Northeast, West Coast, and Texas, having the most GA airports with landing fees. GA airports in Florida generally do not charge landing fees. However, there is no legal barrier to their implementation. Some commercial airline service airports in Florida charge GA aircraft landing fees.

A growing number of Florida GA airport leaders recognize this approach as a reasonable means of revenue generation to assist achieving financial stability. Landing fees would diversify revenue streams, support infrastructure upgrades and expansion, and assist in managing operating / maintenance and capital improvement costs.

The landing fees would apply to transient aircraft to supplement the revenue needed for capital improvement projects. This adheres to the user-fee principle, ensuring that those who benefit directly from the use of KISM facilities contribute fairly to their upkeep and expansion. Based aircraft owners will be exempted from landing fees since they contribute to revenue sources through ground and facility rental leases and are often engaged in bolstering the local economy through job production and purchasing of local goods and services.

The typical landing fee is set as a fixed amount per 1,000 lbs. of weight, based on either Maximum City of Kissimmee

Take-Off Weight (MTOW) or Maximum Landing Weight (MLW). Fees typically vary from \$1.50 to \$12.00 per 1,000 lbs. (Source: Vector Airport Systems)

Staff's initial recommendation was to set the transient fixed-wing aircraft landing fee at \$3.00 per 1,000 lbs. MLW, and a transient helicopter fee of \$20.00 per operation. That fee structure would have generated annual revenue of approximately \$600,000 at KISM (vendor estimates on file). While it is understood that each airport arrives at a fee structure meeting its unique financial needs, these fees keep with rates proposed by other East Central Florida airports and align with industry norms.

Based on input received at the September 17, 2024 Commission meeting, staff is proposing an additional exemption for the first landing each day for aircraft less than 5,000 lbs. This would eliminate most of the concerns raised over the impact of these fees on small aircraft owners. Staff estimates this additional exemption would reduce the estimated annual revenue by approximately \$65,000. Other exemptions would include military, federal, state and county registered aircraft, and medical evacuation aircraft.

The proposed date to initiate the transient aircraft landing fees is November 1, 2024. The collection process is expected to be managed by a third-party vendor utilizing our based aircraft list (for exemptions) and the ADS-B tracking system currently in place at KISM.

Adjust Aeronautical Land Rental Rate

KISM's establishment of rates and charges utilizes a combination of fair market value appraisals by a third party and surveys of Florida airports of similar size and operations. The market value of the property has increased based on those appraisals and recent surveys. It is recommended to increase the aviation land rental charges by \$0.05 per square foot annually for new leases.

1. Aeronautical Land: \$0.30 \$0.35 per square foot annually
(1 acre = \$13,068.00 \$15,246.00 per year)
2. Aircraft Parking Apron: \$0.35 per square foot annually

Recommendation

Approval to amend the Rates & Charges Policy by Resolution for Kissimmee Gateway Airport (KISM) approved on October 20, 2020.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Airport

Presenter: Shaun Germolus

Attachment(s):

1. /S/ Resolution_ Adopting Fees,Rates and Charges
2. Exhibit A. KISM Rates & Charges 2024
3. ISM 2024 Landing Fee Power Point Presentation

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COMMISSION OF KISSIMMEE,
FLORIDA, ESTABLISHING A POLICY FOR AIRPORT FEES,
RATES AND CHARGES PURSUANT.**

WHEREAS, the City of Kissimmee adopted Ordinance No. 3108 amending the Code of Ordinances, Chapter 8, Aviation, Airport Regulations, providing for the enforcement and collection of fees; and

WHEREAS, the Ordinance requires the City Commission to set the fees, rates, and charges applicable by Resolution; and

WHEREAS, the City Commission has determined that the fees established in this resolution are fair, reasonable, and necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA THAT:

Section 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct.

Section 2. Establishment of Rates. The City Commission establishes and amends the Kissimmee Gateway Airport Rates and Charges (City Policy 1503), attached hereto as Exhibit A.

Section 3. This Resolution shall become effective immediately upon its passage and adoption.

ADOPTED in Regular Session this _____ day of _____, 2024.

CITY OF KISSIMMEE, FLORIDA

By: _____

Olga Gonzalez, Mayor-Commissioner

ATTEST:

By: _____

Linda Hansell, City Clerk

Approved as to form and legality:

Olga Sanchez de Fuentes, City Attorney



KISSIMMEE GATEWAY AIRPORT

RATES & CHARGES POLICY

DRAFT 2024

ADOPTED: OCTOBER 2020
EFFECTIVE: JANUARY 2021
REVISED: FEBRUARY 2023

The Kissimmee Gateway Airport (KISM) is owned and operated by the City of Kissimmee, Florida (City). As a recipient of federal grant-in-aid assistance provided by the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP), the City is obligated to comply with federal laws, grant assurances and regulatory requirements. These requirements extend to City procedures and policies related to the use of airport property and the establishment of associated lease rates and user fees. The FAA Airport Compliance Manual (Order 5190.6B)* enumerates the following four (4) underlying principles for airport sponsors to follow as they relate to establishing and implementing airport rates and charges:

1. **Fair and Reasonable.** Federal law, as implemented by the FAA Rates and Charges Policy, requires the rates, rentals, landing fees, and other charges airports impose on aeronautical users for aeronautical use be fair and reasonable.
2. **Non-Discriminatory.** Aeronautical fees may not unjustly discriminate against aeronautical users.
3. **Self-Sustaining.** Airport sponsors must maintain a fee and rental structure that makes the airport as financially self-sustaining as possible, considering the circumstances of the airport.
4. **Allowable Use.** An airport sponsor may only use its airport revenue for airport capital and operating costs and certain other facilities directly and substantially related to air transportation, as permitted by 49 U.S.C. §§ 47107(b) and 47133.

