



**MEETING AGENDA
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, JANUARY 7, 2025 AT 6:00 PM**

1. MEETING CALLED TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A Employee of the Month for January

3.B Service Awards for October, November, and December 2024

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second and Final Reading - Proposed Ordinance #24-17 - Amending Chapter 38 to create Section 38-1: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," SECTION 38-1 "PUBLIC CAMPING OR SLEEPING" OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, "GENERAL PROVISIONS," SECTION 1-22, "GENERAL PENALTY," TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, "TRAFFIC AND VEHICLES," ARTICLE II, "PARKING, STANDING, STOPPING," DIVISION 1, "GENERALLY," SECTION 42-22(A), "HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER" TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10, "BUSINESSES AND BUSINESS REGULATIONS" ARTICLE X "PANHANDLING;" PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

5. PUBLIC HEARINGS

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 Minutes from the December 17, 2024 CRA Workshop and City Commission meeting
- 7.B Design Services for Lakeside Fire Station & Community Center
- 7.C Bid Award for Shingle Creek Regional Trail South Phase 2A Lancaster Loop Project
- 7.D Interlocal Agreement with Toho Water Authority for Utility Line Relocations for the City of Kissimmee Connect Kissimmee Complete Streets Project
- 7.E Municipal Inter-Local Voluntary Cooperation Mutual Aid Agreement for the Kissimmee Police Department

8. DISCUSSION ITEMS

- 8.A Advisory Board Vacancy: Board of Adjustment

9. HEAR CITY OFFICIALS

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

10. ADJOURNMENT

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

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

ITEM 3.A

Employee of the Month for January

Request

Staff requests that the Commission join the City Manager in recognizing Wendolyn "Yary" Nunez of the Development Services Department as the Employee of the Month for January.

Explanation

The City is pleased to honor Wendolyn "Yary" Nunez as the Employee of the Month for January. Yary has been with the City for over 6 years and currently serves as a Housing & Community Program Development Specialist for the Development Services Department. Yary is an exemplary employee who consistently demonstrates a strong work ethic, reliability, and commitment to excellence.

She is a hardworking team member who takes full responsibility for completing her tasks on time, ensuring the team's success and efficiency. In addition to her outstanding work performance, Yary excels in customer service. As one of the first points of contact for individuals seeking housing assistance, she handles each interaction with warmth, professionalism, and efficiency.

Her ability to connect with customers and address their needs with care and understanding sets a high standard for service excellence. Yary's positive attitude and unwavering dedication make her a true asset to our team. She consistently goes above and beyond, embodying the values of our organization and setting an example for others to follow. For this and more the City would like to recognize Wendolyn "Yary" Nunez.

Department: Human Resources & Risk Management

Presenter: Mike Steigerwald

Attachment(s):

None

ITEM 3.B

Service Awards for October, November, and December 2024

Request

The City Commission join the City Manager in recognizing employees who have reached milestones in years of service.

Explanation

Five	Angel Beltran	Information Technology
	Clint Casselman	Police
	Jesus Cornier	Police
	Nicole Dejesus	Fire
	Jeanette Flaherty	Police
	Shaun Germolus	Airport
	Brandon Holder	Fire
	Ada Marrero	Public Works
	Ana Romero Bolufer	Finance
	Samia Singleton	Economic Development
Ten	Celenia Vaillant	Human Resources
	Pete Arroyo	Development Services
	Daniel Franqui	Parks & Recreation
	David Ingersoll	Public Works
	Michelle Muckerman	Fire
	Adam Philips	Police
	Annette Tillet	Police
Fifteen	Matthew Pinnell	Police
	Mario Cardenas	Police
Twenty	Will Cruz	Development Services
	Dan Dodd	Fire
	Mike Kane	Fire
	Stefanie Natarajan	Finance
	Angela Bezold	Public Works
Twenty-Five	Jim West	Information Technology

Department: Human Resources & Risk Management
Presenter: Mike Steigerwald

Attachment(s):

None

ITEM 4.A

Public Hearing - Second and Final Reading - Proposed Ordinance #24-17 - Amending Chapter 38 to create Section 38-1: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," SECTION 38-1 "PUBLIC CAMPING OR SLEEPING" OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, "GENERAL PROVISIONS," SECTION 1-22, "GENERAL PENALTY," TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, "TRAFFIC AND VEHICLES," ARTICLE II, "PARKING, STANDING, STOPPING," DIVISION 1, "GENERALLY," SECTION 42-22(A), "HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER" TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10, "BUSINESSES AND BUSINESS REGULATIONS" ARTICLE X "PANHANDLING;" PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Request

Approval of the Second and Final Reading of the Proposed Ordinance #24-17 creating a section titled: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

Explanation

The Florida Legislature enacted HB 1365, codified as Section 125.0231, Florida Statutes, prohibiting municipalities from authorizing or permitting any person to regularly engage in public camping or sleeping on public property. This statute establishes a cause of action allowing an affected member of the public to bring legal action against a municipality for failing to prohibit public camping or sleeping, effective January 1, 2025. This ordinance seeks to bring the City into compliance with Section 125.0231, Florida Statutes. This ordinance also repeals the City Code sections related to "panhandling," as similar ordinances have been found unconstitutional by the Courts.

Recommendation

Approve the Second and Final Reading of the Proposed Ordinance #24-17 creating a section titled: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Attorney

Presenter: Olga Sanchez de Fuentes

Attachment(s):

1. (S) Camping Sleeping PROPOSED ORDINANCE NO. 24-17
2. Publishing Affidavit - Prop Ord #24-17 - Publication Date 12/12/2024
3. Business Impact Estimate for camping ordinance

City of Kissimmee

PROPOSED ORDINANCE NO: 24 -17

ORDINANCE NO: _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES,” ARTICLE 1, “IN GENERAL,” SECTION 38-1 “PUBLIC CAMPING OR SLEEPING” OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, “GENERAL PROVISIONS,” SECTION 1-22, “GENERAL PENALTY,” TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, “TRAFFIC AND VEHICLES,” ARTICLE II, “PARKING, STANDING, STOPPING,” DIVISION 1, “GENERALLY,” SECTION 42-22(A), “HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER” TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10, “BUSINESSES AND BUSINESS REGULATIONS” ARTICLE X “PANHANDLING;” PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 166 of the Florida Statutes and Article VIII of the Florida Constitution authorizes the legislative body of each municipality to enact ordinances to protect the health, safety, and welfare of its residents; and

WHEREAS, the Florida Legislature has enacted HB 1365 codified under Section 125.0231 Florida Statutes, forbidding municipalities from authorizing or otherwise allowing any person to regularly engage in public camping or sleeping on any public property; and

WHEREAS, the Florida Statute creates a cause of action whereby an affected member of the public can bring legal action against the municipality seeking damages for failing to act to prohibit public camping or sleeping on or after January 1, 2025; and

WHEREAS, the United States Supreme Court in the recent City of Grants Pass, Oregon decision, Case No. 2023-175, found that the enforcement of generally applicable laws regulating camping on public property does not violate the Eighth Amendment of the United States Constitution; and

WHEREAS, the City Commission has determined and finds that the code provisions and regulations contained herein are necessary and in the best interests of the health, safety, and welfare of the general public and the citizens of, and visitors to, City of Kissimmee; and

WHEREAS, judicial opinions have found that panhandling ordinances similar to City Code Chapter 10, Article X, “Panhandling” unconstitutional; and

WHEREAS, City has reviewed the City Code in light of the Supreme Court decisions and Florida State legislation and finds repeal of City Code Chapter 10, Article X, “Panhandling” is consistent with judicial opinions and in the best interest of the City of Kissimmee.

NOW, THEREFORE BE IT ORDAINED by the City COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA IN LAWFUL SESSION ASSEMBLED AS FOLLOWS:

SECTION 1. RECITALS. The foregoing recitals are incorporated herein and are true and correct and accepted as Findings supporting this Ordinance.

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 indicate deletions from existing text.

SECTION 2. AMENDMENT. Chapter 38, “Streets, Sidewalks and Other Public Places,” Article I, “In General,” of the Code of General Ordinances of the City of Kissimmee is amended to enact and create Section 38-1 “Public Camping and Public Sleeping” to read as follows:

Sec. 38-1. Public Camping or Public Sleeping.

(a) Definitions.

(1) "Public camping or sleeping" means:

- a. Lodging or residing in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings; or
- b. Lodging or residing in an outdoor space without a tent or other temporary shelter.

(2) “Public camping or sleeping” does not include:

- a. Lodging or residing in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.
- b. Camping for recreational purposes on property designated for such purposes.

(3) “Public right-of-way” means any land which the City has jurisdiction or control that has been dedicated, deeded, used, or to be used for a public way, highway, street, alley, sidewalk, throughfare, median, walkway, access for ingress or egress, or other public purpose.

(b) Public Camping or Sleeping Prohibited. It is prohibited and unlawful for any person to

engage in public camping or sleeping on any City owned and operated public property, including, but not limited to, any public building or its grounds or public right-of-way.

(c) **Penalty.** A violation of subsection (b) is subject to one of the following penalties:

- (1) A fine not exceeding \$500 or imprisonment pursuant to City Code section 1-22(a),
- (2) A civil penalty pursuant to City Code section 1-22(b)(29), or
- (3) Trespass from the location where the public camping or sleeping occurred in accordance with Chapter 810, Florida Statutes.

(d) **Exceptions.** This section does not apply during any time period in which:

- (1) The Governor has declared a state of emergency in Osceola County or another county immediately adjacent to Osceola County and has suspended the provisions of this section pursuant to s. 252.36.
- (2) A state of emergency has been declared in Osceola County under Florida Statutes Chapter 870.

(e) **Hearings for Civil Violations.** A person issued a citation for a civil violation of subsection (b) may request a hearing within 30 days before the city hearing officer. Failure to request a hearing within such 30 days shall result in a waiver of the right to contest the citation.

SECTION 3. AMENDMENT. Chapter 1, “General Provisions,” Section 1-22, “General Penalty” of the Code of General Ordinances of the City of Kissimmee is amended to read as follows:

...

(b) The following list of fines shall be imposed for violation of the provisions contained in this Code, to wit:

...

(29) Public camping or sleeping.

- a. First violation within one year: \$50.00.
- b. Second violation within one year: \$100.00.
- c. Third violation within one year: \$250.00.
- d. All subsequent violations in one year: \$500.00.

SECTION 4. AMENDMENT. Chapter 42, “Traffic and Vehicles,” Article II, “Parking, Standing, Stopping,” Division 1, “Generally,” Section 42-22, “Hearing to contest citation before city hearing officer,” of the Code of General Ordinances of the City of Kissimmee is amended to read as follows:

- (a) The city hearing officer shall preside over hearings concerning parking citations, if requested in accordance with section 42-21, ~~and notices of violations issued pursuant to F.S. § 316.0083, if requested in accordance with F.S. § 316.0083, and civil violations of section 38-1, if requested in accordance with that section.~~ The city hearing officer may preside over hearings concerning noise citations if authorized by city policy and if requested in accordance with chapter 22, article II.

SECTION 5. REPEAL. Chapter 10, “Businesses and Business Regulations,” Article X “Panhandling,” of the Code of General Ordinances of the City of Kissimmee is hereby repealed in its entirety:

~~Sec. 10-514. 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.~~

~~Panhandling means any solicitation made in person, requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation for the purpose of this section. Except as specifically provided in F.S. § 496.415(11) or as provided in this section, panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.~~

~~Sec. 10-515. Place of panhandling.~~

~~It shall be unlawful for any person to panhandle, and no registration issued under this section shall be deemed to allow panhandling, including passively standing or sitting with a sign or other indication that one is seeking donations, when the person solicited is in any of the following places within the city limits:~~

- ~~(1) At any bus or train stop;~~
- ~~(2) In any public transportation vehicle or facility, excluding airports;~~
- ~~(3) In any vehicle on the street;~~

- ~~(4) In a public park, fairground, or sporting facility, including entry ways or exits thereto;~~
- ~~(5) At the site of any automated teller machine (ATM); or~~
- ~~(6) On private property, unless the panhandler has permission from the owner or occupant.~~

~~Sec. 10-516. Manner of panhandling.~~

~~It shall be unlawful for any person to panhandle in any of the following manners:~~

- ~~(1) By coming within three feet of the person solicited, unless that person has indicated that he does wish to make a donation;~~
- ~~(2) By blocking the path of the person solicited;~~
- ~~(3) By following a person who walks away from the panhandler;~~
- ~~(4) By using profane or abusive language, either during the solicitation or following a refusal;~~
- ~~(5) By panhandling in a group of two or more persons; or~~
- ~~(6) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.~~

~~Sec. 10-517. False or misleading solicitation.~~

- ~~(a) It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:~~
 - ~~(1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;~~
 - ~~(2) Stating that the donation is needed to meet a need which does not exist;~~
 - ~~(3) Stating that the solicitor is from out of town and stranded, when such is not true;~~
 - ~~(4) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;~~
 - ~~(5) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;~~

(6) Use of any makeup or device to simulate any deformity; or

(7) Stating that the solicitor is homeless, when he is not.

(b) ~~It shall be unlawful for any person to solicit a donation stating that the funds are needed for a specific purpose and then spend the funds received for a different purpose.~~

Sec. 10-518. ~~Registration requirement.~~

(a) ~~No person shall panhandle without a registration issued by the building department. A person who has been registered shall keep a copy of the registration on his person at all times while panhandling and show it to any building official or police officer upon request. No person whose registration has been revoked shall panhandle for a period of two years following the revocation. Any person who violates this section shall be punishable under section 1-22.~~

(b) ~~The building department shall issue the registration, without fee, to any eligible person who presents himself at the city building department, states his true name, presents a photo identification or signs a declaration under penalty of perjury that he has no such identification, and permits himself to be photographed and fingerprinted.~~

(c) ~~A person is ineligible to register if, and only if, within the past five years he has been convicted, whether or not adjudication was withheld, of two or more violations of this section; has had a registration revoked pursuant to subsection (e) or (f) of this section; or has been convicted, whether or not adjudication was withheld, of two or more offenses under the laws of any jurisdiction which involve aggressive or intimidating behavior while panhandling or false or misleading representations while panhandling.~~

(d) ~~If the building department is unable to determine eligibility within two working days, excluding weekends and holidays, of the application, the department shall issue a registration good for 30 days and determine eligibility for a regular registration before the temporary registration expires. The regular registration shall expire three years from the date of issuance. Along with the registration, the building department shall give the applicant a copy of this section.~~

(e) ~~Any person who makes any false or misleading representations while applying for a registration under this section shall be punishable under section 1-22. Upon conviction for violation of this section, the building department shall revoke any registration issued to the defendant under this section.~~

(f) ~~If a registration is issued to a person under this section and that person later is convicted of a violation of any provision of this section, the building department shall revoke the registration.~~

~~(g) Upon arrest for any violation of this section a panhandler shall release his registration to the arresting officer. A panhandler may apply at the building department for consecutive 30-day temporary registrations pending the outcome of the arrest case in court.~~

SECTION 6. SEVERABILITY. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 7. CONFLICT. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 8. ADMINISTRATIVE CORRECTION. This Ordinance may be re-numbered or re-lettered, and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Attorney, without the need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 9. CODIFICATION. This ordinance shall be codified as a part of the City of Kissimmee City Code. The codifier is authorized to make editorial changes not effecting the substance of this ordinance by the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise to take such editorial license.

SECTION 10. EFFECTIVE DATE. This Ordinance shall be published as provided by law and it shall become law and shall take effect immediately upon its Second Reading and Final Passage.

BE IT ORDAINED by the City Commission of the City of Kissimmee on this _____ day of _____, 2025.

Jackie Espinosa, Mayor-Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

AFFIDAVIT OF PUBLICATION

Osceola News-Gazette
222 Church Street
(407) 846-7600

I, Morgan Creekmore, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Osceola News-Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Kissimmee, for the County of Osceola, in the state of Florida, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:

Dec. 12, 2024

Notice ID: gHDnAipo0RKVU0kEELDdu

Notice Name: COK*ORDINANCE 24-17 - CAMPING/SLEEPING

PUBLICATION FEE: \$90.97

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,

Morgan Creekmore

Agent

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 12/12/2024

[Signature]

Notary Public

Notarized remotely online using communication technology via Proof.

**NOTICE OF PUBLIC HEARING
AND SECOND READING**

The City Commission of the City of Kissimmee, Florida will meet on **Tuesday, December 17, 2024**, at 6:00 p.m. in the City Commission Chambers at City Hall, 101 Church Street, Kissimmee, Florida, to hear the **FIRST READING** and will meet on **Tuesday, January, 7 2025**, at 6:00 p.m. to hear the **SECOND AND FINAL READING** and consider the passage of the proposed ordinance as set forth below. The proposed Ordinance may be inspected in the Office of the City Clerk at City Hall, 101 Church Street, Kissimmee, Florida. All interested parties may appear and be heard on the above dates.

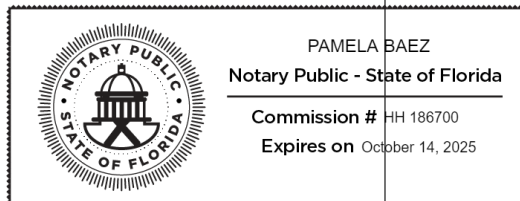
PROPOSED ORDINANCE #24-17

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," SECTION 38-1 "PUBLIC CAMPING OR SLEEPING" OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, "GENERAL PROVISIONS," SECTION 1-22, "GENERAL PENALTY," TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, "TRAFFIC AND VEHICLES," ARTICLE II, "PARKING, STANDING, STOPPING," DIVISION 1, "GENERALLY," SECTION 42-22(A), "HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER" TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10, "BUSINESSES AND BUSINESS REGULATIONS" ARTICLE X "PANHANDLING;" PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING FOR SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

CITY COMMISSION
KISSIMMEE, FLORIDA

IN ACCORDANCE WITH FLORIDA STATUTE 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 PROCEEDINGS 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 PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK 407-518-2309 AT 101 CHURCH STREET, KISSIMMEE, FL 34741, PRIOR TO THE MEETING (FS 286.26).
December 12, 2024



Business Impact Estimate

Proposed ordinance's title/reference: **PROPOSED ORDINANCE NO. 24-17**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," SECTION 38-1 "PUBLIC CAMPING OR SLEEPING" OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, "GENERAL PROVISIONS," SECTION 1-22, "GENERAL PENALTY," TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, "TRAFFIC AND VEHICLES," ARTICLE II, "PARKING, STANDING, STOPPING," DIVISION 1, "GENERALLY," SECTION 42-22(A), "HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER" TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10, "BUSINESSES AND BUSINESS REGULATIONS" ARTICLE X "PANHANDLING;" PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☒ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:

¹ See Section 166.041(4)(c), Florida Statutes.

- a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

This ordinance prohibits “public camping or sleeping” as defined by Section 125.0231, which prohibits municipalities from authorizing or otherwise allowing any person to regularly engage in public camping or sleeping.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the City’s regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

The City does not anticipate that businesses will incur any compliance costs associated with this ordinance. No charges or fees are imposed by the proposed ordinance for which businesses will be financially responsible. Enforcement will create an indeterminate amount of costs for the City and the City does not expected to receive any new revenue from charges or fees to cover such costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

The City does not anticipate that any businesses will be directly impacted by the proposed ordinance.

4. Additional information the governing body deems useful (if any):

None

ITEM 7.A

Approval of Minutes from the December 17, 2024 CRA Workshop and City Commission meeting

Request

Request Commission approval of the December 17, 2024 CRA Workshop and City Commission meeting minutes.

Explanation

Minutes of the Commission meeting and CRA Workshop held on December 17, 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 DEC 17 2024 (CRA Workshop)
2. (S) - CCM MIN DEC 17 2024



**MEETING MINUTES
SESSION OF THE CRA WORKSHOP
(DOWNTOWN KISSIMMEE BRANDING)
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, DECEMBER 17, 2024 AT 3:00 PM**

1. MEETING CALLED TO ORDER

Members Present: Mayor Jackie Espinosa, Commissioners Noel Ortiz, Angela Eady, Carlos Alvarez, III

Staff Present: City Manager Mike Steigerwald, City Attorney Olga Sanchez de Fuentes, Deputy City Manager Desiree Matthews, Deputy City Manager Austin Blake, City Clerk Tameara Crespo

Members Absent: Commissioner Janette Martinez

Mayor Espinosa called the meeting to order at 3:02 PM.

2. WORKSHOP BUSINESS

Economic Development Director David Rodriguez greeted the Commission and provided a brief overview of its purpose. He then handed the presentation over to CRA Manager Samia Singleton.

3. GENERAL DISCUSSION

3.A CRA Introduction and Overview

CRA Manager Singleton presented a PowerPoint attached to the agenda, covering the roles of the CRA Board and City Commission, tax increment revenue and financing (TIF), and ongoing projects within the Downtown Kissimmee and Vine Street CRAs. Redevelopment Planner Benjamin Burnett followed with a presentation on shared programs between the two CRAs, including grants and incentives. Mayor Espinosa inquired about the blight designation criteria for demolition and discussed the Pioneer Project incentive with Burnett.

The group also discussed historic properties, noting a six-month holding period for demolition in historic districts, with exceptions for hazardous buildings. Alvarez suggested potential acquisitions along Vine Street, including properties near Main Street Plaza. Director Rodriguez highlighted the city's efforts to engage property owners and inform them about retention policies and incentives. Commissioner Alvarez raised concerns about high vacancy rates in CRA districts. The City Manager additionally outlined the Form-Based Code requirements. Mayor Espinosa stressed the importance of promoting economic development opportunities and incentives to the community. Discussion also took place regarding staffing, flexible hours for code enforcement officers, and potential outreach opportunities with real estate agencies, property and business owners within the CRA districts.

3.B Downtown Kissimmee Brand Strategy

Redevelopment Planner Burnett explained that the project had been over a year in the making, beginning with an RFP that attracted 15 proposals. Redevelopment Management Associates (RMA) was selected, and Sharon McCormick, Director of Marketing, and Lorena Ledesma, Senior Project Manager at RMA, presented an overview of the re-branding process. McCormick's PowerPoint covered the logo, brand marks, and strategy,

which involved data analysis, research, digital scans, stakeholder feedback, and outlined next steps, including an implementation plan, an ambassador program, and a community outreach strategy.

Commissioner Ortiz inquired about the marketing and campaign plan, and Burnett and McCormick explained how the campaign strategy would be integrated after the branding is approved. There was also discussion about timing the launch of the new branding with Kissimmee's Birthday Celebration at the Kowtown Festival in March.

4. ADJOURNMENT

There being no further business to come before the Commission, Mayor Espinosa adjourned the meeting at 4:18 PM.

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK



**MEETING MINUTES
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, DECEMBER 17, 2024 AT 6:00 PM**

1. MEETING CALLED TO ORDER

Members Present: Mayor Jackie Espinosa, Commissioners Noel Ortiz, Angela Eady, Carlos Alvarez, III

Staff Present: City Manager Mike Steigerwald, City Attorney Olga Sanchez de Fuentes, Deputy City Manager Desiree Matthews, Deputy City Manager Austin Blake, City Clerk Tameara Crespo

Members Absent: Commissioner Janette Martinez

Mayor Espinosa 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 Kissimmee Police Department Canine Baxter Agreement and Retirement Ceremony
Approval to surplus and retire Police Department canine Baxter by turning ownership, care, and responsibility of the canine over to the handler.

Chief Anzueto recognized canine Baxter's work history, emphasizing he was the FDLE ESD Canine of the Year in 2023 and wished him a happy retirement.

Commissioner Alvarez made a motion to approve the surplus agreement for Canine Baxter. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner / Board Member Ortiz

NAY: None

Motion carried 4 - 0.

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

- 4.A Public Hearing - First Reading - Proposed Ordinance #24-17 - Amending Chapter 38 to create Section 38-1: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF KISSIMMEE, FLORIDA, CREATING AND ENACTING CHAPTER 38, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," SECTION 38-1 "PUBLIC CAMPING OR SLEEPING" OF THE KISSIMMEE CITY CODE, AMENDING CHAPTER 1, "GENERAL PROVISIONS," SECTION 1-22, "GENERAL PENALTY," TO PROVIDE FOR PENALTY; AMENDING CHAPTER 42, "TRAFFIC AND VEHICLES," ARTICLE II, "PARKING, STANDING, STOPPING," DIVISION 1, "GENERALLY," SECTION 42-22(A), "HEARING TO CONTEST CITATION BEFORE CITY HEARING OFFICER" TO PROVIDE FOR CIVIL HEARINGS; REPEALING CHAPTER 10,

“BUSINESSES AND BUSINESS REGULATIONS” ARTICLE X “PANHANDLING;” PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; MAKING THE ACT OF PUBLIC CAMPING AN OFFENSE PUNISHABLE BY LAW, PROVIDING FOR PROGRAM IMPLEMENTATION REQUIREMENTS AND PROVIDING FOR ENFORCEMENT AND ADMINISTRATIVE PROCEDURES; PROVIDING SEVERABILITY, ADMINISTRATIVE CORRECTION, CODIFICATION, PUBLICATION REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

Approve the First Reading of the Proposed Ordinance #24-17 creating a section titled: Public Camping or Public Sleeping and repealing Chapter 10, Article X: Panhandling.

City Attorney Sanchez de Fuentes read Proposed Ordinance # 24-17 by title which prohibits public camping or sleeping in public right of ways or property, with a tiered system of penalties. Officers will have the tools to address these situations while connecting individuals to necessary services.

Mayor Espinosa announced the Public Hearing and opened the floor for public comment. Tom Kapp from 21 N Clyde Avenue expressed concerns about shelter implementation. The City Attorney clarified that local partners are being engaged to provide the services and resources as required by legislature.

Commissioner Eady moved to approve the Public Hearing and First Reading of Proposed Ordinance # 24-17. Commissioner Ortiz seconded the motion.

AYE: Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: Commissioner Alvarez

Motion carried 3-1

5. PUBLIC HEARINGS

- 5.A Public Hearing – Resolution Complying with General Law Advance Notice to Tax Collector
Approval of a Resolution preserving funding options.

Mayor Espinosa announced the Public Hearing and opened the floor for public comment with no response from the audience.

Commissioner Angela Eady made a motion to adopt Resolution #34-2024. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

- 5.B Public Hearing - Program Year 2023-2024 Community Development Block Grant Consolidated Annual Performance and Evaluation Report (CAPER)
Approval of the Program Year 2023-2024 Community Development Block Grant Consolidated Annual Performance and Evaluation Report (CAPER).

Housing Manager France DeJesus, as required by law, reviewed the summary, report, data, and CDBG (Community Development Block Grant) expenditures attached to the agenda.

Mayor Espinosa announced the Public Hearing and opened the floor for public comment with no response from the audience.

Commissioner Eady made a motion to approve the Public Hearing and 2023-2024 CAPER. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

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

Ashley Call, 3400 Willow Branch Lane, Kissimmee, provided a summary about the need for safe haven baby boxes, highlighting the national and Florida success rates of this initiative (Exhibit "A").

Sam Devnani, 4985 W Irlo Bronson, Kissimmee, requested that consent agenda items 7.D., 7.G., 7.H., and 7.I., be moved to discussion.

Tom Kapp, 21 N Clyde, Kissimmee, expressed ongoing concerns about bicycles traveling in the opposite direction of traffic and trucks entering unauthorized streets. He called for stronger enforcement of these violations.

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.*

Mayor Espinosa made a motion to approve the consent agenda minus item 7.D., 7.E., 7.G., 7.H., 7.I. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

- 7.A Approval of City Commission Minutes from the December 3, 2024 meeting
Request Commission approval of the December 3, 2024 Commission Minutes.
- 7.B Osceola Mental Health Parcel Plat - Final Plat
Approval of the final plat known as Osceola Mental Health Parcel Plat.
- 7.C Memorandum of Understanding between the City of Kissimmee and the Kissimmee Professional Firefighters, Local 4208 representing the Rank and File Unit and Supervisory Unit Contract
Commission approval of the Memorandum of Understanding (MOU) between the City and the Kissimmee Professional Firefighters, Local 4208, representing the Rank and File bargaining unit and Supervisory bargaining unit. Contract #20240422.
- 7.D 2025 Event and Festival Series Calendar
Approval of 2025 Event and Festival Series Calendar

Item was removed from consent and placed on discussion for consideration.
- 7.E Award EcoTour Concession Services for RFP2025-001
Award contract 20250116 for RFP2025-001 to Florida Everglades Eco-Toon Tours LLC for

the Pontoon Boat EcoTour Concession Service at Kissimmee Lakefront Park.