Airport Rates and Charges Goals

In view of the basic principles and FAA policy discussed above, the primary goals of setting airport rates and charges for the Kissimmee Gateway Airport can be summarized as follows:

-  Ensure revenues obtained from tenants and airport users will be sufficient to satisfy the operating and capital requirements of the airport.
-  Ensure revenues generated by tenants and airport users will be consistent with the income potential of the tenants and airport users. Also, the rates and charges structure will be updated periodically to meet the current requirements of the airport and maintain a competitive fee structure for the tenants and airport users.
-  Ensure revenues generated by tenants and airport users will be sufficient to maintain the safety and efficiency of the airport. Continually develop a reserve fund into which all surplus capital is deposited and from which funds are dispersed

for further development of the airport and / or repair and replacement of existing infrastructure.

-  Ensure the rates and charges imposed on the users of the airport are fair and reasonable.
-  Ensure the airport is made available for public use on fair and reasonable terms without unjust discrimination. Ensure tenants and airport users are subject to the same rates and charges as are uniformly applicable to other tenants offering similar services or utilizing similar facilities at the airport.
-  Ensure revenue generated from airport activities and services are used only for aeronautical purposes.

Setting Rates and Charges

The City of Kissimmee operates KISM as an enterprise fund, meaning revenues produced by the airport are utilized to offset the annual operating and capital expenses. KISM operates self-sufficiently with the goal of requiring no general funds from the public. To ensure this continues, rates and charges are set based on the operating and capital forecast over a five-year projection. Setting rates and charges to meet the forecasted projections utilize a combination of fair market value appraisals by a third party and surveys of Florida airports of similar size and operations.

The rates and charges will be reviewed annually and adjusted periodically, each third (3rd) anniversary in accordance with the U.S. Department of Commerce “Consumer Price Index” (CPI) and / or based on a newly updated appraisal every 5 years.

REVENUE SOURCES

Ground / Land Leases. Ground lease rates are airport charges for land on which private or commercial hangars, buildings, or other facilities are constructed. The airport will charge different rates based on aeronautical land (inside the perimeter fence with direct airfield access to runways/taxiways) and non-aeronautical land (no direct access to the airfield’s runways/taxiways).

Aeronautical Land: \$0.35 per square foot annually (1 acre = \$13,068.00 per year)
Aircraft Parking Apron: \$0.35 per square foot annually

Non-aeronautical Land: Case-by-case fair market value appraisal

Commercial Service Activity Permit. Any commercial activity that comes on the airport to perform any services not covered by the Minimum Standards or not under an agreement with the City will be required to apply for a permit and pay the greater of \$25.00 per month or 2 ½ percent of gross income limited to transactions associated with airport

use. Applicant will provide the Airport Director company information to include any required licenses, certificates and insurance to perform the commercial activity.

Administration Fee: \$250.00 (One Time)
Airport Access Fee: \$1,500.00 (Annually)

Fuel Flowage Fee. This fee is applied to fuel discharged directly from a fuel supplier delivery vehicle into a customer's fuel truck or holding tanks on airport property. The fee is applied regardless if consumed by the customer or, if authorized, sold retail to a third party. Fuel flowage fees are a commonly accepted way to obtain airport revenues without placing the entire burden on local airport tenants since these fees are also paid by transient aircraft owners using the airport facilities.

Fuel Flowage Fee Jet A: \$0.10 per gallon

Fuel Flowage Fee 100LL: \$0.06 per gallon

Self-fueling with Automobile
Gasoline (MOGAS): Annual permit - \$75 per year commercial use
 Annual permit - \$20 per year noncommercial use

Car Rental Fees. The City shall receive monthly, 5% of all gross revenues derived by any person or entity for the renting or leasing of automobiles or other ground transportation vehicles.

Sublease Fees. Tenants may enter into a sublease agreement only when approved and authorized by the City Commission. Procedures in KISM's minimum standard's policy**, and the City's Lease / Sub-Lease Requirements must be adhered to prior to authorization.

Sublease Fee: \$0.10 per square foot in addition to base rent rate
 (square foot will be calculated on actual subtenant footprint).

Security Access Fees. KISM has installed a security control access system for ingress/egress for authorized airport tenants. The fee will cover the initial and replacement costs of the access control cards.