Item was removed from consent and placed on discussion for consideration.

7.F Osceola HOME Consortium Disbursement Agreement Between Osceola County and the City of Kissimmee FY 2024-2025

Approval for the Mayor to execute contract #HOME24 with Osceola County for the disbursement of FY 2023-2024 HOME funds in the amount of \$297,812.90.

7.G Airport Consent to Sub-Lease Between Sunstate Aviation Holdings, LLC and Latitude Language

Approval of Consent to Sub-Lease between Sunstate Aviation Holdings, LLC and Latitude Language dba Alpha Zulu Connections, Inc. contract # 20240223.

Item was removed from consent and placed on discussion for consideration.

7.H Task Order No. 1 for Professional Service Agreement with RS&H, Inc., for Airport Environmental Services

Approval of Task Order No. 1 of the professional service agreement, contract No. 20230143 between the City of Kissimmee and RS&H, Inc., executed on February 7, 2023, for Airport Environmental Services for a lump sum fee of \$110,000.00.

Item was removed from consent and placed on discussion for consideration.

7.I Consent and Estoppel Certificate, Quantem FBO Group – Kissimmee, LLC

Approval of Consent and Estoppel Certificate recognizing the change of control of Quantem FBO Group – Kissimmee, LLC's parent entity, contract number 20240268, to a new owner, Kairos Aviation Holdings, LLC.

Item was removed from consent and placed on discussion for consideration.

7.J Approval to Apply for a Federal Aviation Administration Grant for Taxiway Alpha Improvements Design

Approval to apply for a Federal Aviation Administration Grant to fund an Airport Improvement Project, Taxiway Alpha Rehabilitation and Shift – Planning and Engineering at the Kissimmee Gateway Airport, grant No. Twy A - Dsgn.

7.K Approval to apply for Airport Internship Grant Application from Florida Airports Council

Approval to apply for an Internship Grant from Florida Airports Council (FAC) for Kissimmee Gateway Airport, Grant No. AIRFAC25.

7.L Disposal of City Assets

Approval to dispose of the asset items detailed in the attached report.

7.M State Housing Initiatives Partnership (SHIP) Owner Occupied Rehabilitation Agreement for 1118 Brack Street, Kissimmee, FL 34744

Approval of the State Housing Initiatives Partnership (SHIP) allocation to the property located at 1118 Brack Street, and authorize the City Manager to execute this SHIP Owner Occupied Rehabilitation agreement under contract #20240039 with Osceola Council on Aging, LLC and any related documents necessary for the completion of the work and close-out process as long as it does not exceed his signature approval.

7.N Community Project Funds Acceptance and Authorization

Approval to accept grant award in the amount of \$1.8M for the Haven on Vine CFP B-24-CP-FL-0643

7.O Acceptance of Funding from East Central Florida Regional Planning Council

Accept funding from the East Central Florida Regional Planning Council (ECFRPC) for the Climate Pollution Reduction Grant in the amount of \$15,000.

7.P Soho at Lakeside Townhomes – Final Plat

Approval of the final plat known as Soho at Lakeside Townhomes with a performance guarantee and agreement.

7.Q Payment Installment Agreement with Iglesia Nazaret A/G Inc. Church for Impact Fees

Approval of the payment installment agreement (contract # 20250126) with Iglesia Nazaret A/G Inc. Church for Impact Fees

8. DISCUSSION ITEMS

7.E. - Award EcoTour Concession Services for RFP2025-001

Mayor Espinosa removed the item from consent to give it the positive notoriety it deserves. She supported this service and encouraged the commission that there is potential for more growth. Mayor Espinosa made a motion to approve. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

7.D. -2025 Event and Festival Series Calendar

Sam Devnani requested reconsideration of the event calendar to include Aviation Day. A discussion followed regarding the distinction between major/signature events and regular city events. It was clarified that the calendar under consideration is specifically for signature events, which are those that attract more than 4,000 attendees.

Commissioner Eady made a motion to approve. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

7.G. -Airport Consent to Sub-Lease Between Sunstate Aviation Holdings, LLC and Latitude Language

Sam Devnani discussed the opportunity to generate more revenue through lease renegotiations and charging of subtenants. The City Manager reviewed the current policy, explaining that any changes would be at the discretion of the Commission. Currently, subtenants are not charged under the existing policy.

Commissioner Eady made a motion to approve. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

7.H. – Task Order No. 1 for Professional Service Agreement with RS&H, Inc., for Airport

Environmental Services

City Manager Steigerwald explained that the matter is a prerequisite for using federal funding in the future. Sam Devnani recommended that tenants conduct the surveys themselves, and the funds be reallocated to the airport. In response, City Manager Steigerwald explained the proper use of economic development funds as it relates to infrastructure and maintenance. He noted that this initiative would ultimately generate revenue.

Commissioner Alvarez made a motion to approve. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

7.I - Consent and Estoppel Certificate, Quantem FBO Group – Kissimmee, LLC

Sam Devnani expressed his opinions on the change of ownership and recommended that the city reevaluate its policies regarding renegotiations of leases. The City Manager clarified that the consent and estoppel is strictly procedural, and any policy amendments could be considered in the future if desired by the Commission.

Commissioner Eady made a motion to approve. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

8.A Annual Red Light Camera Report Presentation and Discussion

Presentation of the Annual Red Light Camera Report to the Commission as newly required by Florida Law.

Captain Tilton from the Special Operations Division reviewed a PowerPoint presentation attached to the agenda, providing an annual overview of the red-light camera program. He discussed the requirements of Florida Statute §316.0083, which governs the program, and mentioned that this report is prepared and sent to the Department of Highway Safety and Motor Vehicles annually. Commissioner Alvarez and Ortiz requested consideration to add cameras in all school zones.

8.B Consideration of a Request for a Non-Binding Letter of Intent to Lease and First Right of Refusal Agreement from Kissimmee Place Development Group.

Consideration of a request for a non-binding letter of intent to lease and a right of first refusal Agreement for certain real property of the City.

An unsolicited proposal was submitted to City staff for the development of two parcels: one at the airport for a hotel and another at Toho Square, for a hotel and convention center. City Manager Steigerwald reviewed the statutory requirements of an unsolicited proposal and explained the need for a letter of intent (LOI) from the City to the developer.

Developer Santiago Fernandez from Kissimmee Place Development Group presented the proposal, which includes a Hyatt Place at Toho Square and a Hyatt Studios at the airport. The proposal addresses lodging needs for airport tenants and aims to boost economic development. A PowerPoint presentation attached to the agenda highlighted the project's

rationale, public-private partnership (P3) model, and expected economic benefits. If approved, the Hyatt Studios at the airport is projected to be operational in 2026, with an 18–19-month timeline. The Toho Square project, which is more complex, is expected to be completed by 2028.

Sam Devnani, voiced support for the proposal and recommended adopting the LOI. He also suggested renegotiating the \$500 monthly hold fee and the Right of First Refusal (ROFR) terms. The City Attorney commented on the Letter of Intent and Right of First Refusal, confirming that the Commission must decide whether to proceed with negotiations, and if so, the City will ensure all legal requirements are met for the unsolicited proposal.

Commissioner Eady made a motion to approve as presented. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner / Board Member Ortiz

NAY: None

Motion carried 4 - 0.

8.C Resolution to Amend Rates & Charges Policy for Kissimmee Gateway Airport

Approval to amend the Rates & Charges Policy by Resolution for Kissimmee Gateway Airport (KISM) approved on October 20, 2020.

City Manager Steigerwald provided a review of the history regarding the landing fee, noting that the City held two public hearings on the ordinance to implement the fee.

Mayor Espinosa authorized three minutes per audience member requesting to speak but required the audience direct all comments to the board and limit their comments to the item being presented. The following members spoke in opposition to the item: David Mead, Donald Frano, Chris Zayac, Ron Creel (Exhibit "B"), Mark Simmons, Bob Brown, Sam Devnani, Stacey Heaton, and Terry Howell.

In response to Exhibit B read into the record by Ron Creel on behalf of Dr. Troy Techau, the City Manager and Mayor addressed allegations of Sunshine Law violations, clarifying that no two or more commissioners ever met simultaneously with a staff member. They stated such allegations were false, emphasizing that commissioners can meet individually with staff at any time. Regarding reasonable notice of public meetings, the City publishes its agenda five days in advance.

City Manager Steigerwald and Commissioner Eady additionally discussed the implementation of landing fees as a general aviation airport, highlighting that the airport is self-funded and generates its own revenue. Certain infrastructure needed is not covered by FAA and FDOT. This will require additional revenue for the City to address repairs and sustain operations. The Commission confirmed that the Ordinance allowing landing fees had already passed, and the purpose of the item was to set the rates.

Commissioner Alvarez made a motion to adopt Resolution #35-2024. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

8.D Vector Airport Systems, LLC Transient Aircraft Landing Fee Process Agreement

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.

The following members spoke in opposition to the item: Sam Devnani (Exhibit "C") and Donald Frano.

A discussion took place regarding the agreement terms, which include a one-year duration with an option to renew for two additional years. The agreement also includes a 60-day termination clause, allowing either party to dissolve the agreement with appropriate notice.

Commissioner Eady made a motion to approve the agreement as presented. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

8.E Approval of Proposed Legislative Priorities for 2025

Staff requests Commission approval of the Legislative Priorities for 2025

City Manager Steigerwald reviewed the legislative priorities attached to the agenda.

Commissioner Eady made a motion to approve the 2025 Legislative Priorities as presented. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner / Board Member Ortiz

NAY: None

Motion carried 4 - 0.

8.F American Rescue Funds Obligation

Approval to obligate the remaining balance of the American Rescue Funds

Deputy City Manager Desiree Matthews requested approval of the item related to stormwater projects as presented. She also indicated that further details regarding the Business Boost Program and additional opportunities would be provided soon.

Mayor Espinosa made a motion to approve the American Rescue Funds as presented. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

8.G Advisory Board Vacancy: Board of Adjustment

The Commission is requested to make appointments to fill a vacancy on the Board of Adjustment.

Commissioner Martinez was not in attendance tonight. The item will be addressed at the January 7, 2025, meeting.

9. HEAR CITY OFFICIALS

9.A CITY MANAGER

9.B CITY ATTORNEY

9.C CITY COMMISSION

Commissioner Eady invited the community to the Breakfast with Santa Event at Chambers Park on December 21st. Commissioner Ortiz expressed gratitude to the Fire and Police departments, as well as everyone involved in the Festival of Lights Parade. Mayor Espinosa requested \$500 be included in the future annual budget to support the Wreaths Across America organization through the American Legion. This initiative resulted in 856 veterans' graves being decorated.

The Commission and City Manager also discussed preparations for a 2025 Workshop to address alcohol regulations and street closures, with completion anticipated within six months. Mayor Espinosa declared she is pro-prudent business, with key initiatives of safety and quality of life. The City Manager additionally confirmed that the new Chief of Police position has officially been advertised.

Commissioner Ortiz made a motion to approve a 180-day moratorium for street closures and direct staff to prepare for a 2025 Street Closure and Alcohol Workshop. Commissioner Eady seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Mayor-Commissioner Espinosa, Commissioner Ortiz

NAY: None

Motion carried 4 - 0.

10. ADJOURNMENT

There being no further business to come before the Commission, Mayor Espinosa adjourned the meeting at 8:22 PM.

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK

SAFE HAVEN BABY BOXES

SAFE HAVEN BABY BOXES 2024 INFORMATIONAL PACKET

Thank you so much for your interest in Safe Haven Baby Boxes! We are so grateful for your interest in bringing our mission to your community. We dream of Safe Haven Baby Boxes in all 50 states. Your help makes this dream possible! The complete process of obtaining a Baby Box for your community is detailed in this packet.

**CHECK OUT OUR PSA
(click below):**

[Safe Haven Baby Boxes PSA](#)



ESTABLISHED IN 2015

FOUNDED BY MONICA KELSEY

ABOUT US



Monica Kelsey founded Safe Haven Baby Boxes in 2015 after an inspiring trip to South Africa. During this trip, Monica saw a Baby Box in action and saw how it provided a safety net for parents in crisis. Monica made it her mission to help parents in crisis. The first step is raising awareness and educating the public about the Safe Haven laws.

Safe Haven Baby Boxes is the only organization providing anonymity. We make it possible to safely surrender an infant with complete anonymity. Illegal abandonments show us that mothers are seeking to keep their identity secret. We work to rewrite the story by giving mothers and innocent infants a better chance. The infant will go through a closed adoption. The birth parents are free from prosecution and know their infant is safe.

Our organization staffs a 24 Hour National Crisis Hotline, 1-866-99BABY1. The hotline has provided counseling for over 7000 callers from all over the United States. This service has led to over 150 babies surrendered at Safe Haven locations and 49 babies thus far surrendered in a Baby Box.

HOW DO THE BABY BOXES WORK?

The Safe Haven Baby Box is a state-of-the-art device. It legally permits a mother in crisis to safely, securely, and anonymously surrender her newborn.



The baby box is a climate-controlled safety device provided for under a state's Safe Haven Law. The box is installed on the exterior wall of a firehouse or hospital.

Before the box is active, tests occur at every stage of design, development, and deployment. It features multiple alarms in the device which alert first responders of a surrender. The box's alarms are tested weekly to ensure there will be no failures. None of these alarm systems have ever failed. The staff responsible for the box is trained on how the device operates.

The parent opens the door to the Baby Box, which triggers a silent alarm and a call goes to 911 dispatch. The infant is placed in a medical bassinet. A sensor located on the inside of the box triggers a second 911 dispatch call. The exterior door automatically locks upon the placement of a newborn. Within five minutes the infant will be rescued by first responders. An interior door allows a medical staff member to secure the surrendered newborn from inside the designated building. The infant will be quickly taken to the hospital for medical evaluation.

It provides the community the opportunity to proactively save the lives of children since many are not aware of the Safe Haven Law.

Lack of knowledge about the law and prohibiting anonymity has historically produced catastrophic and devastating results of babies being abandoned.

**WHY DO
COMMUNITIES
NEED A BABY
BOX?**

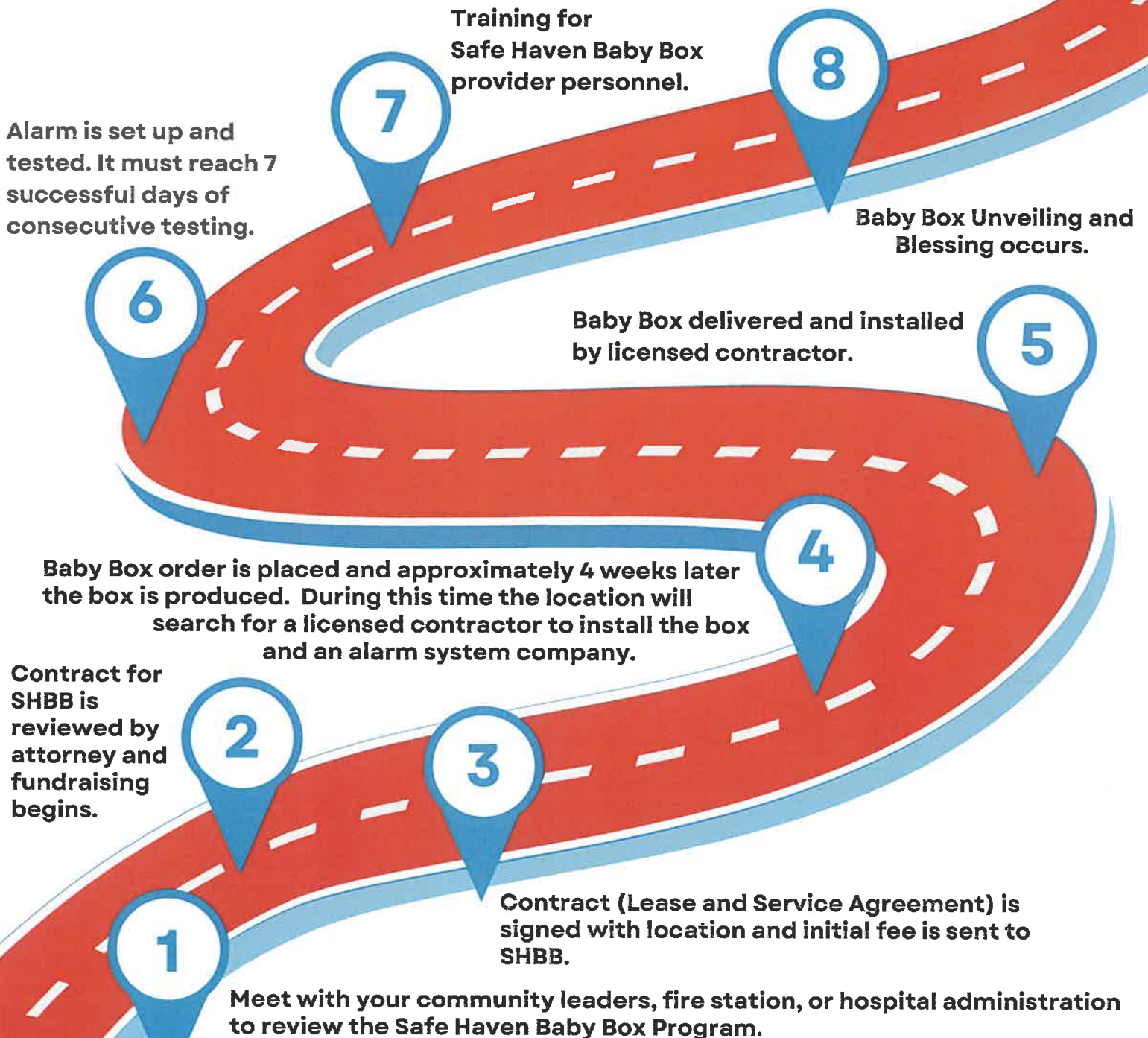
Many women in crisis want and need anonymity when surrendering an infant, either because of fear of being recognized, the stigma associated with the surrender, or fear of prosecution due to the lack of knowledge and misunderstanding of the Safe Haven law.

The Baby Box is tangible, and the Safe Haven law is not. By having a Baby Box in the community, you are providing an opportunity to further educate about the law.

We hope and pray for a face-to-face surrender as it benefits both the mother and infant. The Safe Haven Baby Box hotline provides counseling to women in crisis and only suggests the Baby Box when it is the last option.

Road to Active Baby Box

Baby Box goes live and available to aid infants with parents in crisis.



CAN I PLACE A BABY BOX IN MY COMMUNITY?

Yes, however, some states have made it easier than others.

States with legislation permitting placement of Baby Boxes



If your state is not above, do not be discouraged. Ideally all states would allow for anonymous surrender and we have a team in place to work on passing legislation at the state level. Please reach out to your state representative and senator to express the importance of updating your state's Safe Haven Law to allow for the placement of Baby Boxes.

The fees for Safe Haven Baby Boxes start around \$15,000 depending on installation and location.

*These prices are good for 90 days after the receipt of this informational packet *

THIRD PARTY DONATION SOLICITATION POLICIES

Safe Haven Baby Boxes Inc. (SHBB) appreciates individuals and organizations as they solicit donations to benefit its programs and services. Any individual or organization (outside of Safe Haven Baby Boxes Inc.) that organizes and hosts an event, promotion, sale, or donation drive on behalf of Safe Haven Baby Boxes Inc. is defined as a "third-party fundraiser."

Prior to Collection of Donations:

1. The third-party fundraiser is not allowed to solicit for donations without acknowledgement from Safe Haven Baby Boxes AND local leaders, such as the mayor, fire chief, council member, and/or hospital administrator/staff. The third-party fundraiser should notify Safe Haven Baby Boxes via email or mail with intent to solicit donations in advance of the proposed start date.
2. The third-party fundraiser will not personally collect any donations. All donations should be sent directly to SHBB. Upon acknowledgement from a SHBB representative of the intent to campaign for donations, the third-party fundraiser will be provided a link for online donations specific to the fundraiser's campaign.
3. The third-party fundraiser is responsible for providing donation instructions to solicited donors.
4. The third-party fundraiser is responsible for expenses associated with printing and promotion of the donation solicitation.

5. The third-party fundraiser is not a representative of Safe Haven Baby Boxes and should not claim to be.
6. Safe Haven Baby Boxes retains the right to decline any solicitation activity if it conflicts with its mission or other fundraising efforts.
7. The third-party event organizers should not provide tax advice to third-party event contributors. Organizers should refer individuals to tax or legal counsel for information.
8. The third-party fundraiser may not keep any portion of a donation as profit or compensation for organizing the campaign.
9. The third-party fundraiser or anyone associated with the event cannot set up a temporary bank account in his/her name or Safe Haven Baby Boxes name for the collection of donations.
10. Safe Haven Baby Boxes, Inc. may only issue tax receipts for checks made payable to "Safe Haven Baby Boxes" or donations paid online at www.shbb.org or designated link for campaign.
11. The third-party fundraiser must submit all publicity and promotional material containing Safe Haven Baby Boxes name and/or logo to Safe Haven Baby Boxes Fundraising Department for review and approval prior to publication and distribution of these materials. Please allow Safe Haven Baby Boxes staff ten (10) business days to review these materials. PLEASE NOTE: Third-party donation campaigns that are approved by Safe Haven Baby Boxes may be advertised on Safe Haven Baby Boxes website and/or social media sites.

12. The third-party fundraiser cannot advertise locations of future baby box installations (i.e. address of fire station or hospital).

13. Promotional materials that use Safe Haven Baby Boxes name should incorporate the following statement: "Proceeds to benefit Safe Haven Baby Boxes Inc."

14. The third-party fundraiser agrees not to use Safe Haven Baby Boxes' tax exemption in any manner or as part of the donation campaign, nor will the third-party represent any rights or privileges of tax exemption to the public, nor will the third-party state that any portion of the purchase price for any goods or services at the event is tax deductible for charitable purposes.

15. Prior to starting a fundraising campaign, please send SHBB@SafeHavenBabyBoxes.com your fundraising campaign plan for approval.



Any additional funds raised will remain in your community promoting your local Safe Haven Baby Box. A bill board campaign will raise awareness for safe surrender and include our National Crisis Hotline number.

Please keep in mind that all donations that are solicited for a Safe Haven Baby Box must be sent to SHBB to be used for your city's baby box and/or marketing and education. If your fundraising efforts exceed the amount needed, per the IRS guidelines, this money has to be sent to SHBB. Sending money raised for a Safe Haven Baby Box to another entity is a direct violation of IRS guidelines.

Safe Haven Baby Boxes name and logo are a registered trademark. Any use of these would need SHBB approval. For questions or more information on third-party donation solicitation, please contact a Safe Haven Baby Boxes representative at 1-888-742-2133 or shbb@safehavenbabyboxes.com. Thank you very much for your interest in supporting Safe Haven Baby Boxes programs and services!

By signing below, you understand SHBB fundraising policy and will ensure that the funds are handled according to this policy.

Signed _____ Date _____

Donation for a Safe Haven Baby Box located in _____

Amount needed: _____

Mail check to:
SHBB
PO Box 185
Woodburn, IN 46797

Once a check is received you will receive a letter from SHBB for you to use for tax purposes. SHBB is a registered 501(c)3 nonprofit organization by the IRS so all donations are tax-deductible. Thank you for your support!

Safe Haven Baby Boxes Policies and Procedures for Association with Foster Care and/or Adoption Agencies

Purpose of Policy

Safe Haven Baby Boxes (SHBB) is a registered 501(c) 3 charitable organization whose express mission is to save babies from illegal abandonment and provide a truly anonymous option for surrendering parents in accordance with each individual state's statutes.

Safe Haven Baby Boxes is not a governmental agency and is not involved in the infant's care and placement process following the legal surrender of an infant as defined by the State Statute. Safe Haven Baby Boxes expressly prohibits any affiliation, endorsement, or official connection with any placing agency, foster care agency, or adoption agency, private or public.

SHBB and its board, staff, contractors, or volunteers are not affiliated, associated, authorized, endorsed by, or in any way officially connected with any child-placing agency or adoption attorney.

This strict policy is in place in order to prevent even the "appearance" of SHBB profiting in any way from the surrender of an infant in one of the baby boxes, or directly to personnel at a fire station, hospital, or EMS provider with a baby box installed.

This policy includes, but is not limited to the following:

- No child-placing agency, or private adoption attorney will pay fees to SHBB for the installation and ongoing operation of a Safe Haven Baby Box.
- No child-placing agency, or private adoption attorney will donate money, goods, or services to SHBB directly.
- No child-placing agency or private adoption attorney will be given preferential treatment by their state's Department of Children Services or its equivalent by paying a fee or claiming affiliation with Safe Haven Baby Boxes
- No child placing agency, or private adoption attorney will raise funds using Safe Haven Baby Boxes name, or by alleging association with Safe Haven Baby Boxes.

Safe Haven Baby Boxes Ethical Code of Conduct

Safe Haven Baby Boxes is committed to the highest possible ethical standards and we encourage everyone associated with our Organization to commit to acting in the best interest of the organization and its mission. Our mission demands that we, Board and Committee Members, staff, and volunteers, as stewards of our mission, uphold the public trust and act in an ethical manner in all that we do in the name of our Organization.⁵ These ethical values include integrity, openness, honesty, accountability, fairness, respect, and responsibility. These values are the basis of our Code of Conduct and commitment to act in a manner befitting the Organization and mission.

As a public charity, we rely on the public for funding and volunteer support, which is critical to the success of our mission. The public trusts us to carry out our stated mission and to act in the best interest of the Organization. If we abuse the public trust, our ability to fulfill our mission is severely weakened. Therefore, it is critical that we operate in a manner that is above reproach in all aspects, including governance, fundraising, mission operations, legal matters, and human resources. As a public charity, we are committed to:

- Acting responsibly and with integrity;
- Following not just the letter of the law, but the spirit of the law as well;
- Promoting financial accountability, transparency, and best governance practices;
- Respecting the wide variety of people who support our mission through donations of their time, talent and money;
- Being responsible stewards of our Organization, its mission, reputation, and resources
- Being open and honest in all of our dealings with both internal and external audiences.

This Code of Conduct applies to all staff members, the Board of Directors and Committee Members, and volunteers of Safe Haven Baby Boxes.

Goals of Safe Haven Baby Boxes

- Raise awareness of the Safe Haven law through the installation of Baby Boxes.
- Provide counseling to any parent in crisis.
- Use of billboards, social media, speaking engagements, and fundraisers to bring awareness to Safe Haven Laws.
- Provide a safe and anonymous option for surrendering an infant.
- Work with legislators in every state to pass a law allowing the installation of Baby Boxes.
- Install Baby Boxes in every state in the United States.

Help Us Reach Our Goals

- Assist or host a Safe Haven Baby Boxes fundraiser
- Invite Monica to speak at your church, or community event
- Attend a Baby Box Blessing
- Follow and share our social media platforms

Please contact us if you have any questions or need more information.

Email: shbb@safehavenbabyboxes.com

Phone: (888)742-2133

Website: www.shbb.org

Services, Fees and Expense Schedule

Lease and Service Agreement

Full Time Fire Stations

INITIAL FEE: \$15,000	ANNUAL FEE: \$500	OTHER FEES NOT INCLUDED IN INITIAL FEE (ESTIMATED AT \$5,000-\$7,00)
Pre-installation Services	Annual Fee Services	*Fees vary based on location and/or services donated by local community members. The items below are estimates and not a guarantee of cost.
A. Examination of location B. Administrative/Legal resources C. Consultation on programs D. Assistance with raising funds to support cost of the Baby Box (optional)	A. Recertification of the Baby Box by a licensed contractor B. Maintenance of the Baby Box from expected use C. Unlimited repairs and parts replacement as a result of a malfunction and not as a result of negligence or vandalism	A. Delivery: Minimum \$500 charge if you would like to have the Baby Box delivered. You can pick up at our Fort Wayne, IN manufacturing facility to waive the delivery charge. (Must be pre-scheduled) B. Installation: Labor and materials: \$2000- \$3,500 (location may be able to have this donated)
Installation Services	*LOCATIONS WITH ADDITIONAL FEES A. Volunteer fire stations must feature a camera in the Baby Box making the total initial fees \$15,500 B. Ohio locations total initial fee is \$16,000 as \$1,000 is paid to their health department C. Alabama locations must feature a camera in the Baby Box making total initial fee is \$15,500	C. Electrical and Alarm: hook up to internal alarm system (Internal alarm must go to 911 dispatch for use with the Baby Box) ~ \$1,200
A. Inspection of Installation B. Training to all emergency personnel		D. Annual Alarm Services: Annual fee for monitoring ~\$500 annually paid by location to Alarm Company
Post Installation Services		E. Transportation: Cost based on location and transportation from Indiana
A. Marketing of the Baby Box B. 24/7 Hotline available to community C. Advertising of the Box D. Efforts to support raising awareness on local, state and national levels supporting the Baby Box in each community		F. Permits or other requirements prior to construction. (varies)



Safe Haven
Baby Boxes



Safe Haven **Baby Boxes**

FAQ's

1. Have the Safe Haven Baby Boxes been tested?

The Safe Haven Baby Box is tested. At every stage of design, development and deployment, the Box undergoes stringent testing. While there are no standards that exist, the Safe Haven Baby Box organization is developing standards by adopting the most stringent requirements.

The ultimate test came on November 7, 2017 at the CoolSpring Fire Department. A courageous mother anonymously surrendered Baby Hope in the Safe Haven Baby Box located in Michigan City, IN. After the notification system notified the first responders flawlessly, she was safely received and evaluated under the Safe Haven Baby Box Protocol for Surrender and the laws of Indiana. It is noted the Box performed within the design parameters and the surrender is considered legal under the Indiana Safe Haven law.

2. Why are the Safe Haven Boxes not regulated by the FDA or the CSPC?

It has been determined by the FDA that the Safe Haven Baby Box is not a medical device and does not require FDA approval. The baby box is not available for sale to the public and does not require CSPC regulation.

3. Are the Safe Haven Baby Boxes UL listed and approved?

UL approval is not legally required and there is no legislation mandating certification by UL or any other agency, public or private in the US. SHBB partners with a third party for performance testing to ensure the baby boxes function properly.

4. Do baby boxes exist that are not from the Safe Haven Baby Boxes organization?

Yes. In fact, "baby hatches" existed in one form or another for centuries and was quite common in medieval times. Modern versions appear in other countries, including Germany, Switzerland, Pakistan, and Malaysia.

5. Is Safe Haven Baby Boxes the only organization that offers complete anonymity?

For individuals contacting our National Safe Haven Crisis Hotline, contact is confidential and anonymous, should the caller wish. For individuals using our Safe Haven Baby Boxes, there are no cameras, so the individual remains anonymous.

The Hotline and counselors are supervised by a Clinical Staff Psychologist with over 25 years of crisis pregnancy hotline experience. We will not ask for a name. We do ask for location so we can provide information on the laws that apply and resources that may be available. Our goal is to provide the mothers-in-crisis with the resources that allow themselves to stabilize their situation and have time to make a decision that is in the best interest of themselves and their child.

While other organizations may, we can only confirm Safe Haven Baby Boxes and our National Safe Haven Crisis Hotline is the only organization that offers complete anonymity.



Thank you for your interest in Safe Haven Baby Boxes and our programs. Each program with a brief description is listed below. Please do not hesitate to contact us should you have any further questions or need additional information.

Safe Haven Baby Boxes Program

The most effective method for raising awareness of the Safe Haven Law is having an active Safe Haven Baby Box in a community. It provides a focal point to address the lack of education and knowledge about the Safe Haven Law, and creates a natural entry for first responders and the community to play a role in proactively saving the lives of children through education and outreach. This benefit is not limited and extends well beyond the local community. Surrounding communities benefit due to the nature of outreach in the media and education efforts. This is intentional and one Baby Box has the potential to help Mothers-In-Crisis in surrounding communities.

Safe Haven Baby Boxes National Crisis Hotline

Safe Haven Baby Boxes offers a National Crisis Hotline, (866)99-BABY-1 and is available 24/7/365. This service provides for a person to speak to a crisis counselor with the goal of providing access to resources that allow the parent to stabilize their situation and make the best decision for themselves and their infant.

Billboards and Other Advertisement Campaigns

One of the most effective methods for raising awareness of the Safe Haven Law and of Safe Haven Baby Boxes' services is through our billboard and other advertising campaigns. Data collected from surrenders in areas show that more calls are made to the National Crisis Hotline and safe surrenders take place.

Other advertising methods of successfully raising awareness include the use of social media, local news sources, and events held within communities that have or are considering a Baby Box.

Training Programs for Emergency Medical Personnel

Safe Haven Baby Boxes offers training to all emergency medical personnel, even if there is not a Safe Haven Baby Box located in a community or nearby. It is essential that first responders understand the Safe Haven Law and how to handle a safe surrender.

Education in Schools

Every individual needs to know about his or her rights under the state Safe Haven Law. Educating at the high school and college level ensures that not only does the Safe Haven Law save the lives of infants, but also prevents the parent from prosecution. Safe Haven Baby Boxes provides training and resources to teachers and volunteers who wish to incorporate information into the curriculum. Safe Haven Baby Boxes Representatives are also available for in person education sessions as well.

Counseling Support

Safe Haven Baby Boxes provides counseling support to parents who may be considering options to surrender, to parent, or to arrange an adoption of their infant. Our counseling staff ensure that every parent understands the resources available and their rights under the Safe Haven Law.

Legal Support for Parents

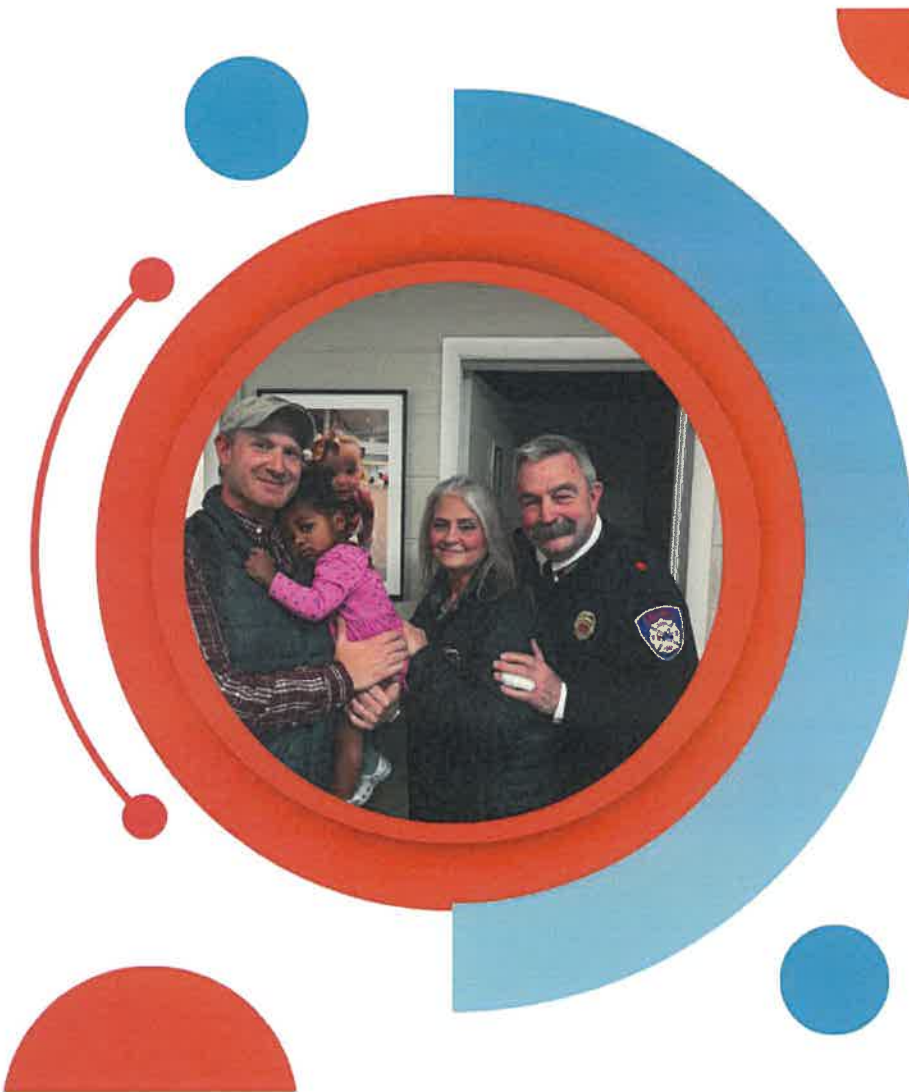
Legal support from Safe Haven Baby Boxes is available to any parent who has legally exercised his/her rights under the state Safe Haven Law, but yet experiencing possible prosecution. In many cases, state agencies are pursuing criminal charges as a result of lack of knowledge of the Safe Haven Laws. The Safe Haven Baby Boxes organization wants to ensure that the law is understood by all and is ready to assist a parent who may face this challenge.

Financial Support for Parents in Need

The SHBB organization wants parents to make the best decisions for the safety of their children. We understand that there may be specific needs when making the decision to parent. Our organization has helped parents in need with specific items, requested donations from our supporters, and reached out to local resources to ensure they receive the support needed.

Adoption Assistance

Women who are considering adoption for their baby need counseling and support to make this difficult decision prior to giving birth. To date, SHBB has assisted with 7 adoptions, with most being open adoptions. Our organization connects the birth parent with an agency that allows her to choose whether or not she wishes to have an open adoption and having the ability to choose a forever family for her child.



Safe Haven
Baby Boxes



BABY BOX PROGRAM

Presentation 2024

Visit Our Website
SHBB.ORG



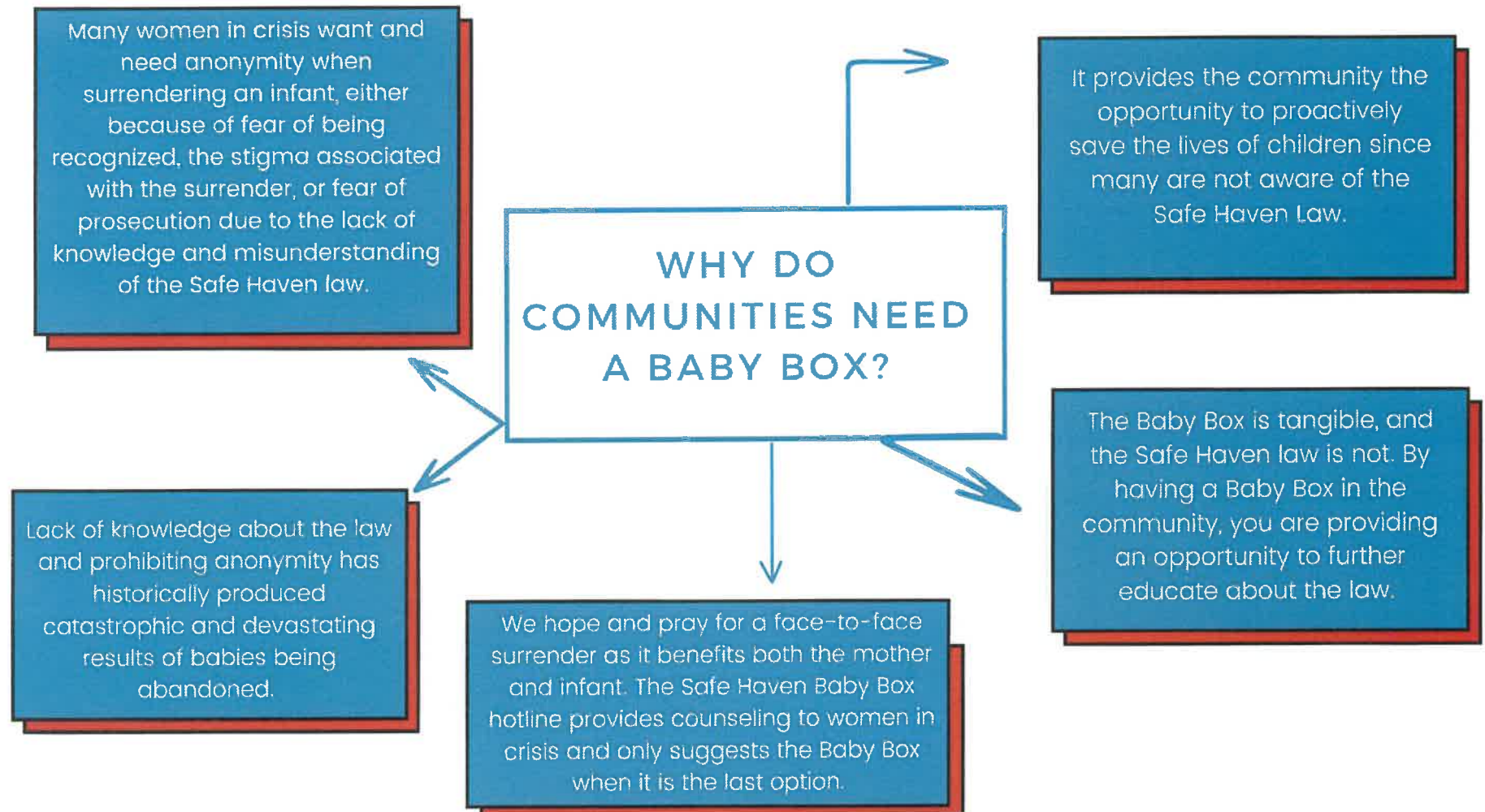
ABOUT US

Monica Kelsey founded Safe Haven Baby Boxes in 2015 after an inspiring trip to South Africa. During this trip, Monica saw a Baby Box in action and saw how it provided a safety net for parents in crisis. Monica made it her mission to help parents in crisis as her own birth mother was when she abandoned Monica as an infant. The first step is raising awareness and educating the public about the Safe Haven laws.

Safe Haven Baby Boxes is the only organization providing an anonymous option for parents to safely surrender their infant. Illegal abandonments show us that mothers are seeking to keep their identity secret. We strive to rewrite the story by giving mothers and innocent infants a better chance. The infant will go through a closed adoption and the parents will be free from prosecution.

Our organization staffs a 24-Hour National Crisis Hotline, 1-866-99BABY1. The hotline has provided counseling for over 7000 callers from all over the United States. This service has led to over 150 babies surrendered at Safe Haven locations and 50 babies thus far surrendered in a Baby Box.







Teen's baby found abandoned in Florida backyard with umbilical cord still attached: police

November 2023



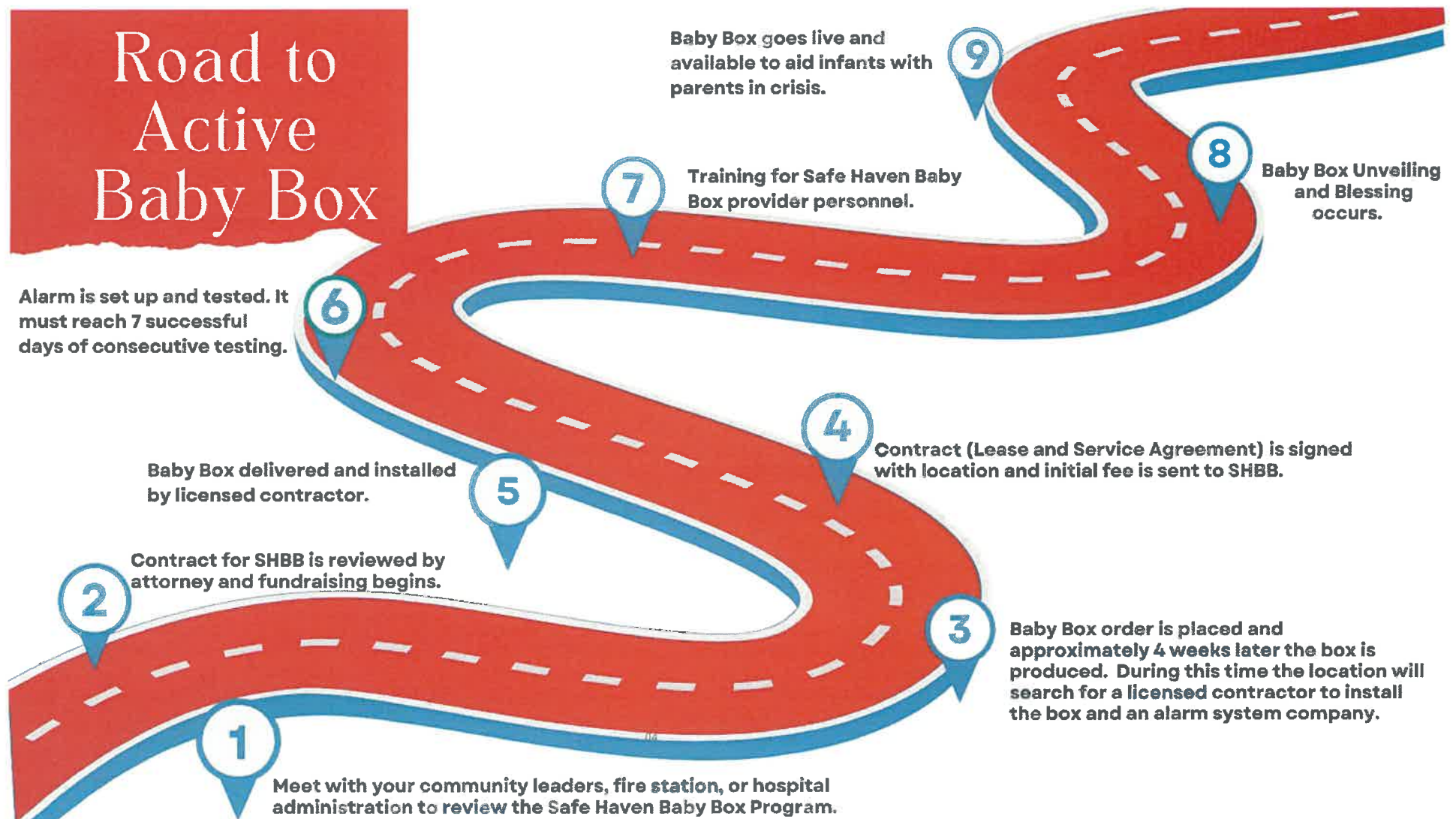
Horrible headline. Graphic details. Heartbreaking outcome.

- 15 year old girl gives birth at home and places baby in a blanket in woods behind her home
- Baby girl was found by a bystander nude and umbilical cord still attached and immediately taken to the hospital
- Investigation is ongoing...

HOW DOES THE BABY BOX WORK?



Road to Active Baby Box



Intial fee: \$15,000

Pre-installation Services

- A. Examination of location
- B. Administrative/Legal resources
- C. Consultation on programs
- D. Assitance with raising funds to support cost of the Baby Box (optional)

Installation Services

- A. Inspection of Installation
- B. Training to all emergency personnel

Post Installation Services

- A. Marketing of the Baby Box
- B. 24/7 Hotline available to community
- C. Advertising of the Box
- D. Efforts to support raising awareness on local, state and national levels supporting the Baby Box in each community

Annual fee: \$500

Annual Fee Services

- A. Recertification of the Baby Box by a licensed contractor
- B. Maintenance of the Baby Box from expected use
- C. Unlimited repairs and parts replacement as a result of a malfunction and not as a result of negligence or vandalism

OTHER FEES NOT INCLUDED IN INTIAL FEE (ESTIMATED AT \$5,000-\$7,000)

***Fees vary based on location and/or services donated by local community members. The items below are estimates and not a guarantee of cost.**

A. Delivery: Minimum \$500 charge if you would like to have the Baby Box delivered. You can pick up at our Fort Wayne, IN manufacturing facility to waive the delivery charge. (Must be pre-scheduled)

B. Installation: Labor and materials: \$2000- \$3,500 (location may be able to have this donated)

C. Electrical and Alarm: hook up to internal alarm system (Internal alarm must go to 911 dispatch for use with the Baby Box) ~ \$1,200

D. Annual Alarm Services: Annual fee for monitoring ~\$500 annually paid by location to Alarm Company

E. Transportation: Cost based on location and transportation from Indiana

F. Permits or other requirements prior to contruction. (varies)



Florida Safe Haven Law

30

DAYS OLD TO SURRENDER BY A PARENT

LOCATIONS FOR SAFE SURRENDER

**HOSPITAL, FIRE STATION,
EMS**



DETAILS:

INFANT MUST BE DIRECTLY HANDED TO PROVIDER OR MAY UTILIZE AN INFANT SAFETY DEVICE AT DESIGNATED LOCATION IF ONE IS AVAILABLE. IF THERE IS NOT STAFF AT A SPECIFIC LOCATION, PLEASE CALL 1-866-99BABY1 FOR HELP.

PROVIDER TO IMMEDIATELY NOTIFY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

thank you!!

your support changes lives
and builds family



National Safe Haven Alliance



Infant Abandonment Prevention
Heather Burner



NATIONAL SAFE HAVEN ALLIANCE

Introduction

Every year infants are illegally abandoned in the U.S. In 2021, 31 babies were placed in dumpsters, found in backpacks, discarded in other dangerous locations. 22 of these infants were found deceased.

73 babies were saved by Safe Haven laws in 2021.

The National Safe Haven Alliance is a 501-3c non-profit organization committed to providing safe alternatives for women and parents to prevent harm or even death of babies.



NATIONAL SAFE HAVEN ALLIANCE

2022 Abandonments

- 12/31/21: Alaska- Mother leaves newborn in a box with note on a street corner, baby survived.
- 1/7/22: New Mexico- Mother is seen on video tossing into a dumpster, baby later found in that bag by people searching dumpster for goods, baby survived.
- 1/15/22: Illinois- Baby found deceased in a duffel bag in front of a fire station in freezing temperatures.
- 2/13/22: Nebraska- Baby found on a blanket on side of road after mother gave birth and abandoned the infant, mother found nearby, baby survived.



NATIONAL SAFE HAVEN ALLIANCE

Safe Haven Law

- The law provides safe options for a parent that may be or unwilling to care for their infant. The Safe Haven Law allows a parent to anonymously relinquish an unharmed baby to a Safe Haven Provider and the parent will not be prosecuted.
- The law gives a desperate parent a safe alternative and the life of a vulnerable infant.
- Each state has a different Safe Haven Law, the first law was passed in 1999 in TX and was subsequently passed in each state and Guam.
- Hospitals are an approved location in every state.



NATIONAL SAFE HAVEN ALLIANCE

Safe Haven Providers

On-duty hospital staff members are considered a Safe Haven Provider in every state.

- Safe Haven Providers differ by state and may include
 - Firefighters/EMS Personnel
 - Law Enforcement Officers
 - Free standing Emergency Department staff
 - Church Staff/Volunteers
 - Participating Adoption Agency Staff
 - County Health Department Staff
 - Infant Safety Device at designated locations

***Know your state designated Safe Haven providers & locations**



NATIONAL SAFE HAVEN ALLIANCE

Statistics

Safe Haven statistics unofficially recorded since 1999.

- Safe Haven relinquishments: **4,524** babies
- Illegal infant abandonments: **1,610** babies
 - Babies found alive: 608
 - Babies found deceased: 915



NATIONAL SAFE HAVEN ALLIANCE

**Who organizes, provides
training, and implements
Safe Haven laws?**



NATIONAL SAFE HAVEN ALLIANCE

About NSHA

Mission: The National Safe Haven Alliance (NSHA) equip Haven Providers and parents facing unplanned pregnancy with safe alternatives that prevent infant abandonment while providing holistic care for both parents and babies.

Vision: The National Safe Haven Alliance ensures every parent who is experiencing an unplanned pregnancy is given the resources and opportunity to create a safe post-birth plan for their baby.

24/7 Crisis Hotline: **1-888-510-BABY (2229)**



NATIONAL SAFE HAVEN ALLIANCE

Crisis Hotline

- 24/7 staffed hotline
 - Staffed by EMS, nurse, case management, social work staff
- Provide immediate and emergency referrals
- Facilitation of safe relinquishment process
- Connection to community resources for parents and p
- Direct support for a parent in need
- Comprehensive training and direction for Safe Haven p



NATIONAL SAFE HAVEN ALLIANCE

Communication Model

- What prevents you from feeling you can parent this child
- Identify the crisis the parent is experiencing:
 - Abuse, assault, trafficking, homelessness, substance abuse, pregnancy denial syndrome, post-partum depression, mental health issues
- Provide direct assistance addressing immediate needs:
 - Anti-trafficking agencies, shelters, detox, OB physician, DCO
- Utilize resources to assist in developing a safe plan for the child and parent
- Provide options for placement for child outside of age of consent



NATIONAL SAFE HAVEN ALLIANCE

Options for the Mother/Parent

1. **Parenting:** Discuss what would cause parent to feel unable to parent this child, provide necessary resources to child. Temporary placement option available.
2. **Adoption:** Utilize adoption experts and resources if a parent is willing to consider this option.
3. **Safe Haven:** This is a life saving, last resort. Provide information regarding the state law, Safe Haven providers, locations, and confidentiality.



NATIONAL SAFE HAVEN ALLIANCE

2021 LA Safe Haven Case

- Mother admitted to emergency department for injuries re assault by partner, found to be 34 weeks pregnant
- After assessment, delivery induced for safety of baby and
- Mother verbalized that she had been trafficked from her and has traveled through many states with partner
- Relinquishes infant using the Safe Haven law
- NSHA hotline staff and social worker provided direction, i trafficking support agency
- Infant safely relinquished, mother safely transported back follow up resources in place



NATIONAL SAFE HAVEN ALLIANCE

Identified Needs Concerning Inf Abandonment Prevention

- National awareness/education campaign
 - Public awareness
 - Providing signs and Safe Haven provider training
- National Hotline contract and utilization
- National registry of state reporting for:
 - Safe Haven relinquishments
 - Illegal infant abandonment
- Funding for National Safe Haven Alliance contract or HHS Manager position
 - Develop training and education
 - Hotline oversight



NATIONAL SAFE HAVEN ALLIANCE

National Safe Haven Alliance

1-888-510-2229

www.nationalsafehavenalliance.org



NATIONAL SAFE HAVEN ALLIANCE

Dr. Troy Techau
Kissimmee, FL

December 16, 2024

The Honorable Mayor Jackie Espinosa
City of Kissimmee
101 Church Street
Kissimmee, FL. 34741

Subject: Opposition Items 8C Resolution to Amend Rates & Charges Policy for Kissimmee Gateway Airport
8D Vector Airport Systems, LLC Transient Aircraft Landing Fee

Mayor Espinosa,

I write the Commission in strong opposition of Item 8D based on three grounds:

- **Improper Procedure under Federal Regulation**
- **Improper Procedure under Florida Statute 286.11 "The Sunshine Law"**
- **Pending Investigation of Retaliatory Acts by Kissimmee Airport Manager**

Improper Procedure under Federal Regulation:

- The City of Kissimmee has not followed federal guidelines and directives for the establishment of airport user fees as directed in the Federal Aviation Administration's ***Policy Regarding Airport Rates and Charges*** (RIN 2120-AF90, published in Federal Register 10 SEP 2013). The City agreed to federal oversight requirements in grant assurances related to federal funds received for support of the airport. Specifically, the City has not provided affected airport users the information directed in **Appendix 1—Information for Aeronautical User Charges Consultations** (attached).
- The Kissimmee Airport Manager has not provided due diligence on this topic and instead presented the Commission with what looks to be a back-of-the-envelope estimate provided by the vendor under consideration, specifically submitting "*Vector estimated the recognized landing fees could be...*" followed by a dollar amount without any supporting analysis. The Airport Manager has failed to meet the FAA's requirements to provide historical financial information for two years (at minimum a profit and loss statement, balance sheet and cash flow statement per Appendix 1 as above).
- Without this data, the City Commission and airport users have no means to assess the airport's current and expected future revenue, plans, or opportunities. In my opinion, the City's professional staff have failed in their obligation to provide the Commission with proper data to render decisions that meet federal requirements, properly oversee airport operations, or meet concerns raised by the public.

Improper Procedure under Florida Statute 286.11 "The Sunshine Law"

- The Commission's public, recorded discussion on December 3rd, 2024 of having private meetings with the Airport Manager to discuss the topic of landing fees and come to a decision on the topic strongly appears to violate the intent and spirit of Florida Statute § 286.11 "The Sunshine Law". The public has a right of access to all meetings regarding this topic.