Initial Card: \$10.00
Replacement / worn: \$25.00
Lost / Replacement: \$50.00 (\$25 refund if found and returned within 7 calendar days)
Unreturned: \$100.00 (individual or employer)

General Aviation Landing Fees. Effective October 15, 2024, KISM authorized Vector Airport Systems, LLC ("Vector") to manage the billing and accounts receivable for General Aviation ("GA") Landing Fees for fixed-wing aircraft and rotary-wing aircraft (helicopters,

electric vertical takeoff & landing aircraft - eVTOL) on behalf of the airport. "Landing Fees" is a commonly used term that refers to aircraft operating fees.

Rate.

GA Landing Fees for fixed-wing aircraft will be assessed at the time of arrival and billed by Vector at the following rate for FY 2025:

- **Fixed-Wing Landing Fee = \$3.00 per 1,000 pounds Maximum Certified Landed Weight ("MLW").**

* This rate is subject to change on an annual basis.

GA Landing Fees for rotary-wing aircraft will be assessed at the time of arrival and billed by Vector at the following rate for FY 2025:

- **Rotary-Wing Landing Fee = Flat fee of \$20.00 per operation.**

* This rate is subject to change on an annual basis.

Exemptions.

The Airport will waive GA Landing Fees (not fuel flowage fees or ramp fees***) for fixed-wing and rotary-wing aircraft meeting any of the following criteria:

- Based aircraft****
- Government-owned aircraft registered as owned by the government according to the Federal Aviation Administration ("FAA") Registry:
 - Federal, State of Florida, and Osceola County aircraft
 - Military aircraft
- Medical aircraft (e.g. Air Methods)
- Charitable/Nonprofit aircraft (e.g. Angel Flight, Wings of Mercy, Veterans Airlift Command, etc.)
- The first landing each day for aircraft less than 5,000 lbs. will also be exempt.

Billing and Payment Information.

GA Landing Fees will be invoiced monthly by Vector and may be paid utilizing the Vector Customer Portal (website):

The Vector Customer Portal is a self-service payment portal that allows aircraft operators to manage their accounts. This website may be accessed by visiting:

<https://payment.planepass.com/en-US/CustomerPortalLogin.aspx>

Additional information may be found at the Airport's Website:

<https://www.flykissimmee.com/>

* Order 5190.6B, FAA Compliance Manual and FAA Policy Regarding Airport Rates and Charges may be located at:

https://www.faa.gov/airports/airport_compliance/

** Section 4.17, "Policy, Regulations and Minimum Aeronautical Service Standards for Aeronautical Tenants at Kissimmee Gateway Airport (Latest Edition).

*** Fuel flowage and ramp fees are paid to the FBO (Signature or Odyssey), not to Vector.

**** According to the FAA, a "based aircraft" is defined as an aircraft that is operational and airworthy, which is typically based on the airport for a majority of the year. A based aircraft meets the following four criteria:

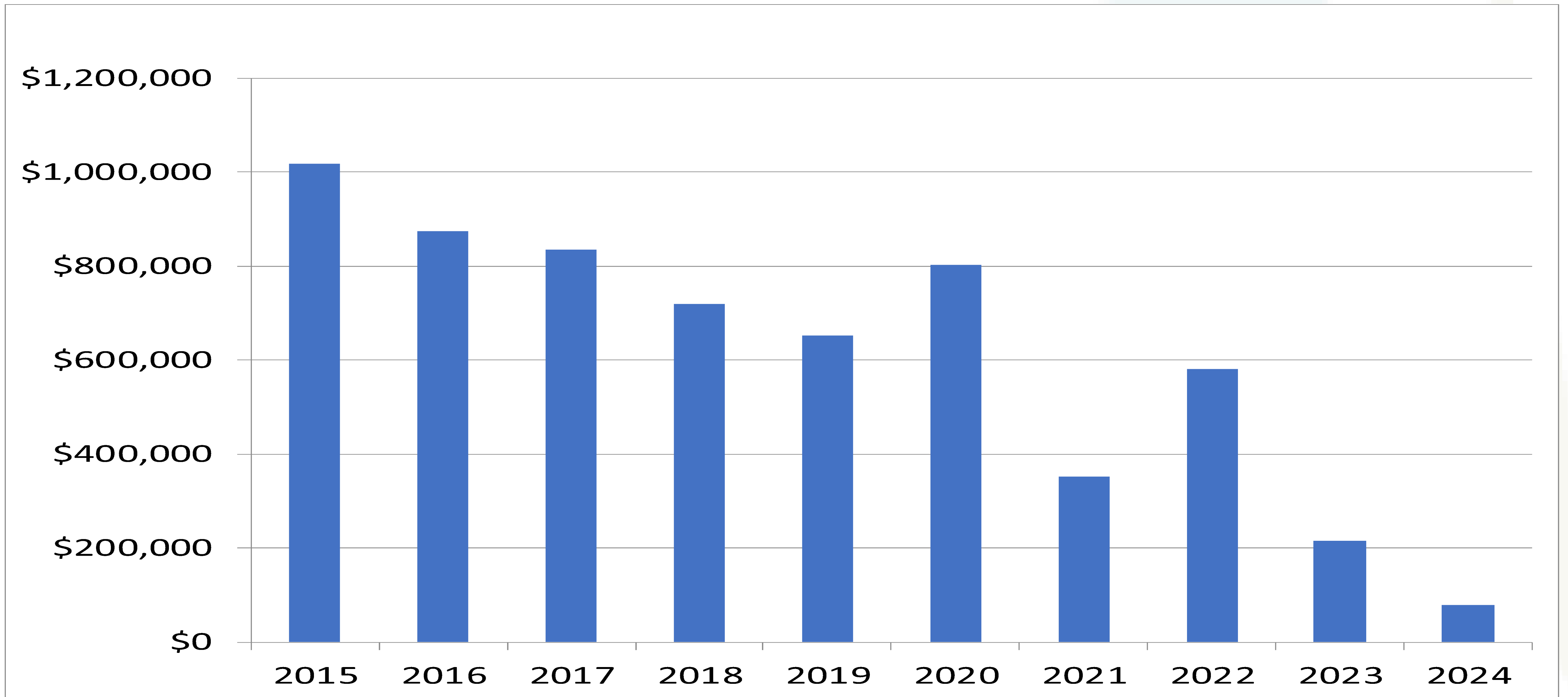
- Has an agreement with the airport for storage;
- Spends greater than six months at the airport - registered with FAA as KISM based;
- Is operational (capable of performing takeoffs and landings);
- Is airworthy (has a valid/current FAA airworthiness certificate).