- The City Manager's comments indicated acceptability of a non-compliant / ad-hoc attitude to the notice requirement in the Sunshine Law, in that he stated he would notify some undefined airport group about any meetings and rely on that group to notify the public.

Pending Investigation of Retaliatory Acts by Kissimmee Airport Manager

- After the close of the October 15th meeting on this topic, several allegations emerged that the Kissimmee Airport Manager improperly accessed private flight data regarding aircraft operations at Kissimmee and used that data in a retaliatory manner against one or more individuals that had spoken to the Commission, in an apparent attempt to disrupt or reduce public debate on airport user fees.
- In my opinion, it is improper for the Commission of the City of Kissimmee to act on item 8D while at least one pending investigation into the Airport Manager's potential violations of City ordinance and Florida statutes remains open. Should the City vote on item 8D, it would create the appearance that the City of Kissimmee condones City employees conducting retaliatory acts against citizens that express opinions that oppose the views of the City staff.

Recommended Actions:

Given the Airport Manager's failure to provide airport users with the information required by federal regulations, the potential impropriety of City employees involved, and the potential violations of F.S. § 286.011, I respectfully recommend the Commission:

1. Table Items 8C & 8D
2. Direct the Airport Manager to provide a full and thorough briefing to the Commission and the airport user community that meets the elements of the FAA's Policy Regarding Airport Rates and Charges, specifically with regard to Appendix 1 (attached) at a properly noticed and announced public meeting.
3. Direct the City staff to set up the Workshop as directed by the Commission on October 15th, 2024 in a properly noticed and announced public meeting and consider implementing an Airport Advisory Board.

I am a retired U.S. Army Officer, a current federal employee serving in the Office of the Secretary of Defense, a flight instructor, an aviation law and human factors professor, and a volunteer Board member serving several philanthropic organizations in our community. I would welcome the opportunity to serve on an Airport Advisory Board to assist the Commission in overseeing the operation of the Kissimmee Airport.

Thank you for your service to our community!

Warm regards,

Dr. Troy Techau, Ph.D.

Excerpt from FAA *Policy Regarding Airport Rates and Charges*: Appendix 1—Information for Aeronautical User Charges Consultations.

Appendix 1—Information for Aeronautical User Charges Consultations

The Department of Transportation ordinarily expects the following information to be available to aeronautical users in connection with consultations over changes in airport rates and charges:

1. Historic Financial Information covering two fiscal years prior to the current year including, at minimum, a profit and loss statement, balance sheet and cash flow statement for the airport implementing the charges, and any financial reports prepared by the airport proprietor to satisfy the provisions of [49 U.S.C. 47107\(a\)\(19\)](#) and [47107\(k\)](#).
2. Justification. Economic, financial and/or legal justification for changes in the charging methodology or in the level of aeronautical rates and charges at the airport. Airports should provide information on the aeronautical costs they are including in the rate base.
3. Traffic Information. Annual numbers of terminal passengers and aircraft movements for each of the two preceding years.
4. Planning and Forecasting Information.
 - (a) To the extent applicable to current or proposed fees, the long-term airport strategy setting out long-term financial and traffic forecasts, major capital projects and capital expenditure, and particular areas requiring strategic action. This material should include any material provided for public or government reviews of major airport developments, including analyses of demand and capacity and expenditure estimates.
 - (b) Accurate, complete information specific to the airport for the current and the forecast year, including the current and proposed budgets, forecasts of airport charges revenue, the projected number of landings and passengers, expected operating and capital expenditures, debt service payments, contributions to restricted funds, or other required accounts or reserves.
 - (c) To the extent the airport uses a residual or hybrid charging methodology, a description of key factors expected to affect commercial or other nonaeronautical revenues and operating costs in the current and following years.



Establish an Airport Advisory Board in Kissimmee, Florida

Share this petition

224[✓]

Verified signatures ▾

Jon Arguello • 6 days ago

Erik Melear • 1 week ago

Victor Cabrales • 2 weeks ago

Brandon Sp



Decision Makers: Angela Eady +2

The Issue

To: The City Council of Kissimmee, Florida

Subject: Creation of a Kissimmee Airport Advisory Board

We, the undersigned residents, business owners, and stakeholders of Kissimmee, Florida, respectfully petition the City Council to establish an Airport Advisory Board to oversee, advise, and support the operations and development of Kissimmee Gateway Airport (ISM). This board would provide valuable insights from community members and ensure that the airport's growth and operational impact align with the city's best interests and those of its residents.

Reasons for Creating the Kissimmee Airport Advisory Board:

- 1. Community Representation:** The Kissimmee Gateway Airport is a vital part of the city's transportation infrastructure and a key driver of local economic growth. Establishing an advisory board will give residents and local businesses a formal voice in the airport's development and operations. It ensures that the concerns and needs of the community, such as noise abatement, environmental sustainability, and future airport expansion, are taken into account. With expert advice from aviation professionals, residents, and business leaders, the board could provide recommendations to improve operational safety and airport efficiency. This would help mitigate risks while ensuring the airport remains a well-functioning asset to the city.
- 2. Economic Growth and Development:** Kissimmee Gateway Airport plays an essential role in promoting tourism and economic activity in the area. An airport advisory board could actively attract more investment, tourism, and aviation-related businesses. The board could help explore new opportunities for airport expansion, increased tourism, and business development, making Kissimmee a hub for economic activity.
- 3. Transparency and Accountability:** An airport advisory board would promote transparency by facilitating open communication between airport authorities and the public. The board would review airport plans, budgets, and developments, ensuring that all stakeholders are informed and have the opportunity to provide input. This increased level of accountability will lead to decisions that better reflect the interests of the Kissimmee community.
- 4. Environmental and Noise Impact Mitigation:** As the airport grows, there are valid concerns about the environmental impact and noise pollution. An advisory board can serve as a liaison between the community and the airport, working to develop and implement policies that minimize noise and environmental damage. They could explore options such as restricted flight times, eco-friendly airport technologies, and alternative fuel use to make the airport more sustainable.

 Support now

improve airport security, air traffic control, and disaster preparedness to ensure that Kissimmee residents are protected in case of emergencies.

6. Tourism and Cultural Promotion: With Kissimmee's proximity to popular tourist attractions like Walt Disney World and other Central Florida destinations, the airport serves as an important entry point for visitors. The advisory board could work with local tourism boards and the business community to improve services and amenities, making Kissimmee Gateway Airport a more attractive and efficient gateway for tourists.

7. Aviation Education and Workforce Development: Kissimmee Gateway Airport is home to various aviation schools and training centers. An advisory board could collaborate with these institutions to support aviation education, workforce development programs, and internships. These efforts would ensure the local workforce benefits from the growing aviation industry, helping the community to create new job opportunities and build careers in aviation.

8. Strategic Planning for Future Growth: As air travel and the aviation industry continue to expand, the advisory board can assist in developing a long-term vision for the airport. The board could work with airport management, city officials, and industry experts to ensure that any future development is sustainable, beneficial to the community, and in line with the city's overall strategic goals.

9. Conflict Resolution: With an advisory board in place, conflicts between the airport and the local community could be resolved more efficiently. The board would serve as a mediator and platform for airing concerns before they escalate into larger issues, fostering better communication between the airport management and the public.

10. Better Infrastructure Planning: The advisory board would provide critical input on infrastructure development related to the airport, such as traffic management, public transportation connections, and road improvements. This would help ensure that the airport integrates smoothly with Kissimmee's broader urban development plans.

Conclusion: We believe the creation of an Airport Advisory Board is a crucial step in ensuring the long-term success, growth, and sustainability of Kissimmee Gateway Airport. By establishing this board, we can strengthen community involvement, promote economic growth, and improve the quality of life for residents while positioning Kissimmee as a key player in the aviation and tourism sectors.

 Support now

that Kissimmee Gateway Airport serves both the needs of our local community and the broader goals of our city’s economic and social development.

Report a policy violation



Shushil Devnani

Petition Starter

Media inquiries

The Decision Makers



Angela Eady

Kissimmee City Commission - Seat 2

No response (notified 46 days ago)

Are you Angela Eady? Respond now

Email decision maker



Janette Martinez

Kissimmee City Commission - Seat 4

No response (notified 46 days ago)

Are you Janette Martinez? Respond now

Support now

<u>No</u>	<u>Name</u>	<u>City</u>	<u>State</u>	<u>Postal Code</u>	<u>Country</u>	<u>Signed On</u>
1	Shushil Devnani				United States	11/1/2024
2	James Barnett	Kissimmee	FL	34741	United States	11/1/2024
3	Wade Choate	Kissimmee	FL	34744	United States	11/1/2024
4	Orleans Mathurin	Kissimmee	FL	34741	United States	11/1/2024
5	Ani Taddeo	Punta Gorda	FL	33950	United States	11/1/2024
6	Kurt Anderson	Mocksville	NC	27028	United States	11/1/2024
7	Gerald Morgan	Fort Worth	TX	76123	United States	11/1/2024
8	David Mead David Mead	Kissimmee	FL	34744	United States	11/1/2024
9	Hunter Scilex	Millersville	MD	21108	United States	11/1/2024
10	Mathew Haughey	Kissimmee	FL	34747	United States	11/1/2024
11	Jesus Cancio	Fort Lauderdale	FL	33314	United States	11/1/2024
12	Tony Dye	Riverview	FL	33579	United States	11/2/2024
13	Christine Giovanniello	Jupiter	FL	33458	United States	11/2/2024
14	Ralphie Beam	Cumberland	MD	21502	United States	11/2/2024
15	Dennis Weatherald	Wawota		S0G5A0	Canada	11/3/2024
16	Noah Nishite	Austin	TX	78704	United States	11/3/2024
17	Bradley Patterson	Tampa	FL	33647	United States	11/3/2024
18	Kloee grizzel	Louisville	KY	40219	United States	11/4/2024
19	Ronnie Creel	Kissimmee	FL	34741	United States	11/4/2024
20	Jamie Harris	Orlando	FL	32801	United States	11/4/2024
21	Darryl Alexis	Orlando	FL	32808	United States	11/4/2024
22	Jolene Sheive	Kissimmee	FL	34744	United States	11/4/2024
23	Clifford Clover	Saint Cloud	FL	34772	United States	11/4/2024
24	amanda alan	Myrtle Beach	SC	29588	United States	11/4/2024
25	Guscardy Cardona	Orlando	FL	32822	United States	11/4/2024
26	Charles Kalil	Orlando	FL	32839	United States	11/4/2024
27	Jack Banas	Winter Garden	FL	34787	United States	11/4/2024
28	Savion Kirby	Orlando	FL	32837	United States	11/4/2024
29	Joe Douglas	Saint Cloud	FL	34769	United States	11/4/2024
30	Javier Buitrago	Windermere	FL	34786	United States	11/4/2024
31	Cole Maguire	Orlando	FL	32824	United States	11/4/2024
32	Jonathan Vargas Diaz	Kissimmee	FL	34744	United States	11/4/2024
33	Troy Techau	Kissimmee	FL	34744	United States	11/4/2024

34	Chad Ward	Kissimmee	FL	34743	United States	11/4/2024
35	Michael Grecol	Winter Garden	FL	34787	United States	11/4/2024
36	Vivek Malik	Quincy	MA	2169	United States	11/4/2024
37	Jesse Coyle	Orlando	FL	32808	United States	11/4/2024
38	Emily Bronzatti	Miami	FL	33126	United States	11/4/2024
39	John Foster	Port Orange	FL	32128	United States	11/4/2024
40	Kenneth Franques	Winter Springs	FL	32708	United States	11/4/2024
41	Michael Harrell	St. Cloud	FL	34772	United States	11/4/2024
42	Peter Blocki	Orlando	FL	32828	United States	11/4/2024
43	Austin Mata	Winter Garden	FL	34787	United States	11/4/2024
44	James Harper	Louisville	KY	40219	United States	11/4/2024
45	Warren Arel	Hillsboro	OR	97124	United States	11/4/2024
46	Randy Sheive	St. Cloud	FL	34769	United States	11/4/2024
47	Arnaldo Impelizeri	Nashville	TN	37203	United States	11/4/2024
48	Shawn Knickerbocker	Clermont	FL	34714	United States	11/4/2024
49	carlo corriolant	Orlando	FL	32818	United States	11/4/2024
50	John Fiandola	Winter Park	FL	32787	United States	11/4/2024
51	Tyler Dillon	Orlando	FL	32828	United States	11/4/2024
52	Christopher Fesler	Davenport	FL	33837	United States	11/4/2024
53	Phillip Sill	Spartanburg	SC	29301	United States	11/4/2024
54	Michaela Satter	Ninety Six	SC	29666	United States	11/4/2024
55	Marc Lafo	Kissimmee	FL	34745	United States	11/4/2024
56	Patrick Barrett	Saint Cloud	FL	34772	United States	11/4/2024
57	Charles Chuma	Saint Cloud	FL	34772	United States	11/4/2024
58	Rafael Garcia	Kissimmee	FL	34741	United States	11/4/2024
59	Rick martin	Merritt Island	FL	32952	United States	11/4/2024
60	Morvan Perez	Orlando	FL	32837	United States	11/4/2024
61	Stephen Hunter	Cocoa	FL	32926	United States	11/4/2024
62	Luis Ramos	St. Cloud	FL	34769	United States	11/4/2024
63	Luis Rivera	St. Cloud	FL	34772	United States	11/4/2024
64	Ashtyn Rivera	Kissimmee	FL	34745	United States	11/4/2024
65	Michael Mileham	Orlando	FL	32801	United States	11/4/2024
66	Lukas Dudek	St. Cloud	FL	34769	United States	11/4/2024
67	David Gornto	St. Cloud	FL	34769	United States	11/4/2024

68	Daniel Rucci	St. Cloud	FL	34772	United States	11/4/2024
69	Sham Dudek	St. Cloud	FL	34769	United States	11/4/2024
70	Guy Wentzel	Davenport	FL	33837	United States	11/4/2024
71	Ana Dudek	St. Cloud	FL	34769	United States	11/4/2024
72	Sean Sweeney Jr	Kissimmee	FL	34747	United States	11/4/2024
73	Donna Maier	Orlando	FL	32837	United States	11/4/2024
74	Reinhold Matay	Hutchinson Island	FL	34949	United States	11/4/2024
75	Olivia Kline	Kissimmee	FL	34744	United States	11/4/2024
76	Hal Levine	Orlando	FL	32837	United States	11/4/2024
77	Jeffery Hall	Orlando	FL	32801	United States	11/4/2024
78	Toya Clay	Atlanta	GA	30301	United States	11/4/2024
79	Christopher Zayac	Dallas	TX	75270	United States	11/4/2024
80	Jordan Agnant	Lake Buena Vista	FL	32821	United States	11/4/2024
81	Dennis Sharp	St. Cloud	FL	34771	United States	11/4/2024
82	Tristan Joy	St. Cloud	FL	34769	United States	11/4/2024
83	Isaac Soro	St. Cloud	FL	34769	United States	11/4/2024
84	Devon Carrillo	St. Cloud	FL	34769	United States	11/4/2024
85	LC Johnson Jr	St. Cloud	FL	34771	United States	11/4/2024
86	Susie Rogers	St Cloud	FL	34772	United States	11/4/2024
87	Angela Dibely	Cocoa	FL	32926	United States	11/4/2024
88	Mark Lary	Orlando	FL	32807	United States	11/4/2024
89	John Boutelier	St. Cloud	FL	34772	United States	11/5/2024
90	Niko Dudek	St. Cloud	FL	34772	United States	11/5/2024
91	Kuba Dudek	St. Cloud	FL	34772	United States	11/5/2024
92	Dustin Hindle	Tampa	FL	33607	United States	11/5/2024
93	Donald Frano	Kissimmee	FL	34744	United States	11/5/2024
94	Terry Howell	Hollywood	FL	33029	United States	11/5/2024
95	Faz Shaw	St. Cloud	FL	34771	United States	11/5/2024
96	Juan Torres	Kissimmee	FL	34743	United States	11/5/2024
97	Marlita Fullerton	Orlando	FL	32808	United States	11/5/2024
98	Alberto Perez	St. Cloud	FL	34772	United States	11/5/2024
99	Freddy Antolinez	Miami	FL	33186	United States	11/5/2024
100	Robert Brown	DeLand	FL	32720	United States	11/5/2024
101	Chris Brown	Kissimmee	FL	34744	United States	11/5/2024

102	Jeff Snow	Saint Cloud	FL	34769	United States	11/5/2024
103	Matthew Skundrich	St. Cloud	FL	34772	United States	11/5/2024
104	Javier Buitrago	Windermere	FL	34786	United States	11/6/2024
105	Jose Santini	Heathrow	FL	32746	United States	11/6/2024
106	David Maury	Winter Garden	FL	34787	United States	11/6/2024
107	Scott Locke	St. Cloud	FL	34772	United States	11/6/2024
108	mark miller	St. Cloud	FL	34771	United States	11/6/2024
109	David Vignola	St. Cloud	FL	34769	United States	11/6/2024
110	Yasmine Horton	Bessemer	AL	35020	United States	11/6/2024
111	Tracey Bagby	Whiteman Air Force Base		65305	United States	11/6/2024
112	WAEI Yacoub	Sanford	FL	32773	United States	11/7/2024
113	Jddjd Kaskk	Harlingen	TX	78550	United States	11/7/2024
114	Luis Rodriguez	St. Cloud	FL	34769	United States	11/7/2024
115	Lorena Quinonez	El Monte	CA	91732	United States	11/7/2024
116	Marlene Oscideth Benitez Mundo	Denton	TX	76207	United States	11/7/2024
117	Ashley Mercado	Fort Lauderdale	FL	33317	United States	11/8/2024
118	Mercedes Carrillo	Boulder	CO	80310	United States	11/8/2024
119	Yury Sánchez	Fresno	CA	93722	United States	11/8/2024
120	Erin Manley	Valparaiso	IN	46385	United States	11/8/2024
121	Sterling Welch	Orlando	FL	32801	United States	11/8/2024
122	Milagros Sarria	Salt Lake City	UT	84115	United States	11/9/2024
123	Joa Flo	Orlando	FL	32811	United States	11/9/2024
124	Shaneal Middleton	Spartanburg	SC	29303	United States	11/9/2024
125	Steve Fish	Chicago	IL	60614	United States	11/10/2024
126	Gordon Poston	Kingstree	SC	29556	United States	11/10/2024
127	Benyamin Baluchi	Nishabur	AL	Benyamin7680	United States	11/10/2024
128	Maria Estrada	Eugene	OR	97402	United States	11/10/2024
129	Rita Toledo	Sacramento	CA	95841	United States	11/11/2024
130	chris chaplin	New York	NY	10003	United States	11/11/2024
131	Larry Gaunt	St cloud	FL	34772	United States	11/11/2024
132	Hassan Paria				United States	11/12/2024
133	Rochelle Douglas-Holt	St. Louis	MO	63143	United States	11/12/2024
134	Larry Schneider	Kissimmee	FL	34744	United States	11/12/2024
135	lyle boggs	Orlando	FL	32809	United States	11/12/2024

136	Ashley Boggs	St. Cloud	FL	34772	United States	11/12/2024
137	Sandra Schneider	Saint Cloud	FL	34772	United States	11/12/2024
138	Kymber Schneider	Orlando	FL	32801	United States	11/12/2024
139	Larry Wall	St. Cloud	FL	34772	United States	11/13/2024
140	Jessica Wall	St. Cloud	FL	34772	United States	11/13/2024
141	Susan Gonzalez	Miami	FL	33161	United States	11/13/2024
142	Sam Ferance	Mount Vernon	OH	43050	United States	11/13/2024
143	Angela Colarusso	Tewksbury		1876	United States	11/13/2024
144	Arely Gutierrez	Downey	CA	90240	United States	11/14/2024
145	Lilia Mejis	Miami	FL	33147	United States	11/15/2024
146	Dan Zhang	Queens	NY	11367	United States	11/15/2024
147	Sofia Vasquez	Wilmington	NC	28409	United States	11/16/2024
148	Austin Robinson	Kissimmee	FL	34758	United States	11/16/2024
149	George Gravelle	St. Cloud	FL	34772	United States	11/16/2024
150	Nicholas Monitto	Kissimmee	FL	34744	United States	11/17/2024
151	Austin Ward	Corvallis	OR	97330	United States	11/17/2024
152	Mathew Hines	Wilmington	NC	28412	United States	11/17/2024
153	Ahmad Saeed	Reston	VA	20190	United States	11/17/2024
154	Doctor B		AR		United States	11/17/2024
155	Alicia Alvarez Polo	Miami	FL	33197	United States	11/17/2024
156	Addison Iacono				United States	11/17/2024
157	Elionay Betancourt	Kissimmee	FL	34746	United States	11/19/2024
158	Arianne Hernandez	Orlando	FL	32821	United States	11/19/2024
159	Andy Mayor	Clifton	NJ	7014	United States	11/19/2024
160	Lorenzo Guice	Troy	AL	36079	United States	11/21/2024
161	jaime campora	Palm Bay	FL	32908	United States	11/21/2024
162	Rositere Martinez	Pacoima	CA	91331	United States	11/22/2024
163	Dominick Brouse	Dearborn	MI	48126	United States	11/22/2024
164	Christel Blackburn	Davenport	FL	33837	United States	11/22/2024
165	Raquel Torres	Orlando	FL	32810	United States	11/22/2024
166	Deborah Wallace	Medford	OR	97504	United States	11/22/2024
167	Tam Tan	Altamonte Springs	FL	32714	United States	11/23/2024
168	Odris Mejia	Winter Garden		34787	United States	11/24/2024
169	angelique walker	Orlando	FL	32822	United States	11/24/2024

170	Allan Baluyot	San Ysidro	CA	92173	United States	11/24/2024
171	ahsan raza	Fremont	CA	94536	United States	11/25/2024
172	Hugh Keleher	Corning	NY	14830	United States	11/25/2024
173	Nancy Reed	Winter Springs	FL	32708	United States	11/25/2024
174	Emmanuel Iarraga	Marietta	GA	30060	United States	11/26/2024
175	Yamill Del Rio	Frostproof	FL	33843	United States	11/27/2024
176	Anthony Contino	Lady Lake	FL	32159	United States	11/27/2024
177	Heavenly Griffin	Columbus	OH	43230	United States	11/27/2024
178	beth Pizzo	Melbourne	FL	32940	United States	11/28/2024
179	frankie thristino	robkonkoma	NY	11779	United States	11/28/2024
180	Dennis DeSouza	Merritt Island	FL	32952	United States	11/29/2024
181	Brandon Spahn	Kissimmee	FL	34747	United States	11/29/2024
182	Brandon Corry	Orlando	FL	32811	United States	11/29/2024
183	Scarlett White	Clyo	FL	32822	United States	11/29/2024
184	david.ponce10@icloud.com Uriel david ponce	Indianapolis	IN	46239	United States	11/30/2024
185	Skyelynn May				United States	12/1/2024
186	Connor Malito	Melbourne	LA	32901	United States	12/1/2024
187	Lee Walker				United States	12/2/2024
188	Tracy Giordano	Bend	OR	97702	United States	12/3/2024
189	Derek Hill	Orlando	FL	32817	United States	12/3/2024
190	Jen K	Scottsdale	AZ	85257	United States	12/4/2024
191	collin wolff	chico	CA	95988	United States	12/4/2024
192	Victor Cabrales	Kissimmee	FL	34741	United States	12/4/2024
193	Amanda Kazawic	Orlando	FL	32835	United States	12/4/2024
194	Peggy J Gourley	New Port Richey	FL	34655	United States	12/4/2024
195	Alana Preziosi	Swedesboro	NJ	8085	United States	12/5/2024
196	Roger Winston	Berkeley	CA	94705	United States	12/6/2024
197	Ian Hendrik	Rockford	MI	49341	United States	12/6/2024
198	Plane Plane				Romania	12/6/2024
199	David Cloud	St. Cloud	FL	34769	United States	12/7/2024
200	Gregory Stemn				United States	12/7/2024
201	Erik Melear	Orlando	FL	32806-1750	United States	12/8/2024
202	Peter Coggeshall	Kissimmee	FL	34747	United States	12/9/2024
203	Emma Gosden	Winter Garden	FL		United States	12/10/2024

204	Ksthy Banahan	Melrose Park	IL	60164	United States	12/11/2024
205	Jon Arguello	Kissimmee	FL	34741	United States	12/11/2024
206	Peggy Cox	Kissimmee	FL	34747	United States	12/11/2024
207	Coralys Perez	Orlando	FL	32839	United States	12/12/2024
208	Maranda Coyle	Lakeland	FL	33801	United States	12/12/2024
209	Kathryn True	Winter Haven	FL	33884	United States	12/12/2024
210	Lyneé Nieves	Jonesboro	GA	30238	United States	12/12/2024
211	Jacob Soto	Eustis	FL	32726	United States	12/13/2024
212	Lester mcneely	harmony	FL	34773	United States	12/14/2024
213	Randy Zubiate	Whittier	CA	90604	United States	12/14/2024
214	Cyd Musni	Orlando	FL	32818	United States	12/14/2024
215	Teleri Tory	Orlando	FL	32808	United States	12/15/2024
216	Cristal Clark				United States	12/15/2024
217	Rose Bray	Merritt Island	FL	32953	United States	12/15/2024
218	Heather Isaac	Vista		92084	United States	12/16/2024
219	Tequon Avery				United States	12/16/2024
220	Claire Wolf	Saint Cloud	FL	34769	United States	12/16/2024
221	Ayvian Lane	Winter Haven	FL	33881	United States	12/16/2024
222	Claire Wolf	St. Cloud	FL	34772	United States	12/17/2024
223	Lynda Roth	Kissimmee	FL	34741	United States	12/17/2024
224	Hunter Andrews	Punta gorda	FL	33982	United States	12/17/2024

ITEM 7.B

Design Services for Lakeside Fire Station & Community Center

Request

Approval of the civil design services agreement (Contract #20250108) with KPM Franklin for the City of Kissimmee Fire Station Lakeside and the Lakeside Community Center in the amount of \$130,800.00. The funds are budgeted and available in the Bond Fund.

Explanation

The City of Kissimmee has engaged professional civil design services for the development of a new fire station and a Lakeside Community Center at Mark Durbin Park in the Lakeside Community.

The project includes a three-bay fire station based on the City's prototype design, specifically planned to enhance the fire department's operational efficiency and response capabilities. This station will provide critical services, such as structural firefighting and emergency medical services (EMS), ensuring the safety and well-being of the surrounding area.

The Lakeside Community Center will serve as a versatile and welcoming space for the local community, offering opportunities for recreation, educational programs, and social gatherings. Together, these facilities aim to improve the quality of life for residents while addressing both safety and social needs within the community.

KPM Franklin, a continuing service contractor selected through RFQ2023-006, will collaborate with the design group. The Public Works & Engineering department will act as the Owner's Representative throughout the design and construction phases, ensuring effective oversight and coordination of the project.

This project is being funded by Bond Series 2024A.

Recommendation

Approval of the civil design services agreement with KPM Franklin for the City of Kissimmee Fire Station Lakeside and the Lakeside Community Center project for \$130,800.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Lakeside Fire Station & Community Center Proposal
2. KPM Franklin Continuing Services Executed Copy

September 16, 2024

PROJECT #24-0267.MKT

R.J. Littlefield, Construction Project Manager
City of Kissimmee
101 Church Street
Kissimmee, FL 34741

**Subject: Durbin Park Fire Station
Proposal for Professional Services**

Dear Mr. Littlefield:

KPM Franklin (KPMF) is pleased to provide the City of Kissimmee (the Client) the following proposal for professional services related to the Durbin Park Fire Station project. Our services are detailed in the project understanding and scope of services described below.

Project Understanding

KPMF understands that the Client seeks to develop the property located at 2253 Lakeside Drive, Kissimmee FL 34743 with Osceola County PID: 18-25-30-1899-0001-0152 into a fire station with a new community center and gymnasium. The project site is comprised of approximately 9.14 acres with a current zoning classification of mixed use planned development (MUPUD) and future zoning classification of Recreation (REC). KPMF will work with the Client and the City of Kissimmee to confirm that the use of a fire station will not present any zoning complications.

KPMF understands the retention pond to the south of the site is owned by the HOA and if necessary, the baseball field can be utilized for drainage. It is assumed gravity sanitary sewer is in the vicinity of this site. Onsite Lift Station design is excluded. KPMF also understands the City of Kissimmee will likely assume responsibility/ownership of the two access roads to the north and south from the school board. The northern road will need to be widened to accommodate a fire lane through the center along with additional reinforcements for both access roads.

It is also understood that the level of design and plan production shall be a complete set of plans and details, sufficient for permitting and construction. Plans will be prepared over survey information being provided within this proposal. KPMF understands that other required professional services, including, but not limited to, geotechnical, architecture, traffic engineering, site lighting, and environmental shall be provided by others.

Scope of Services

KPMF has developed the following task-oriented scope of services based on our understanding of the project's design phase submittal process.

Task 1: Survey and Mapping Services

Boundary Survey: KPMF shall provide a Boundary Survey for the above referenced project along with the following tasks and clarifications:

- A Boundary Survey will be conducted for Osceola County PID: 18-25-30-1899-0001-0152
 - Once a sufficient amount of monumentation and other evidence is located, a series of measurements will be performed and compared to the recorded descriptions of the parcel.

- After the determination of the boundary location, KPM Franklin will set missing monumentation to convey the limits of the parcel boundary. This will also include the location of setting of property corners, block corners, or right-of-way corners (monumentation) where applicable.
- KPMF survey department will additionally provide legal descriptions (recorded or written based on the surveyor's discretion) for the subject parcel.

Topographic Survey: KPMF shall provide a Topographic Survey for the above referenced project along with the following tasks and clarifications:

- The Topographic Survey will be conducted within the provided limits with recorded data, in sufficient density, to develop a DTM (Digital Terrain Model) of the project.
- The topographic survey shall include: The location, dimensions, and material (as appropriate) of physical improvements within the project limits including concrete, pavement, driveways, utilities, drainage structures & pipes, walls, fences, signs, and buildings.
- Ground elevations are to be obtained at a 25-50 feet interval grid within the project limits to include uplands and wetland areas.
- Roadways will be located from the adjacent edge of pavement to the right-of-way.
- A 15-25 feet interval grid will be utilized on the center of curb, sidewalk, and edge of paving.
- Additional ground elevations will be located when determined necessary.
- Additional topographic locations will be obtained 30 feet beyond the survey limits.
- Visible aboveground utility locations will be acquired from field observations.
- Drainage and Sanitary Sewer Inverts will be located and pipe size with direction determined with flow.
- No other underground utilities will be located.
- Trees are to be located and identified by species and size at the breast height diameter (BHD).
 - Trees with a BHD of 4" and greater are to be located.

Survey Project Standards and Requirements

This project will adhere to the following standards and requirements:

- "Standards of Practice" set forth by the state of Florida, Department of Agriculture, defined in chapter 5j-17 of the Florida administrative code, pursuant to Section 472.027, Florida Statutes.
- This survey will be conducted in "Florida State Plane Coordinates", North American Datum (NAD) 83 with the 2011 adjustment (NAD 83/2011 adj).
- This Survey will also be conducted in North America Vertical Datum (NAVD 88).

Task 2: Conceptual Engineering and Pre-Application Meeting

KPMF will prepare a site plan for the Client to perform conceptual engineering and site planning for the proposed project. In accordance with our project understanding and local government entity design requirements, the site plan document deliverable will include the following.

- Conceptual site layout plan that will show existing information such as property boundaries, public rights-of-way and roads and proposed information, including the buildings, driveway connections, drive aisles, parking and sidewalks
- Conceptual location of primary stormwater pond, secondary stormwater collection and conveyance system and rough grading
- Conceptual water and sewer connections and routings

KPMF will schedule and attend one (1) pre-application meeting with **Toho Water Authority (TWA) and City of Kissimmee** to discuss the proposed project improvements to gain a better understanding of the permitting requirements and to validate assumptions of the required improvements and necessary permitting. We will include the Concept Plan in the pre-application request.

Documents will be submitted to the Client at 75% and 100% completion. Along with the work and submittals performed in this task, KPMF will attend one review meeting via Teleconference lasting up to one hour.

Task 3: Civil Engineering Design and Construction Documents

KPMF will produce permit and civil engineering design plans for site improvements in one set of construction-ready documents. In accordance with our project understanding and applicable design requirements, the construction documents will include the following.

- **Cover Sheet** – as dictated by local practice
- **Civil General Notes** – for civil work only, as dictated by local practice
- **Existing Conditions and Demolition Plan** – will include removal of any existing visible above ground features and any existing known below ground features to accommodate new construction based on survey
- **Erosion Control Plan** – will include pertinent drainage and erosion/sediment control information for the construction of the project
- **Overall Site Plan** – will include an overall plan showing proposed buildings, sidewalks, access and parking. Site data and parking requirements will be noted on this plan
- **Geometry Site Plan** – will include proposed site conditions with horizontal control of proposed parking, drive aisles, sidewalks, hardscape and other site improvements; signing and striping will be for traffic movement only; monument signage, directories and architectural signs, as designed by others, can be shown for coordination purposes; areas of differing pavement and hardscape, as designed by others, will also be delineated on this plan; the plan will include information sufficient for construction staking; decorative hardscape or paving design or specification is not included in this scope
- **Paving, Grading and Drainage Plan** – will include storm drainage structure and pipe alignments and sizes, site grading (with key spot elevations) and any additional finished ground surface elevations showing the means to control site runoff and conveyance to the master stormwater management system; any special conditions pertaining to site drainage (e.g., sheet flow, curb and gutter, storm sewer, inlet types) will be conveyed to our office prior to start of design; means of structure drainage must be indicated prior to design (e.g., roof drains to piping or ground); the Client will provide conceptual grading of amenities which will be incorporated into the final design
- **Utility Plan** – will include sewer and water services from the points of connection to within five feet of each building including size, location, dimensions, inverts (sanitary only) and sanitary sewer structures (manholes, inverts, types, etc.); connection points for the building fire sprinkler system and all on-site fire hydrant locations; location and size of all building water and sewer connection points will be furnished by the Client prior to start of design. The data fiber will be brought to the building by KUA and KPMF will coordinate with AOR to include the details within the plan sheet
- **Civil Site Construction Details** – will consist of typical and specific site sections as well as site development details typical for the City for items specified on the plans provided under this task
- **Site Lighting Plan** – will incorporate lighting locations into the site plan for coordination purposes, photometric and lighting design by others. It is understood that KUA will install the pole lighting onsite.

Documents will be submitted to the Client at 30% to support the CMAR advertisement and 90% completion for a formal review prior to submitting to the permitting agencies detailed in Task #5.

Task 4: Code Minimum Landscape and Irrigation Design

KPMF will use existing landscape and irrigation to produce permit and construction ready landscape and irrigation documents in accordance with the Land Development Code and our project understanding and applicable design requirements. The deliverable documents will include the following.

- **Landscape Plan** – will consist of code minimum landscape architectural design plan utilizing the site base prepared by the engineer showing the landscape island locations, parking configuration, etc.
- **Irrigation Plan** – will consist of irrigation design based on the landscape plan
- **Landscape and Irrigation Details** - will consist of landscape and irrigation details typical for Florida and projects within the City, the County and items specified on the plans provided under this task

KPMF will hire and manage an irrigation designer as a subconsultant under this contract to perform Irrigation Design. Irrigation Design will commence after the Client reviews and approves landscape plan. All work to be performed will be drawn in AutoCAD black and white, color renderings are not included. Documents will be submitted to the Client at 30% to support the CMAR advertisement and 90% completion for a formal review prior to submitting to the permitting agencies detailed in Task #5.

Task 5: Permitting Assistance

KPMF will assist the Client in obtaining required approvals to perform construction in accordance with the construction documents. KPMF will advise the Client of any government-forced changes resulting in modifications to the scope, extent or character of the project. Any government-forced changes in the scope of work will be considered additional services. All permitting fees will be the responsibility of the Client.

KPMF will prepare, submit and respond to one request for additional information (RAI), exclusive of significant redesign beyond the control of KPMF, for the following permits.

- **City of Kissimmee Site Plan Approval** – will submit application and construction documents to the City for their review; KPMF will make modifications in accordance with City comments and provide revised documents for final review and approval; KPMF will also provide response to comments to incorporate in their resubmittal documents; KPMF assumes attending up to one informal meeting with staff and two (2) DRC meetings; public hearings are not required for this process
- **South Florida Water Management District (SFWMD) Modification of an Existing Environmental Resource Permit 49-00462-S** – will submit application, development plans, stormwater reports and supporting documents for coordinating with the district and the city to obtain approval
- **Toho Water Authority** - will submit application and construction documents to TWA for their review; KPMF will make modifications in accordance with TWA comments and provide revised documents for final review and approval; KPMF will also provide response to comments to incorporate in their resubmittal documents
- **Florida Department of Environmental Protection Potable Water and Wastewater Permit (FDEP)**– FDEP permit is expected for the utility relocations for water and wastewater based on the locations of existing utilities and the location of the proposed building; KPMF will make modifications in accordance with FDEP comments and provide revised documents for final review and approval; KPMF will also provide response to comments to incorporate in their resubmittal documents

Task 6: Project Management and Coordination

KPMF will coordinate and work with subconsultants, the Client and the Client's consultants to facilitate the project design, preparation of construction documents and permitting assistance. KPMF will participate in team meetings and conference calls as the budget allows. This task includes time for overall project management, scheduling and subconsultant coordination. This task also includes quality assurance reviews to ensure consistency amongst the plan elements, ensuring project schedule deadlines are met and assuring effective communication with the Client and the project's team members. For budgeting purposes, KPMF has estimated **48 hours** for this task over a **6-month** design and permitting schedule. Should expenses for this work exceed the estimated amount, the Client will be notified, and the limit increased.

Task 7: Construction Administration

The scope of this task is to provide construction phase services, including construction administration, observations, and closeout. It is assumed that the project will be constructed and closed out in a single phase, and the construction duration of twelve (12) months.

Construction Administration

KPMF will coordinate with the Client and contractor during construction of the project and be available on request up to the indicated fee limits to address construction issues when they arise, provide reasonable minor revisions to documents, and make and perform site visits during the construction phase at the discretion of the Client.

To assist the Client, KPMF will perform the following construction administration services:

- Attend one (1) pre-construction meeting with the City of Kissimmee and one (1) pre-construction meeting with TWA, coordinated by the Client, to clarify issues as necessary and assist with project kick-off and scheduling.
- Conduct shop drawing reviews associated with the submittal requirements of the specifications prepared by KPMF. We have included one review and one re-review for each shop drawing submittal. The second re-review of rejected shop drawings will be Additional Services.
- Miscellaneous coordination with Contract and Client.
- Review all site work and geotechnical testing and inspection reports provided by an independent testing and inspection agency (contracted by Client). KPMF shall notify the Client in case of any noted deficiencies or improper materials varying from the drawings and specifications prescribed within the construction documents associated with the civil/site design.
- Review written RFIs issued by the Contractor. Addenda required by a need for construction document clarification to our scope of services will be completed under this task. If Site Plan revisions are required after Construction Document completion and Client approval resulting from any change in site condition or revision to plans by the Client, reviewing agency, contractor or co-consultant, such revisions will be prepared as additional services.
- Prepare a punch list at the completion of construction and participate in a final punch list review with the Client. Once all punch list items have been addressed to the Client's and KPMF's satisfaction, we shall issue certifications for all items covered in this scope of services.

Construction Observations

A condition of the permits will require that prior to acceptance; the agencies must receive an engineer's certification that construction has been completed in substantial compliance with the approved plans with supporting record drawings. KPMF can provide these certifications and record drawings; however, in order to submit this certification, it may necessary that representatives of KPMF be present during certain critical

periods of the construction process, and that the contractor provide a certified as-built survey. KPMF assumes up to six (6) site visits during construction.

If there are unanticipated construction related problems or a requirement to re-test any facilities, the fee related to that effort would be handled as Additional Services. This proposal assumes certifying the project in one phase. If the project is to be certified in multiple phases, then additional services will be required.

Construction Closeout

This task is for preparing record drawings for submittal to the City, WMD and FDEP. KPMF will coordinate with the contractor to prepare as-builts and record drawings as required by the regulating agencies. The contractor shall be responsible for becoming familiar with the permitting entity requirements for record drawings and provide KPMF with the required information. KPMF will review as-built drawings as submitted by the Contractor for completeness. Upon completion, the Contractor shall provide the Client and KPMF with the electronic documentation in AutoCAD format along with the necessary copies of the as-built drawings signed and sealed by a registered surveyor. KPMF will then use the as-built information to prepare record drawings. Finally, KPMF will submit the as-builts and record drawings with letters and forms certifying completion to the above-mentioned permitting entities.

This task will be billed hourly on a time and materials basis towards the following budget:

Construction Administration	65 hours
Construction Observations	30 hours
Construction Closeout	15 hours
Total	110 hours at \$150/hour average rate

Should expense for this work effort exceed the estimated amount, the Client will be notified, and the limit adjusted.

Task 8: Direct Reimbursables Agreement

A fee will be allocated to cover direct expenses and production costs, which will be billed at cost. Direct expenses under this task include but are not limited to duplication of plans and reports and travel mileage. Should expense for this work effort exceed the estimated amount, the Client will be notified, and the limit increased. Permit fees are not included.

Subconsultant Tasks

Terracon Consultants, Inc

Terracon, a sub-consultant of KPMF, will provide geotechnical exploration services described in the attached proposal revised August 1, 2024.

Qualifications and Exclusions

If the Client desires to change or expand upon these services, an additional fee shall be negotiated. This renegotiation shall be accomplished prior to further work on the project. Renegotiation may be required, but not limited to the following reasons:

- Client requested revisions to the project after start of design
- Additional design, permitting or meetings beyond those specifically addressed
- Additional survey, platting or easements

Exhibit A – Standard Agreement Provisions

SECTION 1. PERIOD OF SERVICE

- 1.1 The CONSULTANT will begin work within ten (10) days after receipt of fully executed copy of this Agreement; receipt shall be considered written notice to proceed.
- 1.2 If the CONSULTANT'S services called for under the Agreement are delayed for reasons beyond the control of the CONSULTANT, the time of performance shall be adjusted accordingly. If the services under this Agreement continue for a period of more than one (1) year from the notice to proceed, the CONSULTANT shall be entitled to renegotiate the terms of this Agreement.
- 1.3 The CONSULTANT shall not be bound under this Agreement if a fully executed copy hereof is not received by the CONSULTANT on or before sixty (60) days from the date of execution by the CONSULTANT.

SECTION 2. METHOD OF PAYMENT

- 2.1 If requested, the CLIENT shall make an initial payment (**retainer**), as stated in the Work Authorization/Proposal Acceptance Form upon the execution of this Agreement. Upon receipt of the retainer payment, the CONSULTANT shall commence services as provided for under this Agreement. The retainer shall be applied against the final invoice.
- 2.2 Invoices will be submitted by the CONSULTANT to the CLIENT as each Phase or Task of the Project is completed, for services and expenses incurred pursuant to this Agreement. Payment of each such Invoice will be due within fifteen (15) days of the Invoice date. Invoices not paid within thirty (30) days of invoice date will be subject to interest of 1.5% per month (18% per annum).
- 2.3 In the event of any dispute concerning the accuracy of any Invoice, the CLIENT shall within seven (7) days of receipt of said invoice, notify the CONSULTANT in writing stating the exact nature and amount of the dispute. Any invoice, which is not questioned within seven (7) days, shall be deemed due and payable. In the event an invoice or portion of an invoice is disputed within seven (7) days, the CLIENT shall be obligated to pay the *undisputed* portion of the invoice.
- 2.4 If the CLIENT fails to make any payment due the CONSULTANT for services and expenses within forty (40) days after the CONSULTANT'S transmittal of its invoices, the CONSULTANT may, after giving seven (7) days written notice to the CLIENT, apply the retainer to the unpaid balance of the account and suspend services under this Agreement until the account has been paid in full. There will be a fee charged for suspended work and the Agreement will be renegotiated prior to resuming work.
- 2.5 In the event any invoice or any portion thereof remains unpaid for more than sixty (60) days following the invoice date, the CONSULTANT may initiate legal proceedings to collect the monies due and recover, in addition to all amounts due and payable, accrued interest, its reasonable attorney's fees and other expenses related to the proceeding. Such expense shall include but shall not be limited to, the reasonable value, determined at the CONSULTANT'S prevailing billing rates for the time devoted to such collection action.
- 2.6 Consultant will not sign or seal any drawings produced for any phase of this project under the terms of this agreement until all invoices billed to that point in the project have been paid in full.

SECTION 3. REIMBURSABLE EXPENSES

- 3.1 CONSULTANT shall be reimbursed for out-of-pocket expenses directly chargeable to the project. Typical reimbursable expenses include travel, lodging, and meals when traveling on the CLIENT'S behalf, communication expenses, reproduction costs, courier charges, overnight shipments and special accounting expenses.

SECTION 4. ADDITIONAL SERVICES

- 4.1 The CONSULTANT'S professional services extend only to those services described in this

Agreement. If the CLIENT so requests in writing the CONSULTANT agrees to perform additional services at the CONSULTANT'S prevailing hourly fee schedule (see attached Hourly Rate Schedule), plus any reimbursable expenses incurred, unless a lump sum addendum to the Agreement is executed by the parties of this Agreement prior to the additional services being provided.

- 4.2 Additional services shall include revisions to work previously performed that are required because of change in data or information furnished to the CONSULTANT, or change in the scope or concept of the project initiated by CLIENT, or government or regulatory agencies after work under this Agreement has commenced.

SECTION 5. RE-USE OF DOCUMENTS

- 5.1 All reports, surveys, drawings, specifications, computer files, construction documents and instruments prepared by the CONSULTANT shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other reserved rights, including the copyright thereto.
- 5.2 The CLIENT may, at his expense, acquire a set of reproducible copies of maps, plans or CADD (electronic) files prepared for the CLIENT by the CONSULTANT. The CLIENT shall not reuse or make or permit to be made any modifications to maps, plans or CADD (electronic) files without the prior written permission of the CONSULTANT. The CLIENT further agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any damage, liability or cost, including reasonable attorney's fees and cost of defense, arising from any reuse or modifications of the maps, plans or CADD (electronic) files by the CLIENT or any person or entity which acquires the aforementioned information from or through the CLIENT without the prior written permission of the CONSULTANT.

SECTION 6. TERMINATION

- 6.1 Either the CLIENT or the CONSULTANT may terminate this Agreement at any time with or without cause upon giving the other party fifteen (15) calendar days prior written notice. The CLIENT shall within fifteen (15) calendar days of termination pay the CONSULTANT for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this Agreement.
- 6.2 Job Cancellation Fee: If this project is cancelled by the client a cancellation fee will immediately be due and payable according to the following schedule: 0 – 30 days, 15% of the balance of contract; 31 – 60 days, an additional 15% of the balance of the contract.

SECTION 7. LIMITATION OF LIABILITY

- 7.1 To the maximum extent permitted by law, the CLIENT agrees to limit the CONSULTANT'S liability for the CLIENT'S damages to the sum of \$5,000.00 or the CONSULTANT'S fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.
- 7.2 **PURSUANT TO SECTION 558.0035 OF FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE**

Exhibit B - Professional Services Fee Schedule

Administrative / Office Support

Administrative Support I	\$50.00
Administrative Support II	\$65.00
Administrative Support III	\$75.00
Administrative Support IV	\$85.00
Administrative Support V	\$100.00

Engineering

Engineering Technician I	\$50.00
Engineering Technician II	\$60.00
Engineering Technician III	\$75.00
Engineering Technician IV	\$90.00
Engineering Technician V	\$100.00
Engineering Technician VI	\$120.00
Engineering Technician VII	\$135.00
Engineering Technician VIII	\$150.00
Engineer I	\$95.00
Engineer II	\$105.00
Engineer III	\$120.00
Engineer IV	\$130.00
Engineer V	\$150.00
Engineer VI	\$160.00
Engineer VII	\$175.00
Engineer VIII	\$190.00
Engineer IX	\$210.00
Engineer X	\$225.00

Planning and Landscape Architecture

Landscape Designer	\$100.00
Landscape Architect	\$135.00
Senior Landscape Architect	\$160.00
Planner I	\$90.00
Planner II	\$110.00
Planner III	\$130.00
Planner IV	\$150.00

Survey

Surveying Technician I	\$65.00
Surveying Technician II	\$80.00
Surveying Technician III	\$95.00
Surveying Technician IV	\$105.00
Surveying Technician V	\$115.00
Surveying Technician VI	\$125.00
Surveyor I	\$100.00
Surveyor II	\$110.00
Surveyor III	\$120.00
Surveyor IV	\$135.00
Surveyor V	\$145.00
Surveyor VI	\$160.00
1-Man Survey Crew	\$120.00
2-Man Survey Crew	\$160.00
3-Man Survey Crew	\$210.00
4-Man Survey Crew	\$255.00
UAV Photometric	\$180.00
UAV Lidar	\$220.00

Management

Project Manager I	\$110.00
Project Manager II	\$130.00
Project Manager III	\$160.00
Project Manager IV	\$200.00
Project Manager V	\$225.00
Department Manager	\$225.00
Division Manager	\$250.00
Principal	\$275.00

Expert Witness

Expert Witness Testimony	\$400.00
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Identifiable out of pocket expense and other reimbursables will be billed at cost, without a markup.

Effective January 25, 2024, subject to review and revisions

- Sanitary Sewer Lift Station Design
- Traffic Impact Analysis
- Traffic Signal Design
- Environmental Studies
- Entitlement revisions/PUD Modifications
- Permit Application Fees
- Additional items not included in the above Project Understanding or Scope of Services

Compensation Summary and Terms

The following summarizes the fees and billing terms as proposed by KPMF for the Scope of Services as presented herein.

Task		Terms	Fee
1	Boundary and Topographic Survey	Lump Sum	\$ 12,500.00
2	Conceptual Site Plan & Pre-application Meeting	Lump Sum	\$ 5,000.00
3	Civil Engineering and Construction Documents	Lump Sum	\$ 55,000.00
4	Landscape and Irrigation Design	Lump Sum	\$ 9,000.00
5	Permitting Assistance	Lump Sum	\$ 10,000.00
6	Project Management and Coordination	Lump Sum	\$ 10,000.00
7	Construction Administration	T&M	\$ 16,500.00
8	Direct Reimbursable	T&M	\$ 1,000.00
Total Lump Sum Fee			\$ 101,500.00
Total Time and Materials Budget			\$ 17,500.00
Total Fee			\$ 119,000.00

Geotechnical Service Options	Terms	Fee
Terracon	Lump Sum	\$ 11,800.00

Additional services or meetings, other than described above, upon request of the Client will be invoiced hourly, consistent with Exhibits "A" and "B". The attached Exhibits "A" and "B" are hereby incorporated into this letter of agreement.

Acceptance

Your acceptance of this proposal may be indicated by signing in the space provided at the end of the proposal. The authorized proposal will serve as the basis of your authorization and our contractual agreement to proceed with the scope of services outlined in this proposal. Additional services or meetings, other than described above, upon request of the Client will be invoiced hourly, consistent with Exhibits A and B. The attached Exhibits A and B are hereby incorporated into this letter of agreement.

We appreciate the opportunity to provide you with this proposal. Should you have questions regarding the contents of this proposal or if we can be of further assistance, please do not hesitate to contact us at your convenience.

This Proposal for Professional Services is hereby submitted by:

KPM Franklin



Kevin White, P.E.
Vice President of Kissimmee Engineering



John Kelly, P.E.
Principal in Charge, President

This Proposal for Professional Services is hereby accepted by:

Jackie Espinosa - **City of Kissimmee Mayor**

Date

Attachment(s): Exhibit A - Standard Agreement Provisions
 Exhibit B - Professional Services Fee Schedule
 Exhibit C – Client Billing and Payment Information Form
 Terracon Proposal dated 6/21/2024, revised 8/1/2024



Exhibit C - Client Billing and Payment Information Form

Billing Contact Information

Project Name:

Company Name:

Company Address:

Billing Contact Name:

Billing Contact Email:

Billing Contact Phone Number:

Additional Information:

*** In order for the Client Billing Form to be complete, please attach a current copy of your W-9. ***

Invoice and Retainer Payment Options

Please choose one of the invoice and retainer payment options below:

Check Payment

Please make checks payable and send to:

KPM Franklin

222 Church Street

Kissimmee, FL 34741

Please be sure to add the invoice number to your memo line to help identify the payment.

ACH/Wire

Name: Franklin Surveying & Mapping, Inc. DBA KPM Franklin

Address: 222 Church Street, Kissimmee FL 34741

Account Number: 0004027496

ACH/Wiring Routing Number: 063114030

Swift Code: CSBKUS33 (Required for International Wires Only)

Bank Address: South State Bank, N.A

1101 First Street South

Winter Haven, FL 33880

To ensure your payment gets applied accurately and in a timely manner, you must send an email to accountspayable@kpmfranklin.com notifying that you are sending an ACH payment. Please specify the amount you are sending, and the invoice numbers you will be paying.

Credit Card

Credit card payments are accepted with an additional fee. Final fee will be communicated to client.



1675 Lee Road
Winter Park, FL 32789
P (407) 740-6110
Terracon.com

June 21, 2024
Revised: August 1, 2024

City of Kissimmee
104 N. Alaska Ave
Kissimmee, Florida 34741

Attn: R. J. Littlefield, Construction Project Manager

RE: Proposal for Geotechnical Engineering
Durbin Park Fire Station
2253 Lakeside Drive
Kissimmee, Osceola County, Florida
Terracon Proposal No. PH1245215

Dear Mr. Littlefield:

We appreciate the opportunity to submit this proposal to City of Kissimmee (City of Kissimmee) to provide Geotechnical Engineering services for the above referenced project. The following are exhibits to the attached Agreement for Services.

Exhibit A	Project Understanding
Exhibit B	Scope of Services
Exhibit C	Compensation and Project Schedule
Exhibit D	Site Location and Nearby Geotechnical Data
Exhibit E	Anticipated Exploration Plan

Our base fee to perform the Geotechnical Engineering Scope of Services described in this proposal is \$11,800 (including subcontracted private utility location fees), and anticipated delivery date of 5 to 6 weeks after signed authorization. Exhibit C includes details of our fees and consideration of additional services as well as a general breakdown of our anticipated schedule.

Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing and returning a copy of the attached Agreement for Services to our office.

Sincerely,
Terracon


Lorimar G. Rosario Rivera
Senior Staff Engineer


Jay W. Casper, P.E.
Senior Principal

AGREEMENT FOR SERVICES

This **AGREEMENT** is between City of Kissimmee FL ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Durbin Park Fire Station project ("Project"), as described in Consultant's Proposal dated 06/20/2024 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 occ / \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

PURSUANT TO SECTION 558.0035 OF FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE.

Consultant: **Terracon Consultants, Inc.**

Client: **City of Kissimmee FL**

By:  Date: **8/1/2024**

By: _____ Date: _____

Name/Title: **Jay W Casper / Principal**

Name/Title: **R.J. Littlefield / Construction Project Manager**

Address: **1675 Lee Rd
Winter Park, FL 32789-2207**

Address: **104 N. Alaska Avenue
Kissimmee, FL 34741**

Phone: **(407) 740-6110** Fax: **(407) 740-6112**

Phone: _____ Fax: _____

Email: **Jay.Casper@terracon.com**

Email: _____

Exhibit A – Project Understanding

Our Scope of Services is based on our understanding of the project as described by City of Kissimmee and the expected subsurface conditions as described below. We have not visited the project site to confirm the information provided. Aspects of the project, undefined or assumed, are highlighted as shown below. We request City of Kissimmee and/or the design team verify all information prior to our initiation of field exploration activities.