KISSIMMEE GATEWAY AIRPORT

LANDING FEE RATE STRUCTURE
October 2024



FY15-24 CAPITAL OUTLAY RESERVE



2025-2030 CAPITAL IMPROVMENTS

\$62,091,163.00 TOTAL = \$5,101,993.00
AIRPORT

\$5,101,993.00 / 6 YRS = \$850,332.17

NEW AIR TRAFFIC CONTROL TOWER

EXTEND TAXIWAY "D"

REHABILITATE TAXIWAY "A"

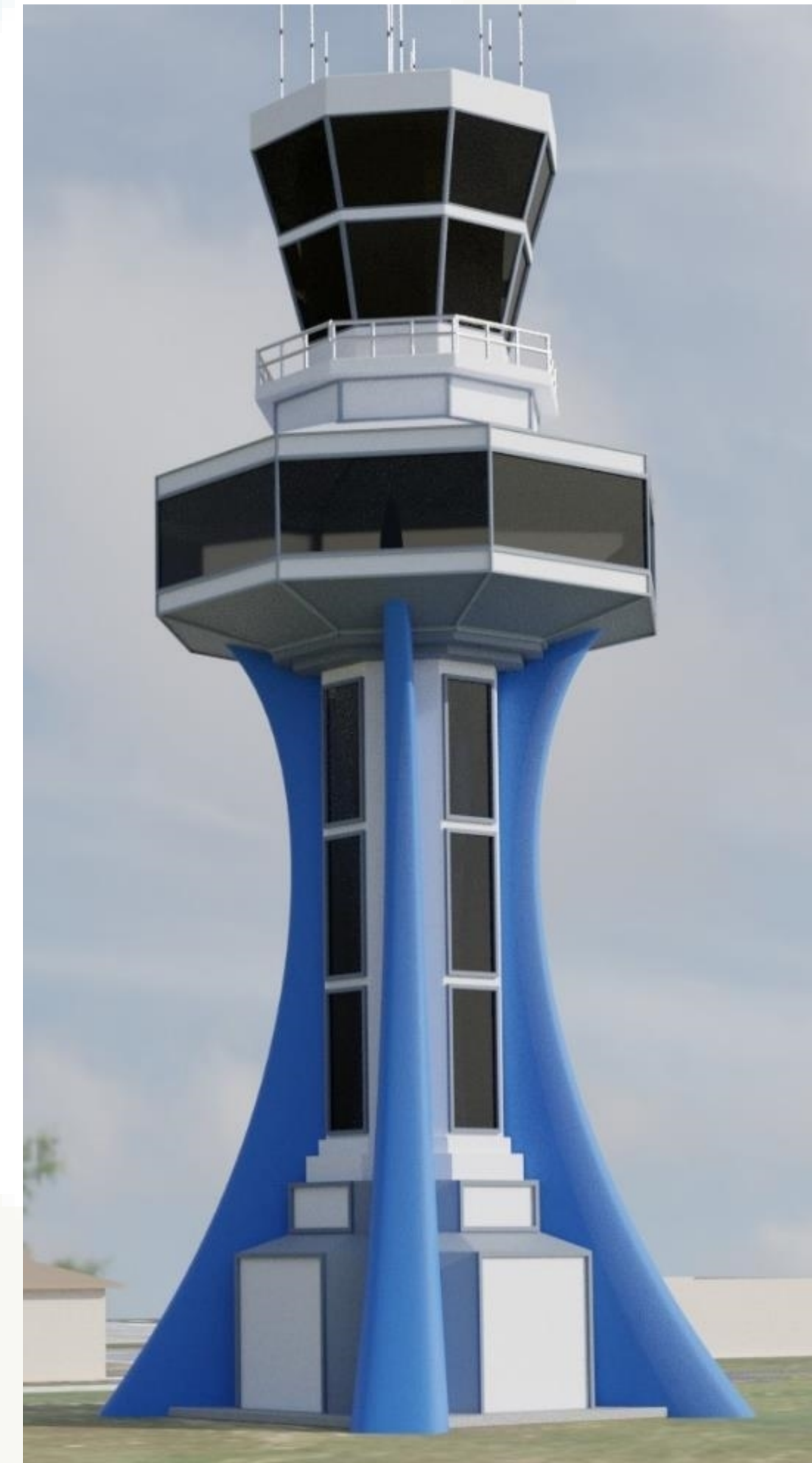
DESIGN AND CONSTRUCT INTERIOR PERIMETER ROADS