Planned Construction

Item	Description
Information Provided	An email request for proposal was provided by Hannah Ruddy from KPM Franklin on June 18, 2024. The request included a conceptual plan drawing of the layout of the planned development. This proposal has been revised according to updated site plan received on July 31, 2024 from KPM Franklin.
Project Description	The project includes a two-story fire station building with associated paved areas including an apparatus bay, a single-story building to be used as a community center with an indoor basketball court all within the existing Durbin Park premises.
Proposed Structure	One single story building to be used as a community center of about 8,000 square feet and a two-story building of about 8,500 square feet to be used as a fire station housing and equipment areas.
Building Construction	Potential building construction: Steel, wood frame or concrete block Slab-on-grade
Maximum Loads	In the absence of information provided by the design team, we will use the following loads in estimating settlement based on our experience with similar projects. - Columns: 100 kips - Walls: 7 kips per linear foot (klf)
Grading/Slopes	Proposed finished grade elevation for the building pad is expected to be at or near existing grades.
Free-Standing Retaining Walls	Retaining walls are not expected to be constructed as part of site development to achieve final grades.
Pavements	We assume both rigid (concrete) and flexible (asphalt) pavement sections are being considered.

Item	Description
Stormwater Management	The site appears to be part of a master drainage system and as such on-site stormwater retention/detention is not required.

Site Location and Anticipated Conditions

Item	Description
Parcel Information	The project is located at 2253 Lakeside Drive in Kissimmee, Osceola County, Florida. Size of property is about 6 acres. Latitude/Longitude: 28.3132156, -81.3519028 (approximate) (See Exhibit D)
Existing Improvements	Durbin Park facilities including an outdoor hockey rink between the two proposed building locations
Current Ground Cover	Concrete, grass, tennis courts and a hockey rink.
Existing Topography (Per Quad Map of St. Cloud North, FL)	Site appears to be level and near elevation +75 feet.
Site Access	We expect the site, and all exploration locations, are accessible with our truck-mounted drilling equipment and support vehicles.
Expected Subsurface Conditions	Our experience near the vicinity of the proposed development indicates subsurface conditions consist of sand with varying amounts of silt and clay and relatively shallow groundwater conditions.



Exhibit B-Scope of Services

Our proposed Scope of Services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

Field Exploration

Based on input provided by City of Kissimmee, and our experience with similar projects in the vicinity of the project site, we propose the following field exploration program which is anticipated to be completed with 2 days of on-site activities after boring layout and utility clearances as described below:

Number of Borings	Planned Boring Depth (feet)	Planned Location ¹
6	25	Building areas
3	10	Parking/driveway area

1. The planned boring locations are shown on the attached **Anticipated Exploration Plan**.

Boring Layout and Elevations: We will use handheld GPS equipment to locate borings with an estimated horizontal accuracy of +/-20 feet. Field measurements from existing site features may be utilized. If available, approximate elevations will be obtained by interpolation from a site specific, surveyed topographic map. We can alternatively coordinate with your Project Surveyor to include locations and surface elevations in project information if so requested.

Subsurface Exploration Procedures: Prior to drilling, we will subcontract GPR services in areas of suspected utility conflict. We will advance borings with a truck-mounted drill rig using rotary wash boring techniques. Five samples will be obtained in the upper 10 feet of each boring and at intervals of 5 feet thereafter. Soil sampling is typically performed using split-barrel sampling procedures. The split-barrel samplers are driven in accordance with the standard penetration test (SPT). The samples will be placed in appropriate containers, taken to our soil laboratory for testing, and classified by a Geotechnical Engineer. In addition, we will observe and record groundwater levels during drilling and sampling.

Our exploration team will prepare field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials observed during drilling and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent the Geotechnical Engineer's interpretation and include modifications based on observations and laboratory tests.

Property Disturbance: Terracon will take reasonable efforts to reduce damage to the property. However, it should be understood that in the normal course of our work some disturbance could occur including rutting of the ground surface and damage to landscaping.

We will backfill borings with auger cuttings and/or bentonite pellets upon completion. Pavements will be patched with cold-mix asphalt and/or ready-mixed concrete, as appropriate. Our services do not include repair of the site beyond backfilling our boreholes and patching existing pavements. Excess auger cuttings will be dispersed in the general vicinity of the borehole. Because backfill material often settles below the surface after a period, we recommend boreholes to be periodically checked and backfilled, if necessary. We can provide this service or grout the boreholes for additional fees at your request.

Safety

Terracon is not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our Scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our Scope of Services does not include environmental site assessment services, but identification of unusual or unnatural materials observed while drilling will be noted on our logs.

Exploration efforts require borings into the subsurface, therefore Terracon will comply with local regulations to request a utility location service Sunshine State One Call of Florida (SSOCOF). We will consult with the landowner/client regarding potential utilities or other unmarked underground hazards. Based upon the results of this consultation, we will consider the need for alternative subsurface exploration methods as the safety of our field crew is a priority.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities not disclosed to us.

Terracon proposes to subcontract with a private utility locating service. Fees associated with this service are included in our Scope of Services.

The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service would not relieve the landowner/client of their responsibilities in identifying private underground utilities.

Site Access: Terracon must be granted access to the site by the property owner. Without information to the contrary, we consider acceptance of this proposal as authorization to

access the property for conducting field exploration in accordance with the Scope of Services. Our proposed fees do not include time to negotiate and coordinate access with landowners or tenants. Terracon will conduct field services during normal business hours (Monday through Friday between 7:00am and 5:00pm). If our exploration must take place over a weekend or at night, please contact us so we can adjust our schedule and fee.

Laboratory Testing

The project engineer will review field data and assign laboratory tests to understand the engineering properties of various soil strata. Exact types and number of tests cannot be defined until completion of fieldwork, but we anticipate the following laboratory testing may be performed:

- Water content
- Atterberg limits
- Grain size analysis

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the results of our field and laboratory programs, we will describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

Engineering and Project Delivery

The results of our field and laboratory programs will be evaluated, and a geotechnical engineering report will be prepared under the supervision of a licensed professional engineer. The geotechnical engineering report will provide the following:

- Boring logs with field and laboratory data
- Stratification based on visual soil classification
- Groundwater levels observed during drilling
- Site Location and Exploration Plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Estimated seasonal groundwater fluctuations
- Recommended foundation options and engineering design parameters
- Estimated settlement of foundations
- Recommendations for design and construction of interior floor slabs
- Earthwork recommendations including site/subgrade preparation
- Recommended pavement options and design parameters

In addition to an emailed report, your project will also be delivered using our client portal known as **Compass**. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. We welcome the opportunity to have project kickoff conversations with the team to discuss key elements of the project and demonstrate features of the portal. The typical delivery process includes the following:

- Project Planning – Proposal information, schedule and anticipated exploration plan
- Site Characterization – Findings of the site exploration and laboratory results
- Geotechnical Engineering Report

When services are complete, we upload a printable version of our completed Geotechnical Engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration, and the report are maintained in our system. This allows future reference and integration into subsequent aspects of our services as the project goes through final design and construction.

Additional Services

In addition to the services noted above, the following are often associated with geotechnical engineering services. Fees for services noted above do not include the following:

Review of Plans and Specifications: Our geotechnical report and associated verbal and written communications will be used by others in the design team to develop plans and specifications for construction. Review of project plans and specifications is a vital part of our geotechnical engineering services. This consists of review of project plans and specifications related to site preparation, foundation, and pavement construction. Our review will include a written statement conveying our opinions relating to the plans and specifications' consistency with our geotechnical engineering recommendations.

Observation and Testing of Pertinent Construction Materials: Development of our geotechnical engineering recommendations and report relies on an interpretation of soil conditions. Our assessment is based on widely spaced exploration locations and the assumption that construction methods will be performed in a manner sufficient to meet our expectations and consistent with recommendations made at the time the geotechnical engineering report is issued. We should be retained to conduct construction observations, and perform/document associated materials testing, for site preparation, foundation, and pavement construction. These services allow a more comprehensive understanding of subsurface conditions and necessary documentation of construction to confirm and/or modify (when necessary) the assumptions and recommendations made by our engineers.



Exhibit C - Compensation and Project Schedule

Compensation

Based upon our understanding of the site, the project as summarized in Exhibit A, and our planned Scope of Services outlined in Exhibit B, our base fee is shown in the following table:

Task	Lump Sum Fee ³
Subsurface Exploration ¹ , Private Utility Locates ² , Laboratory Testing, Geotechnical Consulting and Reporting	\$11,800
Total⁴	\$11,800

1. The lump sum fee considers one drill rig mobilization and no unexpected onsite delays. If additional drill rig mobilizations are required, an additional fee of \$1,250 would be invoiced. A drill crew standby rate of \$275 per hour would be invoiced for unexpected delays.
2. We will subcontract a private utility locating firm and/or utilize geophysical equipment. The detection of underground utilities is dependent upon the composition and construction of utility lines. Some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private locate service does not relieve the owner of their responsibilities in identifying private underground utilities.
3. Proposed fees noted above are effective for 90 days from the date of the proposal.
4. Consulting after issuing report will be billed at \$225 per hour.

Additional services not part of the base fee include the following:

Additional Services (see Exhibit B)	Lump Sum Fee	Initial for Authorization
Private Utility Locate Service ¹	Included in above fee	
Plans and Specifications Review	\$750	
Construction Materials Testing Services	TBD	

Our Scope of Services does not include services associated with site clearing, wet ground conditions, tree or shrub clearing, or repair of/damage to existing landscape. If such services are desired by the owner/client, we should be notified so we can adjust our Scope of Services.



Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require Scope of Services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified Scope of Services as well as its effect on our fee will be prepared. We will not proceed without your authorization.

Project Schedule

We developed a schedule to complete the Scope of Services based upon our existing availability and understanding of your project schedule. However, our schedule does not account for delays in field exploration beyond our control, such as weather conditions, delays resulting from utility clearance, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

Delivery on Compass	Schedule ^{1, 2}
Kickoff Call with Client	3 days after notice to proceed
Site Characterization	35 days after notice to proceed
Geotechnical Engineering	42 days after notice to proceed

1. Upon receipt of your notice to proceed we will activate the schedule component on **Compass** with specific, anticipated dates for the delivery points noted above as well as other pertinent events.
2. Standard workdays. We will maintain an activities calendar within on **Compass**. The schedule will be updated to maintain a current awareness of our plans for delivery.

Exhibit D – Site Location

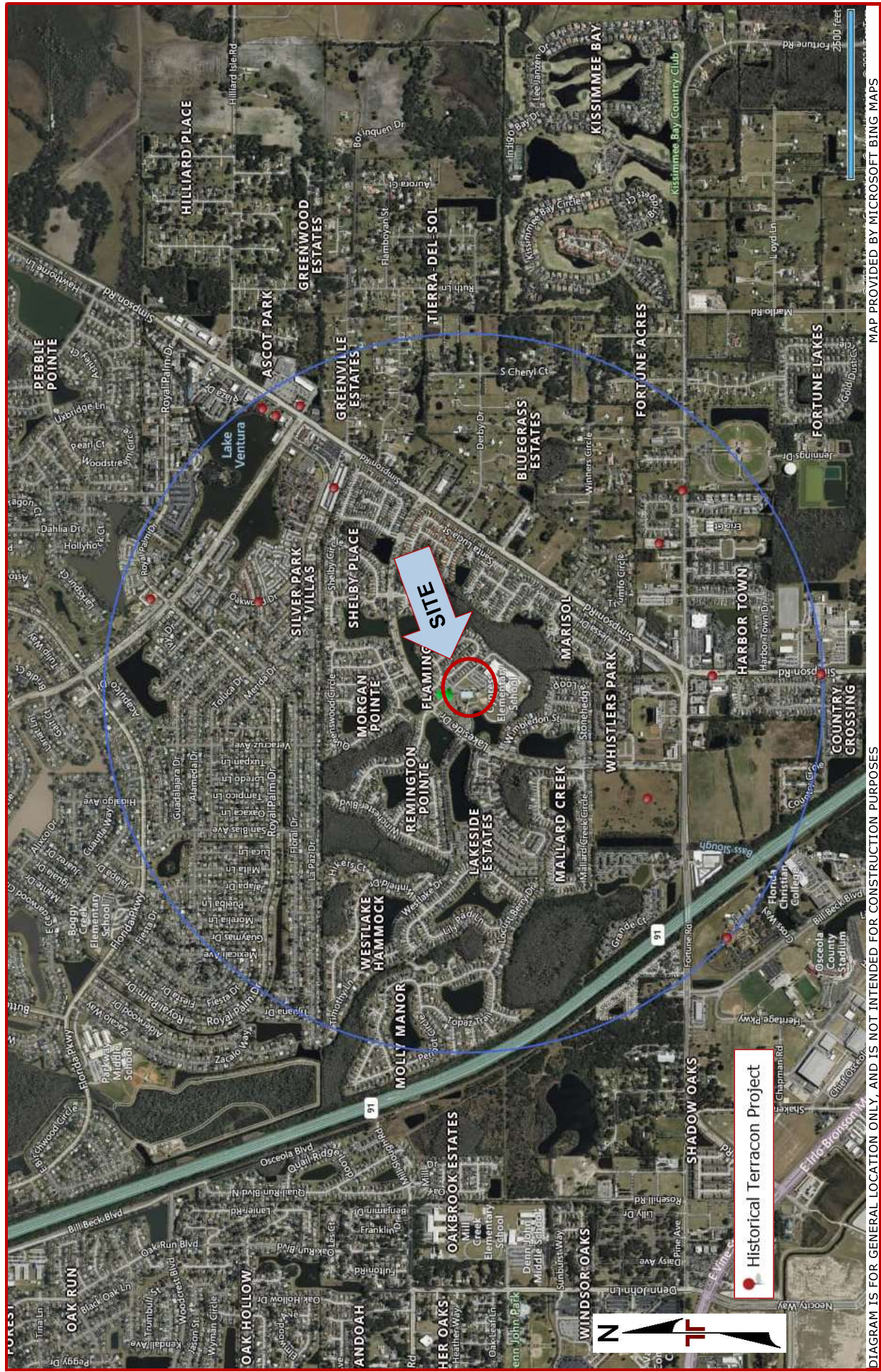
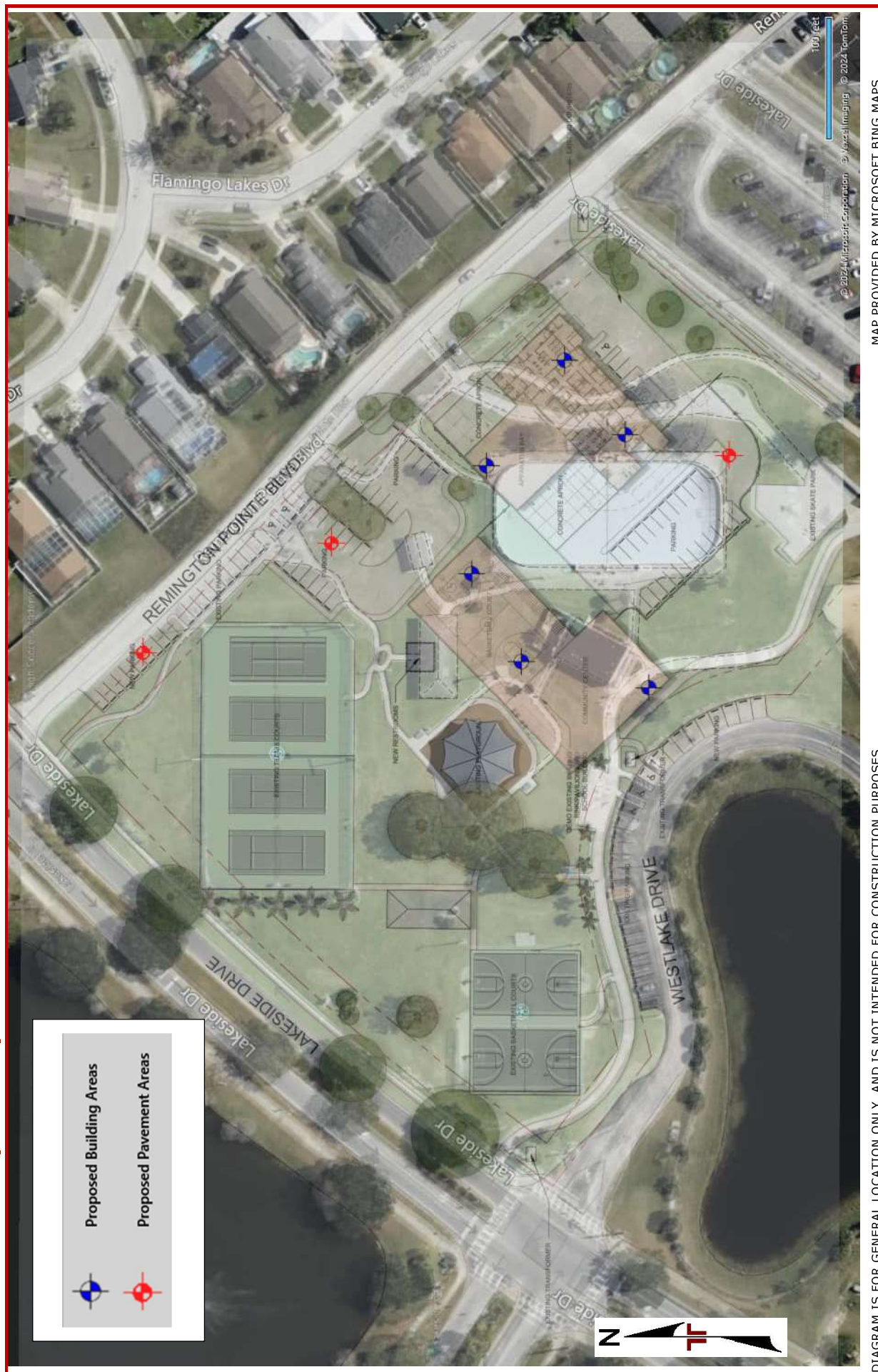


Exhibit E – Anticipated Exploration Plan



Architectural/Engineering Services Master Agreement

THIS ARCHITECTURAL/ENGINEERING MASTER SERVICES AGREEMENT (“Agreement”) is entered into as of the Effective Date (hereinafter defined) by and between the City of Kissimmee, a Municipal Corporation of the State of Florida, by and through its Commission, 101 Church Street, Kissimmee, Florida 34741 (hereinafter referred to as the “CITY”), and **Franklin Design, a KPM-KMF Joint Venture**, 222 Church Street, Kissimmee, FL 34741, whose Federal Identification Number is: 26-2592697 (hereinafter referred to as the “CONSULTANT”).

WITNESSETH:

WHEREAS, the CITY requires certain architectural and/or engineering services to be performed in the City of Kissimmee; and,

WHEREAS, the CITY has solicited for these professional services via RFQ2023-006, an advertised request for qualifications (the “RFQ”), and has received numerous responsive bids thereto; and

WHEREAS, the CONSULTANT remains agreeable to providing the CITY the professional services and represents that it is capable and prepared to do so;

NOW, THEREFORE, in consideration of the promises contained herein, the CITY and the CONSULTANT (collectively, the “Parties”) hereby agree, as follows:

1.0 **Term**

1.1 This Agreement shall take effect on the date of its execution by the Mayor, The City of Kissimmee Commission (the “Effective Date”).

1.2 The term of this Agreement shall be for a five (5) year period, commencing upon the Effective Date, unless otherwise terminated as provided herein.

2.0 **CONSULTANT –SERVICES -- GENERAL**

2.1 The CONSULTANT shall provide the CITY complete architectural and engineering services necessary to provide construction documents and administration for various projects (individually a “Project” and collectively, the “Projects”) throughout the Term, as may be further specifically designated and authorized by the CITY in writing. Such authorization shall be in the form of either a Consultant Services Authorization (“CSA”) or a Contract Purchase Order (“CPO”), and all provisions of this Agreement shall apply to the CSA or CPO with full force and effect as if appearing in full within each CSA or CPO. Each CSA or CPO will set forth a specific Scope of Services, maximum limit of compensation, schedule, liquidated damages, and completion date, and shall become effective upon the due execution. When the CONSULTANT and the CITY enter into a CSA or CPO where the term

thereof expires on a date that is later than the date of this Agreement, the CONSULTANT and the CITY agree that the terms of this Agreement and any amendments, attachments, or provisions thereof are automatically extended until the expiration or full completion of the requirements of the CSA or CPO, as applicable, have been performed. Cancellation by the CITY of any remaining service prior to the full completion of the requirements of the CSA/CPO shall cause the terms of this Agreement to terminate at the same time. This provision only applies when the expiration of the CSA/CPO extends beyond the expiration of this Agreement. It does not apply when a CSA/CPO expires or is cancelled prior to the expiration of this Agreement.

2.2 The CONSULTANT is not authorized to undertake any Project without a duly executed CSA or CPO, which shall specify the work to be performed. The CONSULTANT recognizes that the CITY may employ several different CONSULTANTS and engineers to perform the services described herein and that the CONSULTANT has not been employed as the exclusive agent to perform any such services.

2.3 In addition to the services described in this Section 2.0, the RFQ, the Consultant's responsive proposal thereto, and otherwise set forth and described in the body of this Agreement, the CONSULTANT may also be authorized to perform, via a duly executed CSA or CPO, any or all of those services set forth and further described in **Exhibit "B"**, attached hereto and incorporated herein (collectively, the "Services").

3.0 **Project Administration Services**

3.1 The CONSULTANT shall manage the CONSULTANT'S services and administer the Project. The CONSULTANT shall consult with the CITY, research applicable design criteria, attend Project meetings, and communicate with members of the Project team and issue progress reports. The CONSULTANT shall coordinate the services provided by the CONSULTANT and the CONSULTANT'S sub-consultants with those services provided by the CITY and the CITY'S consultants.

3.2 When Project requirements have been sufficiently identified, the CONSULTANT may be required to prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the CITY, design services furnished by the CONSULTANT, completion of documentation provided by the CONSULTANT, commencement of construction and Substantial Completion of the Work.

3.3 The CONSULTANT shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

3.4 Upon request of the CITY, the CONSULTANT shall make a presentation to explain the design of the Project to representatives of the CITY.

3.5 The CONSULTANT shall submit design documents to the CITY at intervals appropriate to the design process for purposes of evaluation and approval by the CITY. The CONSULTANT shall be entitled to rely on approvals received from the CITY in the further development of the design.

3.6 The CONSULTANT shall assist the CITY in connection with the CITY'S responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

3.7 EVALUATION OF BUDGET AND COST OF THE WORK.

3.7.1 When the Project requirements have been sufficiently identified, the CONSULTANT shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. The CONSULTANT shall advise the CITY of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the estimate of the Cost of the Work exceeds the CITY'S budget, the CONSULTANT shall make appropriate recommendations to the CITY to adjust the Project's size, quality or budget, and the CITY shall cooperate with the CONSULTANT in making such adjustments.

3.7.2 Evaluations of the CITY'S budget for the Project, the preliminary estimate of the Cost of the Work, and updated estimates of the Cost of the Work represent the CONSULTANT'S judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the CONSULTANT nor the CITY has control over the cost of labor, materials or equipment, over the CONSULTANT'S methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the CONSULTANT cannot and does not warrant or represent that bids or negotiated prices will not vary from the CITY'S budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the CONSULTANT.

3.7.3 In preparing estimates of the Cost of the Work, the CONSULTANT shall be permitted to include contingencies and allowances for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the CITY'S budget for the Cost of the Work.

3.7.4 If bidding or negotiation has not commenced within 90 days after the CONSULTANT submits the Construction Documents to the CITY, the

budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

- 3.7.5** If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, and the CITY elects to revise the Project scope to reduce the Cost of the Work, then the CONSULTANT, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit as a condition of this Agreement.

4.0 Evaluation and Planning Services

- 4.1** The CITY may furnish a program setting forth the CITY's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements. The CONSULTANT shall provide a preliminary evaluation of the information furnished by the CITY under this Agreement, including the CITY'S program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The CONSULTANT shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the CITY of any other information or consultant services that may be reasonably needed for the Project.
- 4.2** The CONSULTANT shall provide a preliminary evaluation of the CITY's site for the Project based on the information provided by the CITY of site conditions, and the CITY'S program, schedule and budget for the Cost of the Work.

5.0 Design Services

5.1 SCHEMATIC DESIGN DOCUMENTS

5.1.1 The CONSULTANT shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the CONSULTANT's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

5.2 DESIGN DEVELOPMENT DOCUMENTS

5.2.1 The CONSULTANT shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of

plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

5.3 CONSTRUCTION DOCUMENTS

5.3.1 The CONSULTANT shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

5.3.2 During the development of the Construction Documents, the CONSULTANT shall assist the CITY in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the CITY and the CONSULTANT; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The CONSULTANT also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

5.3.3 Progress submittals of design documents shall be delivered to the CITY for review and approval, at the 50% Construction Document Phase, the 100% Construction Document to be submitted for permit, and the 100% Construction Documents, approved for construction for each subproject. Such submittals shall be reissued as necessary to secure approval. CITY comments shall be incorporated into the next phase of the work. CONSULTANT is entitled to rely upon CITY'S approval that the design conforms to the program at each stage. The CITY and the CONSULTANT agree that they shall not proceed to the next phase, including the Construction Phase, until they have mutually agreed that the project is feasible in accordance with the budget approved by the CITY.

6.0 **Contract Administration Services**

6.1 GENERAL ADMINISTRATION

6.1.1 The CONSULTANT shall provide administration of the Contract between the CITY and the Contractor as set forth in the CITY'S Agreement with their Contractor.

6.1.2 The CONSULTANT'S responsibility to provide the Contract Administration Services under this Agreement commences with the Notice to Proceed to the

Contractor and terminates at the issuance to the CITY of the final Certificate for Payment. However, the CONSULTANT may be entitled to a Change in Services in accordance with Section 47.2 if Contract Administration Services extend 60 days after the date of Final Completion of the Work.

- 6.1.3** The CONSULTANT shall be a representative of, and shall advise and consult with, the CITY during the provision of the Contract Administration Services. The CONSULTANT shall have authority to act on behalf of the CITY only to the extent provided in this Agreement unless otherwise modified by written amendment.
- 6.1.4** Duties, responsibilities and limitations of authority of the CONSULTANT under this Section 6.0 shall not be restricted, modified or extended without written agreement of the CITY and CONSULTANT.
- 6.1.5** The CONSULTANT shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the CONSULTANT and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.
- 6.1.6** If deemed appropriate by the CONSULTANT, the CONSULTANT shall on the CITY'S behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.
- 6.1.7** The CONSULTANT shall interpret and decide matters concerning performance of the CITY and Contractor under, and requirements of, the Contract Documents on written request of either the CITY or Contractor. The CONSULTANT'S response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- 6.1.8** Interpretations and decisions of the CONSULTANT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the CONSULTANT shall endeavor to secure faithful performance by both CITY and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.
- 6.1.9** The CONSULTANT shall render initial decisions on claims, disputes or other matters in question between the CITY and CONSULTANT as provided in the Contract Documents. However, the CITY'S decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

6.2 EVALUATIONS OF THE WORK

6.2.1 The CONSULTANT, as a representative of the CITY, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the CITY and the CONSULTANT, (1) to become generally familiar with and to keep the CITY informed in writing about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the CITY against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the CONSULTANT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The CONSULTANT shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

6.2.2 The CONSULTANT shall report to the CITY known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the CONSULTANT shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The CONSULTANT shall be responsible for the CONSULTANT'S negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Sub-contractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

6.2.3 The CONSULTANT shall at all times have access to the Work wherever it is in preparation or progress.

6.2.4 Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized in writing, the CONSULTANT and Contractor shall communicate through the CITY. Communications by and with the CONSULTANT'S sub-consultants shall be through the CONSULTANT. The CONSULTANT shall respond to the CITY with the CONSULTANT'S written responses or correspondence within a reasonable length of time.

6.2.5 The CONSULTANT shall have authority to reject Work that does not conform to the Contract Documents. Whenever the CONSULTANT considers it necessary or advisable, the CONSULTANT, with the CITY'S approval, will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this

authority of the CONSULTANT nor a decision made in good faith, either to exercise or not to exercise such authority, shall give rise to a duty or responsibility of the CONSULTANT to the Contractor, Sub-contractor, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work. If the CONSULTANT requires inspection or testing of the Work without the CITY'S prior approval, the Work is deemed acceptable, the CONSULTANT will be responsible for any compensation due the Contractor.

6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

6.3.1 The CONSULTANT shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The CONSULTANT'S certification for payment shall constitute a representation to the CITY, based on the CONSULTANT'S evaluation of the Work as provided in Paragraph 6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the CONSULTANT'S knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the CONSULTANT.

6.3.2 The issuance of a Certificate for Payment shall not be a representation that the CONSULTANT has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Sub-contractors and material suppliers and other data requested by the CITY to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

6.3.3 The CONSULTANT shall maintain a record of the Contractor's Applications for Payment.

6.4 SUBMITTALS

6.4.1 The CONSULTANT shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The CONSULTANT'S action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the CITY, Contractor or separate contractor. Review of such submittals is

not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The CONSULTANT'S review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the CONSULTANT, of any construction means, methods, techniques, sequences or procedures. The CONSULTANT'S approval of a specific item shall not indicate approval of an assembly of which the item is a component.

6.4.2 The CONSULTANT shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the CONSULTANT shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the CONSULTANT. The CONSULTANT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

6.5 CHANGES IN THE WORK

6.5.1 The CONSULTANT shall prepare Construction Change Directives and assist the City with the preparation of change orders and allowance authorizations for the CITY'S approval and execution in accordance with the Contract Documents. The CONSULTANT may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time, which are consistent with the intent of the Contract Documents. If necessary, the CONSULTANT shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

6.5.2 The CONSULTANT shall review properly prepared, timely requests by the CITY or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the CONSULTANT to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the CONSULTANT determines that requested changes in the Work are not materially different from the requirements of the

Contract Documents, the CONSULTANT may issue an order for a minor change in the Work or recommend to the CITY that the requested change be denied.

6.5.3 If the CONSULTANT determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the CONSULTANT shall make a recommendation to the CITY, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the CONSULTANT shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the CONSULTANT. With the CITY'S approval, the CONSULTANT shall incorporate those estimates into a Change Order or other appropriate documentation for the CITY'S execution or negotiation with the Contractor.

6.5.4 The CONSULTANT shall maintain records relative to changes in the Work.

6.6 PROJECT COMPLETION

6.6.1 The CONSULTANT shall conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion, shall receive from the Contractor and forward to the CITY, for the CITY'S review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

6.6.2 The CONSULTANT'S inspection shall be conducted with the CITY'S Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the CONSULTANT of Work to be completed or corrected.

6.6.3 When the Work is found to be substantially complete, the CONSULTANT shall inform the CITY about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

6.6.4 The CONSULTANT shall receive from the Contractor and forward to the CITY: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the CITY against liens.

7.0 **Facility Operation Services**

7.1 The CONSULTANT shall meet with the CITY or the CITY'S Designated Representative promptly after Substantial Completion to review the need for facility operation services.

7.2 Upon request of the CITY, and prior to the expiration of one year from the date of Substantial Completion, the CONSULTANT shall conduct a meeting with the CITY and the CITY'S Designated Representative to review the facility operations and performance and to make appropriate recommendations to the CITY.

8.0 **Additional Services**

8.1 The CONSULTANT may be authorized, via a duly executed CSA or CPO, to perform any or all of the additional services as set forth and further described on **Exhibit "B"**.

8.2 The following minimum Design and Contract Administration Services shall be provided by the CONSULTANT without a Change in Services in accordance with Section 47.2:

8.2.1 A reasonable number of reviews of each Shop Drawing, Product Data item, sample and similar submittal of the CONSULTANT.

8.2.2 Up to two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

8.2.3 Up to two (2) inspections for any portion of the Work to determine final completion.

8.3 The following Design and Contract Administration Services shall be provided by the CONSULTANT as a Change in Services in accordance with Section 47.2:

8.3.1 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Services, with prior approval by CITY;

8.3.2 Providing consultation concerning replacement of Work resulting from fire or other cause during construction;

8.3.3 Evaluation of substitutions proposed by the CITY'S consultants or contractors and making subsequent revisions to the Instruments of Service, with prior approval by CITY.

8.3.4 Preparation of design and documentation for alternate bid or proposal requests proposed by the CITY after the Guaranteed Maximum Price is established.

8.3.5 Contract Administration Services provided 60 (sixty) days after the date of Final Completion of the Work, as may be requested by the CITY.

8.4 The CONSULTANT shall furnish or provide the following services only if specifically designated:

- 8.4.1 Programming
- 8.4.2 Land Survey Services
- 8.4.3 Geotechnical Services
- 8.4.4 Space Schematics/Flow Diagrams
- 8.4.5 Existing Facilities Surveys
- 8.4.6 Economic Feasibility Studies
- 8.4.7 Site Analysis
- 8.4.8 Environmental Studies and Reports
- 8.4.9 User-Supplied Data
- 8.4.10 Schedule Development and Monitoring
- 8.4.11 Civil Design
- 8.4.12 Landscape Design
- 8.4.13 Interior Design
- 8.4.14 Value Analysis
- 8.4.15 Cost Estimating
- 8.4.16 On-Site Project Representation
- 8.4.17 Construction Management
- 8.4.18 Start-up Assistance
- 8.4.19 Record Drawings
- 8.4.20 Post-Contract Evaluation
- 8.4.21 Tenant-Related Services
- 8.4.22 Underground Field Drainage

9.0 **Compensation**

- 9.1 In consideration of the Services provided by the CONSULTANT pursuant to this Agreement, the CITY shall pay CONSULTANT compensation which may be negotiated as either a not-to-exceed price or a lump sum amount, in the CITY's sole discretion.
- 9.2 In the event a not to exceed price is negotiated, compensation shall be billed and paid based on and in accordance with the Hourly Rate Schedule attached hereto and incorporated herein as **Exhibit "A"**. The Hourly Rate Schedule identifies all job

classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.

- 9.3 All invoices must reference this Agreement number, using an invoice form approved by the CITY.
- 9.4 Each individual invoice shall be due and payable forty-five (45) days after receipt by the CITY of a correct, fully documented, invoice, in form and substance satisfactory to the CITY with all appropriate cost substantiations attached. All invoices shall be delivered to:

The City of Kissimmee

Public Works & Engineering

Attention: Facilities Management Director

101 Church Street

Kissimmee, FL 34741

- 9.5 In order for both parties herein to close their books and records for a particular Project, the CONSULTANT will clearly state "Final Invoice" on the CONSULTANT's final/last billing to the CITY for such Project. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.
- 9.6 Payment of the final invoice for any particular Project shall not constitute evidence of the CITY's acceptance of the Work or Services.
- 9.7 Pursuant to Section 9.2, if a not to exceed fee is negotiated, invoices shall be accompanied by time and task records for all billable hours appearing on the invoice. Alternatively, if a lump sum amount is negotiated, invoices shall be made upon the completion of each phase of the work in proportion to the Services performed, as specifically set forth in the applicable CSA or CPO. Additional documentation may be requested by the CITY and, if so requested, shall be furnished by the CONSULTANT to the CITY Auditor's satisfaction.
- 9.8 A contract amendment/change order may be executed by both parties, after Substantial Completion, to incorporate any additional design fees due to the CONSULTANT. The amendment shall be based upon 7% of the additional cost of the work that has been added to the project where the CONSULTANT participated in the design process.
- 9.9 If the services of the CONSULTANT are changed as described in Section 47.2.1 or

47.2.2, the CONSULTANT'S compensation shall be adjusted. Such adjustment shall be computed as a fixed fee on a task-by-task basis, or, in the discretion of the CITY, in an otherwise equitable manner. Adjustments to the CONSULTANT'S compensation may be approved by the Facilities Management Director, providing the compensation adjustment does not exceed the amount specified in the applicable CSA or CPO.

- 9.10 Forty (40) calendar days shall be allowed for the CITY's inspection and approval of the goods and services for which any invoice has been submitted.
- 9.11 No deduction shall be made from the CONSULTANT's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.
- 9.12 If any work designed or specified by the CONSULTANT during any phase of service is abandoned or suspended in whole or in part, the CONSULTANT is to be paid for the service performed on account of it prior to receipt of written notice from the CITY of such abandonment or suspension, together with reimbursements then due and any terminal expense resulting from abandonment or suspension for more than three months.

10.0 **Reimbursable Expense**

10.1 All requests for payment of out-of-pocket expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid receipts, invoices or other documentation acceptable to the CITY. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Agreement.

10.2 Reimbursable Expenses are the actual, pre-approved, expenses incurred directly in connection with the applicable Consultant Services Authorization, and include:

- Overnight Deliveries
- Reproduction
- Sub-Consultant
- Long Distance Telephone Calls (excluding Florida cities located outside the boundaries of Osceola County)

10.3 Mileage shall be reimbursed in accordance with Section 112.061, Florida Statutes, for pre-approved out-of-county travel (excluding travel from home offices located outside of Osceola County to the Osceola County line).

10.4 Reimbursable Expenses, including sub-consultants, shall be reimbursed at cost.

10.5 Pre-approved travel costs shall be reimbursed in accordance with Section 112.061, Florida Statutes.

10.6 All assets, i.e. durable goods, purchased as reimbursable expenses become the property of the CITY upon completion of the work for which the asset was utilized. All such assets must be surrendered by delivery to the City of Kissimmee Public Works and Engineering Division offices upon demand termination of the Agreement or the conclusion of the project, whichever occurs first.

10.7 The CITY shall reimburse the CONSULTANT for any documents required over and above the number specified in this Agreement per the City's Reimbursable Schedule that is attached hereto as **Exhibit "C"**.

11.0 Project Team

11.1 The Project Team, including the CITY'S Designated Representative and the CONSULTANT'S Designated Representative, shall be as specified in the applicable CSA or CPO.

11.2 The Commission (the "Board") hereby authorizes the CITY'S Designated Representative to act as the Board's agent and execute documents associated with a particular project. Examples of these documents are Notices of Commencements, Certificates of Substantial and Final Completion and permits from applicable agencies.

11.3 The persons or entities, in addition to the CITY'S Designated Representative, who have rights to review the CONSULTANT'S submittals to the CITY, shall be as specified in the applicable CSA or CPO.

11.4 The CITY'S other consultants and the CONSULTANT'S sub-consultants or any other person or entity retained at the CONSULTANT'S expense shall be as specified in the applicable CSA or CPO.

12.0 Consultant's Standard of Care

12.1 The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The CONSULTANT shall submit for the CITY'S approval a schedule for the performance of the CONSULTANT'S services which initially shall be consistent with the time periods established in the applicable CSA or CPO and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the CITY'S review, for the performance of the CITY'S consultants, and for approval of submissions by authorities having jurisdiction over the Project. The CONSULTANT or CITY shall not, except for reasonable cause, exceed time limits established by this schedule approved by the CITY.

12.2 The CONSULTANT'S Designated Representative, identified in the

applicable CSA or CPO, shall be authorized to act on the CONSULTANT'S behalf with Respect to the Project.

12.3 The CONSULTANT shall maintain the confidentiality of information specifically designated as confidential by the CITY, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the CONSULTANT from establishing a claim or defense in an adjudicatory proceeding. The CONSULTANT shall require of the CONSULTANT'S consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the CITY.

12.4 Except with the CITY'S knowledge and prior express written consent, the CONSULTANT shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the CONSULTANT'S professional judgment with respect to the Project.

12.5 The CONSULTANT shall review laws, codes and regulations applicable to the CONSULTANT'S services. The CONSULTANT shall design the Project to conform to the requirements imposed by governmental authorities having jurisdiction over the Project.

12.6 The CONSULTANT shall be entitled to rely on the accuracy and completeness of services and information furnished by the CITY. The CONSULTANT shall provide prompt written notice to the CITY if the CONSULTANT becomes aware of any errors, omissions or inconsistencies in such services or information.

12.7 The CONSULTANT has represented to the CITY that it has the personnel and experience necessary to perform the work in a professional and workmanlike manner.

12.8 The CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

12.9 The CONSULTANT shall, at no additional cost to CITY, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Agreement.

12.10 The CONSULTANT shall use skilled and competent personnel to perform the services.

13.0 **Insurance**

13.1 **General Provisions**

13.1.1 The CONSULTANT shall maintain, at all times, the following minimum levels of insurance and shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverage and amounts of coverage not less than those set forth below and provide the CITY with a certified copy of each policy applicable to this Agreement followed thereafter by an annual Certificate of Insurance satisfactory to the CITY to evidence such coverage before any work commences. Such certificates will provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days prior written notice to the CITY .

13.1.2 The CITY shall be named as an additional insured on all CONSULTANT policies related to the project, excluding professional liability and worker's compensation. The general liability and workers' compensation policies shall contain a waiver of subrogation in favor of the CITY. All insurance coverage shall be written with an insurer having an A.M. Best Rating of a least the "A" category and size category of VIII.

13.1.3 The CONSULTANT's self-insured retention or deductible per line of coverage shall not exceed \$25,000.00 without the permission of the CITY.

13.1.4 Any failure by the CONSULTANT to comply with the requirements of this section to provide insurance, the CITY may, at its option, on notice to the CONSULTANT, suspend the work for cause until there is full compliance;

13.1.5 The CITY may, at its sole discretion, purchase such insurance at CONSULTANT's expense provided that the CITY shall have no obligation to do so and if the CITY shall do so, it shall not relieve CONSULTANT of its obligation to obtain insurance.

13.1.6 The CONSULTANT shall not be relieved of or excused from the obligation to obtain and maintain such insurance amount and coverages.

13.1.7 All CONSULTANT's sub-consultants shall be required to include CITY and CONSULTANT as additional insured on their General Liability Insurance policies.

13.1.8 In the event that sub-consultants used by the CONSULTANT do not have insurance, or do not meet the insurance limits, CONSULTANT shall indemnify and hold harmless the CITY for any claim in excess of the sub-consultants' insurance coverage.

13.1.9 The CONSULTANT shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the CITY.

13.2 Comprehensive Automobile Liability Insurance. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles.

13.3 Commercial General Liability. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:

13.3.1 Premises and Operations:

Broad Form Commercial General Liability Endorsement to include Blanket Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm); Personal Injury (with employment and contractual exclusions deleted); and Broad Form Property Damage coverage.

13.3.2 Independent Contractors:

Delete Exclusion relative to collapse, explosion and underground; Property Damage Hazards; Cross Liability Endorsement; and Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm)

13.4 Professional Liability Insurance. \$2,000,000 for design errors and omissions, exclusive of defense costs. The CONSULTANT shall be required to provide continuing Professional Liability Insurance to cover each project for a period of two (2) years after the project is completed. Insurance requirements may vary depending on projects as determined by the CITY Director of Risk Management and Insurance. The CITY may require the CONSULTANT to provide a higher level of coverage for a specific Project and time frame.

13.5 Performance, Payment and Other Bonds. CONSULTANT shall furnish Performance and Payment Bonds specific to each Project if required and agreed to under the applicable CSA or CPO for the Project.

13.6 Worker's Compensation. CONSULTANT shall provide, pay for, and maintain worker's compensation insurance on all employees, its agents or subcontractors as required by Florida Statutes.

13.7 Employers' Liability. \$1,000,000.

14.0 **Indemnification**

14.1 General. Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, the CITY and the CONSULTANT agree to allocate such liabilities in accordance with this Section 14.0.

14.2 Indemnification.

14.2.1 The CONSULTANT, to the extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to the CITY) protect and hold the CITY, and its officers, employees and agents, free and harmless from and against any and all claims, actions, causes of action, liabilities (joint or several), penalties, forfeitures, damages, losses and expenses (including, without limitation, attorneys' fees and costs during negotiation, through litigation and all appeals therefrom), and including, without limitation, any liability or loss resulting from judgments or claims for personal injury, including death, or damage to any property whatsoever, which directly or indirectly result from or arise in connection with (i) the failure of the CONSULTANT to comply with applicable non-conflicting laws, rules or regulations, (ii) the breach by the CONSULTANT of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of the CONSULTANT's performance of this Agreement, or (iv) the negligent act, errors or omissions, or intentional or willful misconduct of the CONSULTANT, its sub-consultants, agents, employees and invitees; provided, however, that the CONSULTANT shall not be obligated to defend or indemnify the CITY with respect to any such claims or damages arising out of the CITY's sole negligence.

14.2.2 The CITY's review, comment and observation of the CONSULTANT's work and performance of this Agreement shall in no manner constitute a waiver of the indemnification provisions of this Agreement.

14.2.3 The CONSULTANT agrees that it bears sole legal responsibility for its work and work product, and the work and work product of sub-consultants and their employees, and/or for CONSULTANT's performance of this Agreement and its work product(s).

14.3 Survival. Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Section 14.0 shall survive as if the Agreement were in full force and effect.

15.0 Independent Contractor

15.1 The CONSULTANT undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance.

15.2 The CITY shall have no right to supervise the methods used, but the CITY shall have the right to observe such performance.

15.3 The CONSULTANT shall work closely with the CITY in performing Services under this Agreement.

15.4 The CONSULTANT shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the CITY in any manner.

15.5 The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

16.0 **Authority to Practice**

16.1 The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

17.0 **Compliance with Laws**

17.1 In performance of the Services, the CONSULTANT will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria and standards.

18.0 **Subcontracting**

18.1 The CITY reserves the right to accept the use of any proposed subcontractor or sub-consultant of the CONSULTANT (for purposes of this Section 18.0 referred to as a “subcontractor”), or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor.

18.2 If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the CITY. Failure of a subcontractor to timely or properly perform its obligations shall not relieve CONSULTANT of its obligations hereunder.

19.0 **Federal and State Taxes**

19.1 The CITY is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the CITY will provide an exemption certificate to the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the CITY, nor shall the CONSULTANT be authorized to use the CITY’s Tax Exemption Number in securing such materials.

20.0 **Public Entity Crimes**

20.1 The CONSULTANT understands and acknowledges that this Agreement with the CITY will be void, in the event the conditions under Section 287.133, Florida Statutes apply to the CONSULTANT, relating to conviction for a public entity crime.

21.0 **CITY’s Responsibilities**

21.1 The CITY shall be responsible for providing access to all CITY project sites, and providing information in the CITY’s possession that may reasonably be required by CONSULTANT, including existing reports, studies, financial information, and other required data that are available in the files of the CITY.

22.0 **Termination of Agreement**

22.1 This Agreement may be terminated by the CONSULTANT upon thirty (30) days prior written notice to the CITY in the event of substantial failure by the CITY to perform in accordance with the terms of the Agreement through no fault of the CONSULTANT.

22.2 This Agreement may be terminated by the CITY with or without cause immediately upon written notice to the CONSULTANT.

22.3 Unless the CONSULTANT is in breach of this Agreement, the

CONSULTANT shall be paid for services rendered to the CITY's satisfaction through the date of termination.

22.4 After receipt of written notice of termination of this Agreement, and except as otherwise directed by the CITY, the CONSULTANT shall:

22.4.1 Stop work on the date and to the extent specified.

22.4.2 Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

22.4.3 Transfer all work in process, completed work, and other material related to the terminated work to the CITY.

22.4.4 Continue and complete all parts of the work that have not been terminated.

22.5 The CONSULTANT shall be paid for services actually rendered to the date of termination.

23.0 **Uncontrollable Forces (Force Majeure)**

23.1 Neither the CITY nor the CONSULTANT shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

23.2 Neither Party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch.

23.3 The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an Uncontrollable Force, give written notice to the other party describing the circumstances and Uncontrollable Forces preventing continued performance of the obligations of this Agreement.

24.0 **Governing Law and Venue**

24.1 This Agreement shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Osceola County.

25.0 **Non-Discrimination**

25.1 The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

26.0 **Waiver**

26.1 A waiver by either the CITY or the CONSULTANT of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

27.0 **Severability**

27.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.

27.2 Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

27.3 The Parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

27.4 The provisions of this Section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

28.0 **Entirety of Agreement**

28.1 The CITY and the CONSULTANT agree that this Agreement sets forth the entire understanding between the Parties as to the subject matter contained herein, and that there are no promises or understandings between the parties other than those

stated herein.

28.2 This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the CITY and the CONSULTANT pertaining to the Services, whether written or oral.

29.0 **Modification**

29.1 This Agreement may not be modified, added to, superseded or otherwise altered unless such modifications, additions or other alterations are evidenced in writing signed by both the CITY and the CONSULTANT. Such modifications shall be in the form of a written Amendment executed by both Parties.

30.0 **Successors and Assigns**

30.1 The CITY and the CONSULTANT each binds itself and its partners, successors, assigns, executors, administrators and legal representatives to the other Party to this Agreement and to their partners, successors, executors, administrators, assigns, and legal representatives.

30.2 The CONSULTANT shall not assign this Agreement without the express written approval of the CITY by executed amendment, which approval may be withheld in the CITY's sole and absolute discretion.

30.3 In the event of a merger, the surviving corporation shall be substituted for the contracting party to this Agreement and such substitution shall be affirmed by the City of Kissimmee Commission by executed amendment.

31.0 **Contingent Fees**

31.1 The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

32.0 **Truth-In-Negotiation Certificate**

32.1 Execution of this Agreement by the CONSULTANT shall act as the execution of a Truth-in-Negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

32.2 The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The CITY shall exercise its rights under this Certificate within one (1) year following payment.

33.0 **Ownership of Documents**

33.1 The CONSULTANT shall be required to cooperate with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the CITY for its use and/or distribution as may be deemed appropriate by the CITY. The CONSULTANT is not liable for any damages, injury or costs associated with the CITY's use or distribution of these documents for purposes other than those originally intended by the CONSULTANT.

34.0 **Access and Audits**

34.1 The CONSULTANT shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Agreement. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours at the CONSULTANT's place of business.

34.2 Misrepresentations of billable time or Reimbursable Expenses as determined by the City Auditor to the Commission shall result in the recovery of any resulting overpayments. The CITY's cost of recovery shall be the sole expense of the CONSULTANT, including accounting and legal fees, court costs and administrative expenses.

34.3 Intentional misrepresentations of billable hours and Reimbursable Expenses will be criminally prosecuted to the fullest extent of the law.

34.4 All invoices submitted are subject to audit and demand for refund of overpayment up to three (3) years following completion of all services related to this Agreement.

35.0 **Notice**

35.1 Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by Federal-Express or by Certified Mail, postage prepaid as follows:

As to City:

City of Kissimmee

Public Works & Engineering Department
Facilities Management Division
101 Church Street
Kissimmee, FL 34741
Attn: Purchasing Director

As to Consultant:

35.2 Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m., or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

35.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the CONSULTANT and the CITY.

36.0 Service of Process

As to City:

City Attorney

City of Kissimmee
101 Church Street
Kissimmee, Florida 34741

As to Consultant: Franklin Design, a KPM-KMF Joint Venture

37.0 Key Personnel

37.1 The CONSULTANT shall notify the CITY in the event of key personnel changes which might affect this Agreement. To the extent possible, notification shall be made within ten (10) days prior to any such changes. The CONSULTANT, at the CITY's request, shall remove without consequence to the CITY any subcontractor or employee of the CONSULTANT and replace him/her with another employee having the required skill and experience. The CITY has the right to reject proposed changes in key personnel.

The following personnel shall be considered key personnel:

Name: Joseph Morgan
Eric Kleinsteuber
Robby Moon

Name:

38.0. **Annual Appropriations**

38.1 The CONSULTANT acknowledges that the CITY, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreements for a period exceeding one year, but any agreement so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the CITY's performance and obligation to pay under this agreement is contingent upon annual appropriation.

39.0 **Liquidated Damages**

39.1 The parties hereto agree that liquidated damages, in lieu of actual damages and in the amount stated in the applicable CSA or CPO, will be assessed against the CONSULTANT, as the CITY's remedy and not as a penalty, for CONSULTANT'S failure to meet the final deliverable date in the Performance Schedule in the Scope of Work, but only to the extent and in the proportion to CONSULTANT'S fault in causing the delay as compared to other causes, and to the extent the CONSULTANT is not delayed by reasons beyond CONSULTANT'S reasonable control. The parties agree that such assessment of liquidated damages is reasonable and appropriate, as it would be difficult or impossible to accurately determine the amount of actual damages the CITY would or may incur as a consequence of the CONSULTANT's failure described above.

40.0 **Unauthorized Alien(s)**

40.1 The CONSULTANT shall not employ or utilize unauthorized aliens in the performance of the Services. The CITY shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the CITY. The Form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" will be signed by the CONSULTANT and submitted as part of this Agreement.

40.2 To verify employee eligibility, the CONSULTANT may avail itself of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.

41.0 **Limitation of Liability**

IN NO EVENT, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY A PARTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

42.0 **Default and Remedy**

42.1 If the CONSULTANT materially defaults in its obligations under this Agreement and fails to cure the same within fifteen (15) days after the date the CONSULTANT receives written notice of the default from the CITY, then the CITY shall have the right to (i) immediately terminate this Agreement by delivering written notice to the CONSULTANT, and (ii) pursue any and all remedies available in law, equity, and under this Agreement. If the CITY materially defaults in its obligations under this Agreement and fails to cure the same within fifteen (15) days after the date the CITY receives written notice of the default from the CONSULTANT, then the CONSULTANT shall have the right to immediately terminate this Agreement by delivering written notice to the CITY. Upon any such termination, the CITY shall pay the CONSULTANT the full amount due and owing for all Services performed through the date of Agreement termination.

43.0 **Attorneys' Fees and Costs**

43.1 Except as stated in Section 14.2.1, above, in connection with any dispute or any litigation arising out of, or relating to this Agreement, each party shall be responsible for its own legal and attorneys' fees, costs and expenses, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.

44.0 **Public Records Law**

44.1 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.

44.2 CONSULTANT shall keep and maintain public records required to perform the services contemplated by this Agreement, in accordance with Chapter 119, Florida Statutes "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software,

or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

44.3 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 Construction Manager does not transfer the records to the CITY.

44.4 Questions regarding the application of Chapter 119, Florida Statutes, to the CONSULTANT's duty to provide public records relating to this Agreement, shall be directed to the CITY's Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.org, and 101 Church Street, Kissimmee, Florida 34741.

45.0 **Americans with Disabilities Act**

45.1 The CONSULTANT shall conform its Drawings and Specifications to the requirements of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"), but CITY shall be responsible for compliance with the remaining provisions of the Americans with Disabilities Act ("ADA"). CITY and CONSULTANT further recognize that interpretations of ADA by governmental officials and/or courts of law may vary or change. Should such variance or change adopted after the date the 100% Design Development are completed, require the CONSULTANT to make the required modifications, such modifications shall be considered as Contingent Additional Services. Further, CITY acknowledges, that the ADA, including ADAAG, is a new law presenting numerous difficult interpretation issues. Accordingly, the CONSULTANT shall only be liable for gross negligence in connection with any allegation that its design does not properly comply with ADAAG.

46.0 **Additional Definitions**

46.1 **Contract Documents** means this Agreement, any CSA or CPO issued hereunder, the CITY'S contract with the Contractor, the Plans, Specifications, General Conditions and related Construction Documents or any other documents incorporated by reference.

46.2 **Cost of the Work** shall be the total cost or, to the extent the Project is not completed, the estimated cost to the CITY of all elements of the Project designed or specified by the CONSULTANT.

46.2.1 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the CITY and equipment designed,

specified, selected or specially provided for by the CONSULTANT, including the costs of management or supervision of construction or installation provided by a separate construction manager or CONSULTANT.

46.2.2 The Cost of the Work does not include the compensation of the CONSULTANT and the CONSULTANT'S sub-consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the CITY.

46.3 **Final Completion** means that the following items have been completed or satisfied:

46.3.1 Construction of the Project is completed, in accordance with the contract documents and certified as such by the CITY and CONSULTANT.

46.3.2 The Project is suitable for full use and occupancy as determined by the CITY and CONSULTANT.

46.3.3 All Punchlist items have been completed or otherwise disposed of or accounted for to the CITY'S satisfaction and approval.

46.3.4 A final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.

46.3.5 All required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, warranties and maintenance books including the Final Completion form have been delivered to the CITY.

46.4 **Punch list** means a list of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance.

46.5 **Schedule of Values** means the schedule to be used as a basis for progress payments to be made to the Contractor by the CITY during performance of the work, based on the then current percentage of progress of construction of the Project, subject to the approval of the CONSULTANT.

46.6 **Substantial Completion** means the Contractor has ascertained that the work or portions thereof is ready for the CITY and CONSULTANT substantial completion inspection. It is understood that the Construction Manager will provide a list of incomplete items to the CITY and CONSULTANT prior to this inspection. After the CITY'S and CONSULTANT's inspection, the Contractor will prepare a schedule for a completion of the list, indicating completion dates for the CITY'S review. The CITY and CONSULTANT will issue a Certificate of Substantial Completion when the work on the Contractor's pre-substantial punch-list has been accomplished, to the best of the Contractor's ability.