REHABILITATE TAXIWAY "B"

RUNWAY 6 EXTENSION / AIRCRAFT RUN-UP AREA

EXTEND TAXIWAY "E"

AIRFIELD MAINTENANCE FACILITY



ESTIMATED ADDITIONAL MAINTENANCE FY 25-30

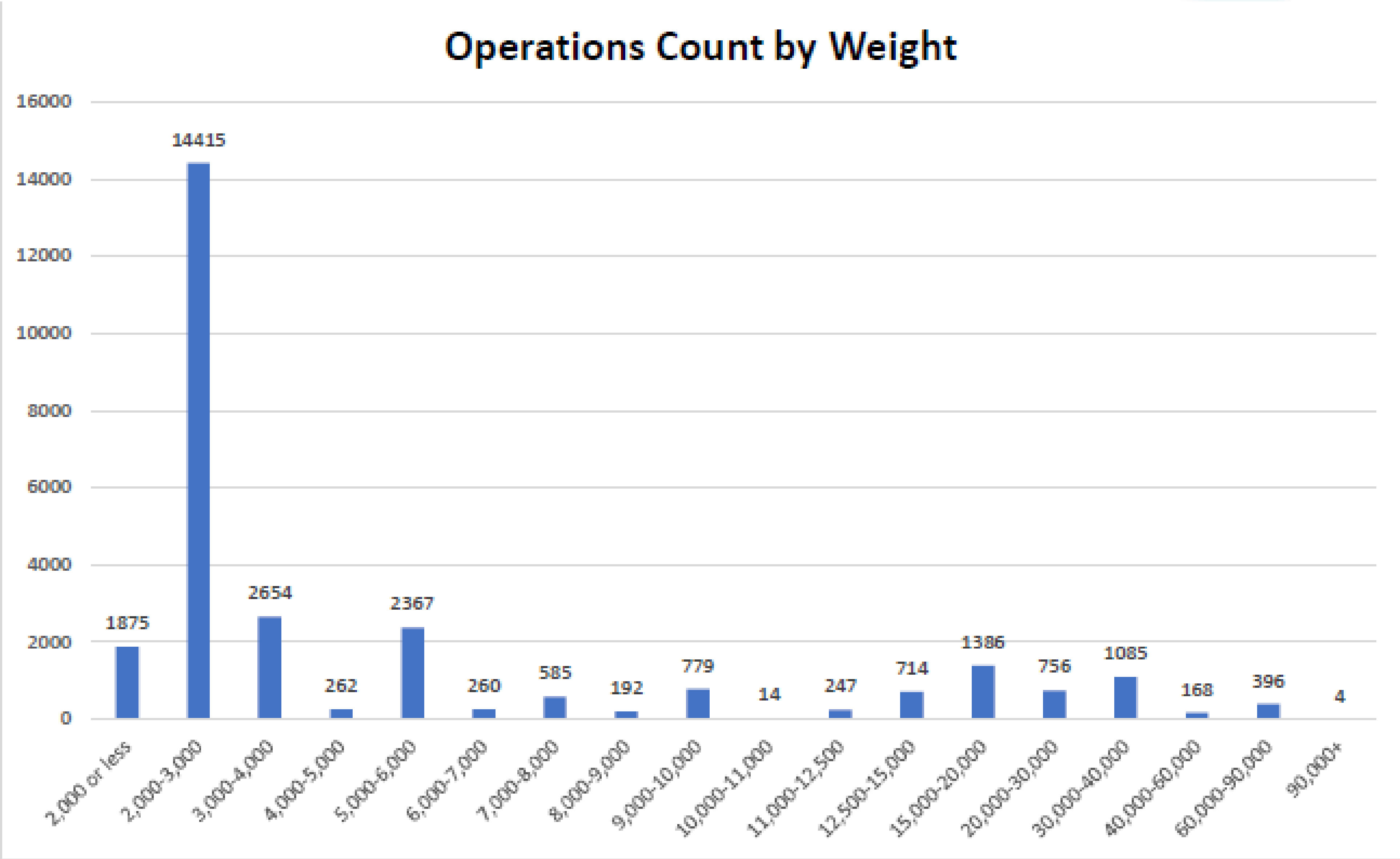
- \$350,000 MAINTENANCE TECHNICIAN
- \$60,000 AIRFIELD LIGHTING UPDGRADES
- \$45,000 OBSTRUCTION REMOVAL (TREES)
- \$300,000 SECURITY/WILDLIFE FENCING REPLACEMENT
- \$500,000 PAVEMENT REPAIRS

$\$1,255,000 / 6 \text{ YRS.} = \$209,166.00$

COST RECOVERY RATE STRUCTURE FY25-30 PER YEAR

ADDITIONAL MAINTENANCE	\$209,166.00
CAPITAL EXPENSES	<u>\$850,332.17</u>
TOTAL	\$1,059,498.17

OPERATIONS BY AIRCRAFT WEIGHT JAN – DEC 2023



ISM LANDING FEES \$3/1000#S

Values			
Row Labels	Landing Fees	Operations Count	Average Fee
2,000 or less	\$10,518	1,875	\$5.61
2,000-3,000	\$89,979	14,415	\$6.24
3,000-4,000	\$25,761	2,654	\$9.71
4,000-5,000	\$3,633	262	\$13.87
5,000-6,000	\$40,320	2,367	\$17.03
6,000-7,000	\$5,040	260	\$19.38
7,000-8,000	\$13,476	585	\$23.04
8,000-9,000	\$4,950	192	\$25.78
9,000-10,000	\$22,473	779	\$28.85
10,000-11,000	\$462	14	\$33.00
11,000-12,500	\$8,721	247	\$35.31
12,500-15,000	\$28,674	714	\$40.16
15,000-20,000	\$72,822	1,386	\$52.54
20,000-30,000	\$56,670	756	\$74.96
30,000-40,000	\$111,591	1,085	\$102.85
40,000-60,000	\$19,737	168	\$117.48
60,000-90,000	\$83,841	396	\$211.72
90,000+	\$1,620	4	\$405.00
Grand Total	\$600,288	28,159	

Values			
Row Labels	Landing Fees	Operations Count	Average Fee
2,000 or less	\$	1,875	\$
2,000-3,000	\$	14,415	\$
3,000-4,000	\$	2,654	\$
4,000-5,000	\$	262	\$
5,000-6,000	\$40,320	2,367	\$17
6,000-7,000	\$5,040	260	\$19
7,000-8,000	\$13,476	585	\$23
8,000-9,000	\$4,950	192	\$26
9,000-10,000	\$22,473	779	\$29
10,000-11,000	\$462	14	\$33
11,000-12,500	\$8,721	247	\$35
12,500-15,000	\$28,674	714	\$40
15,000-20,000	\$72,822	1,386	\$53
20,000-30,000	\$56,670	756	\$75
30,000-40,000	\$111,591	1,085	\$103
40,000-60,000	\$19,557	168	\$116
60,000-90,000	\$83,841	396	\$212
90,000+	\$1,620	4	\$405
Grand Total	\$470,217	28,159	

(\$130,071)

FY25-30 ISM LANDING FEES - IMPLEMENTATION

\$600,288 - \$65,035 = \$535,253 - 15% = \$454,965

AVERAGE ANNUAL OPERATING PROFIT \$200,000

EXPECTED LEASES TO INCREASE ADDITIONAL \$200,000

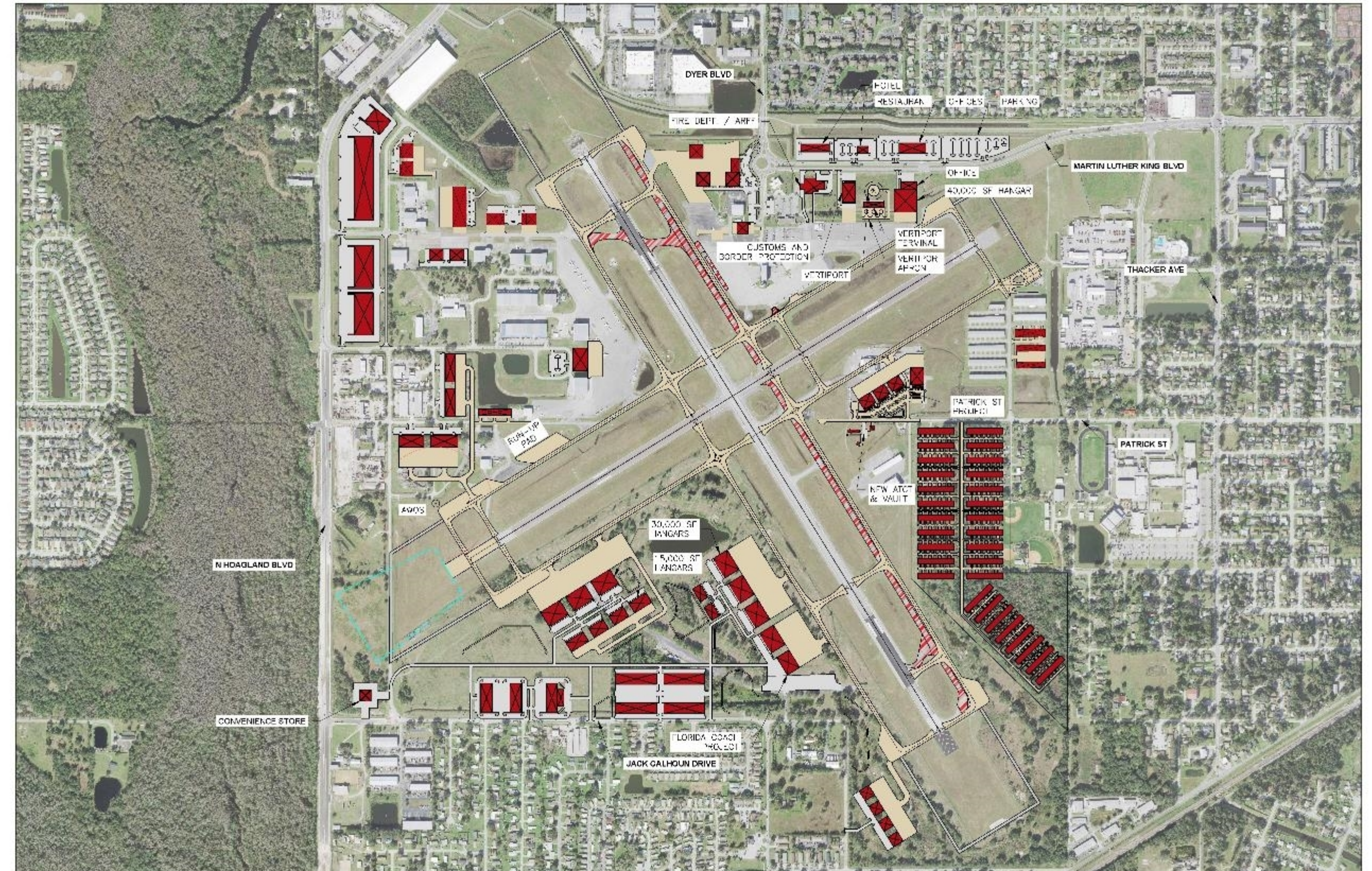
- EXEMPT FIRST LANDING PER DAY FOR AIRCRAFT UNDER 5,000 LBS. (50% of 2,000-3,000 lbs.?)**

ISM LANDING FEES – IMPLEMENTATION

- TRANSIENT AIRCRAFT ONLY
- USER-PAY PRINCIPLE, SHARE BURDEN OF COST RECOVERY
- EXEMPT BASED, MILITARY, FED/STATE/COUNTY, MEDIVAC
- EXEMPT FIRST LANDING PER DAY FOR AIRCRAFT UNDER 5,000 LBS.
- THIRD PARTY WILL MONITOR, INVOICE & COLLECT
- \$3.00 / 1,000 LBS. MAX. LANDING WIEGHT
- \$20.00 PER HELICOPTER OPERATION
- COLLECTION NOVEMBER 1, 2024

ISM LANDING FEES – TRANSPARENCY

- ANNUAL COLLECTION REPORT
- ANNUAL DISTRIBUTION REPORT





Thanks !

Shaun.germolus@kissimmee.gov



| @FlyKissimmee

ITEM 8.D

Social Service and Quality of Life Competitive Funding Awards

Request

Approval of the Social Services and Quality of Life Competitive Grant awards for FY 2024-25

Explanation

Each year the Commission allocates funding for non-profit agencies instrumental in supporting the mission of the City and furthering the Commission's goals each year. This funding process includes two categories. The Social Services category is designed to support non-profit agencies with direct service programs that reduce the burden on City services by meeting the needs of our most vulnerable residents. For several years, the City Commission has prioritized funding for programs that support the needs of the homeless and families in crisis. The second category is Quality of Life, which provides funding for programs designed to improve the quality of life for residents by supporting the arts, education, and culture.

During the July Budget Workshop, the Commission approved continuing with the averaging method for the initial recommendations. Each Commissioner was provided with a spreadsheet and application packets in order to complete their allocation recommendations. During the meeting, the funding averages of all submissions will be provided for discussion and approval.

The approved FY 2024-25 budget for Social Services is \$400,000 and Quality of Life is \$50,000.

The funding request spreadsheet is attached.

Recommendation

Commission approval of funding for Social Services and Quality of Life Grant Awards

REQUESTED CITY COMMISSION ACTION:

Department: City Manager

Presenter: Desiree Matthews

Attachment(s):

1. Social_Services_Funding_FY_2024-25 Summary
2. Quality of Life_Funding_FY_2024-25 Summary

Social Services Competitive Grant Program FY 2024-25

AGENCY	PROGRAM DESCRIPTION	Program Budget	Clients to be served w/ City Funds	% of program budget to be funded by City	Funding Request FY 2024-25
Osceola Council on Aging <u>Program: Health Clinic:</u>	Health Clinic: \$15,000 to fund salary of staff physician and \$15,000 for diagnostic testing of uninsured, low income patients Secondary health care to low-income, uninsured, chronically ill residents of Osceola County.	\$285,000.00	500	11%	\$30,000.00
<u>Program: Meals on Wheels:</u>	Meals on Wheels: Food purchases for emergency meal and food distribution programs. Congregant meals; home delivered meals; food bank/pantry.	\$1,200,000.00	9,000	4%	\$50,000.00
<u>Program: Transportation:</u>	Cover the cost of 1 part time driver and fuel expenses for the Council's transportation program.	\$244,700.00	250	8%	\$20,000.00
Osceola Mental Health/ Park Place Behavioral Health Care <u>Program: Residence Level IV Adult Substance Abuse Services</u> Services: Transitional living program for adults who are indigent, homeless and have a substance use disorder with or without a co-occurring mental illness.	2-3 beds in the residential level IV program for clients with chemical dependency- includes services and related cost	\$606,786.00	6 to 9	11%	\$65,000.00
Aspire Health Partners, Inc. <u>Program: HOME (Helping Others Make the Effort)</u> Bridge Housing for homeless women and children; case manage and referrals for off-site homelessness prevention	Operational cost of providing bridge housing services to the residents of the HOME program. This includes: utilities, staff support, residential housing supplies, building facility maintenance, insurance, and other related operational costs	\$653,495.00	3,500	6%	\$40,000.00
Help Now of Osceola, Inc. <u>Program: Domestic Violence Residential Services</u> Serves the needs of domestic abuse survivors by operating a safe shelter facility, Outreach Center, direct client services, and community advocacy. Funding : Case Management Services at shelter facility and Maintenance expenses at shelter facility.	Shelter operations, case management, communications hotline and facility maintenance	\$1,174,292.00	228	6%	\$75,000.00
Hope Partnership Inc. Program: Homeless Prevention and Diversion	Homeless prevention and diversion: move-in assistance, rental deposits, and costs to support family reunification	\$255,757.00	16	10%	\$25,000.00
Church and Community Assistance Program Program: CCAP Cares	Homelessness Services, prevention and intervention- Food, personal hygiene kits, emergency housing costs	\$68,965.00	17,500	73%	\$50,000.00
Osceola Community Health Svcs/ Primary Care Medical Svcs of Poinciana <u>Program: Mobile Medical, Behavioral Health and Dental Outreach</u> Provides integrated behavioral health services in fixed and mobile locations for the homeless.	Homeless outreach to provide mental health, dental, and medical services through mobile and fixed sites	\$291,629.00	350	9%	\$25,000.00
Community Coordinated Care for Children, Inc. (4C) <u>Program: Head Start/ Early Head Start</u> Provides early learning programs, childcare assistance and supportive family services.	Head Start Program- Assists low income families with City funding provides match funding (20% non-federal share (NFS) match requirement will leverage \$43,688 in funding).	\$4,109,571.00	149	0.24%	\$10,000.00
Orlando Health/ Howard Phillips Center for Children & Families <u>Program: Healing Tree</u> Provides therapy/counseling for children and families of children who have been victims of child abuse/ sexual abuse.	Specialized clinical assessments and ongoing therapeutic services provided by licensed mental health therapist and interns for child victims of abuse and their families	\$1,689,485.00	32	1%	\$10,000.00
The Opportunity Center (Osceola ARC) <u>Program: Adult Day Training :</u> Provides training to developmentally disabled adults.	Funds will be used to cover salary and payroll taxes for a Volunteer Coordinator (\$35,825.92)	\$974,545.00	120	4%	\$35,825.92
City of Kissimmee- Homeless Services	City Homeless Services Funding: Funds will provide a leveraging opportunity to access regional funding for housing the chronically homeless.				
New Requests					
The Transition House, Inc. Program: Inspire Counseling and Support Center	(New Program) EMDR Eye Movement Desensitization and Reprocessing - Psychotherapy to help process traumatic memories and heal from distressing life experiences	\$20,000.00	200	100%	\$20,000.00
Solid Rock Community Church Program: Thrive Together Initiative	(New Program) Provide comprehensive services such as financial literacy, mental health counseling, job training and family support workshops	\$50,000.00	80-100	100%	\$50,000.00
Central Florida YMCA Program: Osceola Family Learning Center	Operational expenses for program. Substance abuse counseling, case management, emergency housing, training, medical services, education and life skills, mental health evaluations, literary program.	\$193,345.20	100	13%	\$25,000.00
Total Requests					\$530,825.92

Quality of Life Grant Program FY 2024-25

Agency Name	Program Specifics	Funding Requests FY 2024-25	% of budget to be funded by City
Osceola Historical Society	General Operating (Pioneer Village)	\$35,000.00	35%
Regional Homelessness Effort through Central Florida Commission on Homelessness	Board of Governors Member*	\$5,000.00	
Education Foundation	Mark E. Durbin Scholarship Commitment	\$5,000.00	
Osceola County Literacy Match	City Match- Footsteps to Brilliance	\$9,800.00	
(New) Casa del Artesano Fine Arts and Educational Consulting, Inc.	Together in Art	\$77,860.00	100%
Total		\$132,660.00	
<u>Available Budget</u>		<u>\$50,000.00</u>	