46.7 **Substantial Completion Date** means the date, certified by the CONSULTANT, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the CITY can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use.

47.0 **Additional Terms and Conditions**

47.1 INSTRUMENTS OF SERVICE

47.1.1 Drawings, specifications and other documents, including those in electronic form, prepared by the CONSULTANT and the CONSULTANT'S sub-consultants are Instruments of Service for use solely with respect to this Project. The CONSULTANT and the CONSULTANT'S sub-consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

47.1.2 Upon execution of this Agreement, the CONSULTANT grants to the CITY a nonexclusive license to reproduce the CONSULTANT'S Instrument of Service and thereafter use the same solely for purposes of constructing, using and maintaining, repairing and making additions and modifications to the Project, provided that the CITY shall comply with all obligations, including prompt payment of all sums when due, under the Agreement. The CONSULTANT shall obtain similar nonexclusive licenses from the CONSULTANT'S sub-consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate the license. Upon such termination, the CITY shall refrain from making further reproductions of Instrument of Service. If and upon the date the CONSULTANT is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the CITY to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

47.1.3 Except for the licenses granted in Section 47.1.2, no other license or right shall be deemed granted or implied under this Agreement. The CITY shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the CONSULTANT. However, the CITY shall be permitted to authorize the Contractor, Subcontractors, and sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service to and for use in their execution of the Work by license granted in Section 47.1.2. Submission or distribution of Instruments of Service to meet

official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the CONSULTANT and the CONSULTANT'S sub-consultants. The CITY agrees to pay the CONSULTANT a reasonable, mutually agreed upon amount for any reuse of the designs, drawings or specifications beyond this Agreement. The CITY shall not be responsible to pay the CONSULTANT for the use of the designs, drawings or specifications when used for reference purposes only.

- 47.1.4 If the CONSULTANT is required to deliver any services hereunder in the form of electronic encoded media, the printed representation of such media furnished by the CONSULTANT shall be the official records of the CONSULTANT'S service provided upon completion of the services and payment in full. The CITY shall have a right to rely on such printed representation in connection with any subsequent modification of such electronic media and agrees to hold the CONSULTANT harmless from all cost and expense, including attorney's fees, from claims which arise out of modification or re-use of such electronic media or printed representation by or on behalf of the CITY without the CONSULTANT'S consent. Under no circumstances shall transfer of drawings and other instruments of service on electronic media for use by the CITY, be deemed a sale by the CONSULTANT, and the CONSULTANT makes no warranties of merchantability or fitness for a particular purpose.

47.2 CHANGE IN SERVICES

- 47.2.1 Change in Services of the CONSULTANT, including services required of the CONSULTANT'S sub-consultants may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the CONSULTANT'S control, or if the CONSULTANT'S services are affected as described in Section 47.2B-2. In the absence of mutual agreement in writing, the CONSULTANT shall notify the CITY prior to providing such services. If the CITY deems that all or part of such Change in Services is not required, the CITY shall give prompt written notice to the CONSULTANT, and the CONSULTANT shall have no obligation to provide those services. Except for a change due to fault of the CONSULTANT, Change in Services of the CONSULTANT shall entitle the CONSULTANT to an adjustment in compensation pursuant to Section 9.8, and to any Reimbursable Expenses described in Section 10.0.
- 47.2.2 If any of the following circumstances affect the CONSULTANT'S services for the Project, the CONSULTANT shall be entitled to an appropriate adjustment in the CONSULTANT'S schedule and compensation:
- 47.2.2.1 Change in the instructions or approvals given by the CITY that constitute material changes to the Project parameters set forth above

and which necessitate revisions in Instruments of Service;

47.2.2.2 Enactment or revision of codes, laws or regulations or official interpretations, which necessitate changes to previously prepared Instruments of Service;

47.2.2.3 Significant change in the Project including, but not limited to, size, quality, complexity, the CITY'S schedule or budget, or procurement method;

47.2.2.4 Preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the CONSULTANT is party thereto.

47.3 ACCELERATED COMPLETION OF DESIGN PACKAGES. In order to minimize construction problems and change orders, the CONSULTANT's standard practice requires the completion of detailed working drawings, submission for review and comment by reviewing agencies and incorporation of those comments and/or changes prior to bidding and entering into firm construction contracts. However, CITY may choose to accelerate the completion of the Project so that it may be completed in a shorter time period than would normally be required. Should the CITY choose to make this selection, it shall not be considered Fast Track, or in any way relieve the CONSULTANT of its responsibilities and obligations set forth herein.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; THE AGREEMENT CONTINUES ON THE FOLLOWING PAGE WITH THE PARTIES' SIGNATURES.)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

Attest:

Linda Hansell
CITY CLERK



By: Linda S. Hansell
City Clerk

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

By: Olga Castano for
Mayor
City of Kissimmee Commission

Date Approved by Commission: 12/19/2023

Reviewed as to form and legal sufficiency:

Olga Sanchez de Fuentes

City Attorney's Office Date

Attest:

[Signature]
Corporate Secretary

CONSULTANT

By: Joseph L. Moya
Title: MANAGING MEMBER

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 1st day of December, 2023, by means of ☒ physical presence or ☐ online notarization, by (name of person) Joseph Moya as (type of authority) Managing Member for (name of party on behalf of whom instrument was executed) Franklin Design, a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:



Erika Meaghan Lord
Notary Public
State of Florida
Comm# GG987287
Expires 5/11/2024

Notary: Erika Meaghan Lord
Print Name: Erika Meaghan Lord
My Commission Expires: 5/11/2024

EXHIBIT “A”

HOURLY RATE SCHEDULE

PROFESSIONAL SERVICES HOURLY RATES

CATEGORY	HOURLY BILLING RATE
Principal / Design Director	\$249
Senior Architect / Project Manager	\$189
Architect	\$145
Project / BIM Coordinator	\$129
Design Team	\$99
Operations Director	\$159
Administration & Accounting	\$79

DIRECT EXPENSES SCHEDULE

CAD Plotting	<i>Per Exhibit C</i>	Per sf
B&W Prints / Copies 8.5x11	<i>Per Exhibit C</i>	Each
B&W Prints / Copies 11x17	<i>Per Exhibit C</i>	Each
Color Prints / Copies 8.5x11	<i>Per Exhibit C</i>	Each
Color Prints / Copies 11x17	<i>Per Exhibit C</i>	Each
Shipping - All Services	Actual Cost plus, \$1 plus 10%	
Any Fees (Permitting etc)	Actual Cost plus 15%	
Mileage	<i>Per Exhibit C</i>	
Airfare	Total Billed Rate plus 10%	
Meals	Actual Cost or \$10 Breakfast, \$15 Lunch, \$20 Dinner, per person, whichever is less.	
All Other Expenses (w/ Prior Client Approval)	Actual Cost plus 10%	

These rates are expected effective through December 31, 2024, but may change at any time.
Rates are effective for 60 days from the date on the original proposal.

Professional Services Fee Schedule

Administrative / Office Support

Administrative Support I	\$50.00
Administrative Support II	\$65.00
Administrative Support III	\$75.00
Administrative Support IV	\$85.00
Administrative Support V	\$100.00

Engineering

Engineering Technician I	\$50.00
Engineering Technician II	\$60.00
Engineering Technician III	\$75.00
Engineering Technician IV	\$90.00
Engineering Technician V	\$100.00
Engineering Technician VI	\$120.00
Engineering Technician VII	\$135.00
Engineering Technician VIII	\$150.00
Engineer I	\$95.00
Engineer II	\$105.00
Engineer III	\$120.00
Engineer IV	\$130.00
Engineer V	\$150.00
Engineer VI	\$160.00
Engineer VII	\$175.00
Engineer VIII	\$190.00
Engineer IX	\$210.00
Engineer X	\$225.00

Planning and Landscape Architecture

Landscape Designer	\$100.00
Landscape Architect	\$135.00
Senior Landscape Architect	\$160.00
Planner I	\$90.00
Planner II	\$110.00
Planner III	\$130.00
Planner IV	\$150.00

Survey

Surveying Technician I	\$65.00
Surveying Technician II	\$80.00
Surveying Technician III	\$95.00
Surveying Technician IV	\$105.00
Surveying Technician V	\$115.00
Surveying Technician VI	\$125.00
Surveyor I	\$100.00
Surveyor II	\$110.00
Surveyor III	\$120.00
Surveyor IV	\$135.00
Surveyor V	\$145.00
Surveyor VI	\$160.00
1-Man Survey Crew	\$120.00
2-Man Survey Crew	\$160.00
3-Man Survey Crew	\$210.00
4-Man Survey Crew	\$255.00
UAV Photometric	\$180.00
UAV Lidar	\$220.00

Management

Project Manager I	\$110.00
Project Manager II	\$130.00
Project Manager III	\$160.00
Project Manager IV	\$200.00
Project Manager V	\$225.00
Department Manager	\$225.00
Division Manager	\$250.00
Principal	\$275.00

Expert Witness

Expert Witness Testimony	\$250.00
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Identifiable out of pocket expense and other reimbursables will be billed at cost, without a markup.

Effective January 17, 2023, subject to review and revisions

EXHIBIT “B”

SCOPE OF SERVICES

In accordance with Sections 2.3 and 8.1 of the Agreement, in addition to any other Services described in the Agreement, the RFQ, and the CONSULTANT’s responsive proposal thereto, the CONSULTANT may also be authorized to perform any or all of those services set forth and further described below. In the event the CITY requests the CONSULTANT to furnish and perform any of the services listed and described in this Exhibit “B”, those services shall be listed and incorporated in the applicable CSA or CPO issued for a particular Project.

ALL PHASES:

1. PROJECT ADMINISTRATION AND MANAGEMENT SERVICES

1.1. Project Administration services consisting of administrative functions including:

- 1.1.1. Project Decision Structure
- 1.1.2. Project Directory
- 1.1.3. Consultation
- 1.1.4. Research
- 1.1.5. Communications; Meeting Minutes, Meeting Agendas (For meetings called by CONSULTANT during the Design phases of the project)
- 1.1.6. Direction of the work of architectural, engineering and other consultant personnel

1.2. Disciplines Coordination/Document Checking consisting of:

- 1.2.1. Coordination between the architectural work and the work of engineering and their disciplines involved in the Project.
- 1.2.2. Review and checking of documents prepared for the Project by the CONSULTANT and the CONSULTANT’s Consultants.

1.3. Agency Consulting/Review/Approval services, including:

- 1.3.1. Agency consultants
 - 1.3.1.1. City agencies
 - 1.3.1.2. Regional agencies
 - 1.3.1.3. State agencies
- 1.3.2. Research of critical applicable regulations.
- 1.3.3. Preparation of written and graphic explanatory materials.

1.4. Owner Coordination, including:

- 1.4.1. Review and coordination of data furnished for the Project as a responsibility of the Owner.

1.5. Schedule Development/Monitoring Services, including:

- 1.5.1. Participate in establishment and updating of design schedule in conjunction with CM for the performance of the CONSULTANT's services throughout the design of the project. Key decision-making points will be identified on this schedule.

1.6. Presentation services consisting of presentations and recommendations by the CONSULTANT to the following client representatives:

- 1.6.1. City of Kissimmee Commission
- 1.6.2. Executive Task Force
- 1.6.3. User group(s)
- 1.6.4. Construction Manager

PHASE I PROGRAMMING & MASTER PLANNING

2. NEEDS ASSESSMENT/DATA COLLECTION

2.1. Space Needs Assessments

- 2.1.1. Macro Level Space Requirements Analysis
- 2.1.2. Macro Level Adjacency Requirements
- 2.1.3. Parking Analysis

2.2. Analysis of the site and its surroundings to include the following:

- 2.2.1. Land Utilization
- 2.2.2. Building locations
- 2.2.3. Utility Systems
- 2.2.4. Surface and subsurface conditions (By Owner)
- 2.2.5. Vegetation (By Owner)
- 2.2.6. Survey (By Owner)
- 2.2.7. Land Use Restrictions
- 2.2.8. Historical analysis
- 2.2.9. Stormwater retention/detention areas

3. FUNCTIONAL PROGRAMMING

3.1. Prepare a detailed architectural program based on the scope established in Phase I to include the following services:

- 3.1.1. Functional Requirements Analysis
- 3.1.2. Interior Development Guidelines
- 3.1.3. Space Standards

- 3.1.4. Preliminary Program Space Estimates
- 3.1.5. Space and Equipment Program
- 3.1.6. Special Building System Requirements
- 3.1.7. Micro-Adjacency Requirements
- 3.1.8. Prepare Final Draft Program
- 3.1.9. Prepare Final Program Report

4. MASTER PLANNING

- 4.1 Prepare three different conceptual approaches for housing the space and parking requirements validated in the Needs Assessment. Include the following information, at a minimum:
 - 4.1.1 Existing facility renovation recommendations
 - 4.1.2 Site development planning issues (land utilization, pedestrian and vehicular circulation, parking, areas for expansion, stormwater retention/detention and landscape forms)
 - 4.1.3 Architectural concepts. The architectural concepts will include blocking and stacking diagrams, massing studies and character sketches.

PHASE II: DESIGN/ BIDDING/CONSTRUCTION ADMINISTRATION SERVICES

5. DESIGN SERVICES

5.1. Architectural Design/Documentation:

- 5.1.1. During the Schematic Design Phase, responding to program requirements and preparing:
 - 5.1.1.1. Conceptual Planning/Massing Options
 - 5.1.1.2. Final Conceptual Site and Building Plans
 - 5.1.1.3. Preliminary Sections and Elevations
 - 5.1.1.4. Preliminary Selection of Building Systems and Materials
 - 5.1.1.5. Development of Approximate Dimensions, Areas and Volumes
 - 5.1.1.6. Perspective sketch – eye level
 - 5.1.1.7. Study model
- 5.1.2. During the Design Development Phase consisting of continued development and expansion of architectural Schematic Design Documents to establish the final scope, relationships, forms, size and appearance of the Project through:
 - 5.1.2.1. Plans, sections and elevations
 - 5.1.2.2. Typical construction details
 - 5.1.2.3. Three-dimensional sketch
 - 5.1.2.4. Study model
 - 5.1.2.5. Final materials selection
 - 5.1.2.6. Equipment layouts

- 5.1.3. During the Contract Documents phase consisting of preparation of Drawings and Specifications based on approved Design Development documents setting forth in detail the architectural construction requirements for the Project.

5.2. Structural Design/Documentation:

- 5.2.1. During the Schematic Design Phase consisting of recommendations regarding basic structural materials and systems, analyses, and development of conceptual design solutions for:
 - 5.2.1.1. A structural system
 - 5.2.1.2. Alternate structural systems, if required
- 5.2.2. During the Design Development phase consisting of continued development of the specific structural system and Schematic Design documents in sufficient detail to establish:
 - 5.2.2.1. Basic structural system and dimensions
 - 5.2.2.2. Final structural design criteria
 - 5.2.2.3. Foundation design criteria
 - 5.2.2.4. Preliminary sizing of major structural components
 - 5.2.2.5. Critical coordination clearances
- 5.2.3. During the Contract Documents phase consisting of preparation of final structural engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the structural construction requirements for the Project.

5.3. Mechanical Design/Documentation:

- 5.3.1. During the Schematic Design phase, prepare a narrative, consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for:
 - 5.3.1.1. Energy source(s)
 - 5.3.1.2. Energy conservation and controls system concepts
 - 5.3.1.3. Heating and ventilating (systems selections and conceptual sizing and configuration analysis.)
 - 5.3.1.4. Air conditioning (systems selections and conceptual sizing and configuration analysis.)
 - 5.3.1.5. Plumbing
 - 5.3.1.6. Fire protection
 - 5.3.1.7. General space requirements
- 5.3.2. During the Design Development phase consisting of continued development and expansion of mechanical Schematic Design documents and development of outline Specifications or materials lists to establish:
 - 5.3.2.1. Approximate equipment sizes and capacities

- 5.3.2.2. Preliminary equipment layouts
- 5.3.2.3. Required space for equipment
- 5.3.2.4. Required chases and clearances
- 5.3.2.5. Acoustical and vibration control
- 5.3.2.6. Visual impacts
- 5.3.2.7. Energy conservation measures

- 5.3.3. During the Contract Documents phase consisting of preparation of final mechanical engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the mechanical construction requirements for the Project.

5.4. Electrical Design/Documentation

- 5.4.1. During the Schematic Design Phase, prepare a narrative, consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analyses, and development of conceptual solutions for:
 - 5.4.1.1. Power service and distribution
 - 5.4.1.2. Lighting
 - 5.4.1.3. Communication and data outlet location systems
 - 5.4.1.4. Fire detection and alarms
 - 5.4.1.5. General space requirements
 - 5.4.1.6. Audio/Visual systems
- 5.4.2. During the Design Development phase consisting of continued development and expansion of electrical Schematic Design documents and development of outline Specifications or materials lists to establish:
 - 5.4.2.1. Criteria for lighting, electrical and communications systems
 - 5.4.2.2. Approximate sizes and capacities of major components
 - 5.4.2.3. Preliminary equipment layouts
 - 5.4.2.4. Required space for equipment
 - 5.4.2.5. Required chases and clearances
- 5.4.3. During the Contract Documents phase, consisting of preparation of final electrical engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the electrical requirements for the Project.

5.5. Civil Design/Documentation:

- 5.5.1. During the Schematic Design phase consisting of consideration of alternate materials and systems and development of conceptual design solutions for:
 - 5.5.1.1. On-site utility systems
 - 5.5.1.2. Fire protection systems
 - 5.5.1.3. Drainage systems

5.5.1.4. Paving

- 5.5.2. During the Design Development phase consisting of continued development and expansion of civil Schematic Design documents and development of outline Specifications or materials lists to establish the final scope of and preliminary details for on-site civil engineering work.
- 5.5.3. During the Contract Documents phase, consisting of preparation of final civil engineering calculations, Drawings and Specifications based on approved Design Development documents, setting forth in detail the civil construction requirements for the Project.
- 5.5.4. Permit applications required for Water Distribution, Sewage Collection and Stormwater/Environment Management (Local, State, and Federal) shall be prepared for execution by the Owner. Permit applications to be paid by Owner. All necessary reports and drawings will be prepared to accompany the permit applications. Two meetings per agency as required to secure permits is included in services. City shall designate individual who has authority to sign permit applications.

5.6. Landscape Design/Documentation:

- 5.6.1. During the Schematic Design phase, prepare narrative conceptual design solutions, which will be developed for land forms, hardscape, lawns and plantings based on program requirements, physical site characteristics, design objectives and environmental determinants.
- 5.6.2. During the Design Development phase, Schematic Design documents will be further developed including outline Specifications and materials lists to establish final scope and preliminary details for landscape work.
- 5.6.3. During the Contract Documents phase, the Drawings and Specifications based on approved Design Development documents, setting forth in detail the landscape and hardscape construction requirements for the Project will be prepared.

5.7. Interior Design/Documentation:

- 5.7.1. During the Schematic Design phase consisting of space allocation and departmental utilization plans based on functional relationships:
 - 5.7.1.1.Types and qualities of finishes and materials for furniture, furnishings, and equipment.
- 5.7.2. During the Design Development phase consisting of continued development and expansion of interior Schematic Design documents and development of

outline Specifications or materials lists to establish final scope and preliminary details relative to:

5.7.2.1. Interior construction of the Project

5.7.2.2. Special interior design features

5.7.2.3.Space planning

5.7.2.4. Materials, finishes and colors

5.7.2.5. Furniture and equipment layouts

5.7.3. During the Contract Documents phase consisting of preparation of Drawings, Specifications and other documents based on approved Design Development documents, setting forth in detail the requirements for interior construction and furniture, furnishings and equipment for the Project.

5.8. Environmental Graphic Design Services: The scope shall include interior and exterior sign types and graphic elements to provide a comprehensive and cohesive signage and wayfinding system for users of the facility.

5.8.1. Design Development:

5.8.1.1.Consider design approaches; determine elements needed for identity, information and wayfinding.

5.8.1.2. Begin development of sign prototypes.

5.8.1.3. Develop preliminary location plans.

5.8.2. Construction document preparation.

5.8.3. Construction observation and submittal review.

5.8.4. Interior sign types to include:

5.8.4.1. Primary room ID (changeable name inserts in some locations).

5.8.4.2. Restroom ID.

5.8.4.3. Stairway ID and stairway level ID.

5.8.4.4. Building Code required ID.

5.8.4.5. Fire exit plan.

5.8.4.6. Building directories.

5.8.5. Exterior sign types include:

5.8.5.1. Main entrance identification.

5.8.5.2. Vehicular directional.

5.8.5.3. Regulatory / Warning identification.

5.8.5.4.Parking areas; handicap parking, authorized vehicles, visitor parking, etc.

5.8.6. Donor Recognition / Dedication Plaques – Prepare conceptual designs illustrating a graphic solution to recognize a significant donor for the facility.

5.9. Materials Research/Specifications:

5.9.1. During the Schematic Design phase consisting of:

5.9.1.1.Identification of potential materials, systems and equipment and their criteria and quality standards consistent with the conceptual design.

- 5.9.1.2. Investigation of availability and suitability of alternative materials, systems and equipment.
- 5.9.2. During the Design Development phase consisting of activities by in-house personnel in:
 - 5.9.2.1. Development of architectural and engineering project specific draft Specifications or itemized lists and brief form identification of significant architectural materials, systems and equipment, including their criteria and quality standards.
 - 5.9.2.2. Coordination of similar activities of other disciplines.
 - 5.9.2.3. Production of design manual including design criteria and outline specifications or material lists.
- 5.9.3. During the Contract Documents phase consisting of activities of in-house architectural personnel in:
 - 5.9.3.1. Review of the development and preparation of bidding and procurement information prepared by the Construction Manager.
 - 5.9.3.2. Assistance to the Owner and their agents in review of the Conditions of the Contract (General, Supplementary and other Conditions).
 - 5.9.3.3. Development and preparation of architectural Specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.
 - 5.9.3.4. Coordination of the development of Specifications by other disciplines.
 - 5.9.3.5. Compilation of Project Manual including Conditions of the Contract, bidding and procurement information and Specifications.
- 5.10. At the conclusion of each Design Phase (Schematic Design, Design Development and Construction Document) the Architect/Engineer shall provide the Owner with two (2) sets of drawings and specifications. At the conclusion of Construction Documents one set of reproducible will also be made available to the City for printing of Bid Documents by the City or the Construction Manager.

6. BIDDING OR NEGOTIATION SERVICES

- 6.1. **Bidding Materials services** consisting of organizing and handling Bidding Documents for:
 - 6.1.1. Coordination
 - 6.1.2. Reproduction by Owner
 - 6.1.3. Completeness review
- 6.2. **Addenda services** consisting of preparation and distribution of Addenda as may be required during bidding or negotiation and including supplementary Drawings,

Specifications, instructions and notice(s) of changes in the bidding schedule and procedures.

6.3. Bidding/Negotiation services consisting of:

6.3.1. Responses to questions from Bidders and clarifications or interpretations of the Bidding Documents.

6.4. Analysis of Alternates/Substitutions consisting of consideration, analyses, comparisons, and recommendations relative to alternates or substitutions proposed by Bidders or proposers either prior to or subsequent to receipt of Bids or proposals.

7. CONSTRUCTION ADMINISTRATION

7.1. Submittal Services consisting of:

7.1.1. Processing of submittals, including receipt, review of, and appropriate action on Shop Drawings, Product Data, Samples and other submittals required by the Contract Documents.

7.1.2. Distribution of submittals to Construction Manager.

7.1.3. Related communications.

7.2. Observation services consisting of periodic visits by the Project Manager or Project CONSULTANT to the site at intervals appropriate to the state of the work or as otherwise agreed by the Owner and CONSULTANT in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work when completed will be in accordance with Contract Documents; preparing related reports and communications, and attendance at progress review meetings at the site.

7.2.1. Periodic site visits by other staff to observe the progress of the project.

7.3. Responses to Requests for Information (RFI)

7.3.1. Responding to requests for clarifications or additional information related to the Contract Documents.

7.4. Supplemental Documentation services consisting of:

7.4.1. Preparation, reproduction and distribution of supplemental Drawings, Specifications and interpretations in response to requests for clarification by Construction Manager or the Owner.

7.4.2. Providing guidance to the Construction Manager in conjunction with the Owner -relative to changed requirements and schedule revisions.

7.5. Quotation Requests/Change Orders consisting of:

- 7.5.1. Preparation, reproduction and distribution of Drawings and Specifications to describe Work to be added, deleted or modified. Changes shall be clearly defined.
- 7.5.2. Review of proposals from Construction Manager for reasonableness of quantities and costs of labor and materials.
- 7.5.3. Review and recommendations relative to changes in time for Substantial Completion.
- 7.5.4. Review on Owner's behalf relative to costs of Work proposed to be added, deleted or modified.
- 7.5.5. Assisting in the preparation of appropriate Modifications of the Contract(s) for Construction.
- 7.5.6. Coordination of communications, approvals, notifications and record-keeping relative to changes in the Work.

7.6. Contract Cost Accounting services consisting of:

- 7.6.1. Review of records of payments on account of the Contract Sum and all changes thereto.
- 7.6.2. Evaluation of Applications for Payment and certification thereof.
- 7.6.3. Review and evaluation of expense data submitted by the Construction Manager for Work under cost-plus-fee arrangements.

7.7. Interpretations and Decisions consisting of:

- 7.7.1. Review of claims, disputes, or other matters between the Owner and Construction Manager relating to the execution or progress of the Work as provided in the Contract Documents.
- 7.7.2. Rendering written decisions.

7.8. Project Closeout services initiated upon notice from the Construction Manager that the Work, or a designated portion thereof which is acceptable to the Owner, is sufficiently complete in accordance with the Contract Documents to verify the list submitted by the Construction Manager of items to be completed or corrected.

- 7.8.1. Review with the Owner's representative for conformity of the Work to the Contract Documents to verify the list submitted by the Construction Manager of items to be completed or corrected.
- 7.8.2. Recommendation of the amounts to be withheld until final completion.
- 7.8.3. Securing and receipt of consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment(s).
- 7.8.4. Issuance of Certificate(s) of Substantial Completion.
- 7.8.5. Inspection(s) upon notice by the Construction Manager that the Work is ready for final inspection and acceptance.
- 7.8.6. Final inspection with the Owner's representative to verify final completion of the Work.

- 7.8.7. Securing and receipt of consent of surety or sureties, if any, to the making of final payment(s).
- 7.8.8. Issuance of final Certificate(s) for Payment.
- 7.8.9. Final inspection of Water Distribution, Sewage Collection and Stormwater/ Environmental Management Facilities. Preparation of certifications to agencies along with record documents prepared based upon record information supplied by the Construction Manager. Services include one final inspection for each certification.

8. POST-CONSTRUCTION SERVICES

8.1. Record Drawing services consisting of:

- 8.1.1. Making arrangements for obtaining from Construction Manager information in the form of marked-up prints, drawings and other data certified by them on changes made during performance of the Work, including Change Directives, RFI's, ASI's, etc.
- 8.1.2. Review of general accuracy of information submitted and certified by the Construction Manager.
- 8.1.3. Preparation of record drawings electronically based on certified information furnished by the Construction Manager.
- 8.1.4. Transmittal one set of full-size reproducible record drawings and general data, appropriately identified, to the Owner and others as directed. Two copies of all electronic data including CADD drawings on CD.

8.2. Warranty Review consisting of:

- 8.2.1. Consultation with and recommendation to the Owner during the duration of warranties in connection with inadequate performance of materials, systems and equipment under warranty.
- 8.2.2. Inspection(s) prior to expiration of the warranty period(s) to ascertain adequacy of performance of materials, systems and equipment.
- 8.2.3. Documenting defects or deficiencies and assisting the Owner in preparing instructions to the Construction Manager for correction of noted defects.

9. ADDITIONAL SERVICES/EXPENSES (not included in the base fee):

9.1. Owner-Provided Services:

- 9.1.1. Environmental assessment of site, if necessary.
- 9.1.2. Environmental assessment of existing facilities to be renovated and/or demolished, and the removal of any hazardous material, if necessary.
- 9.1.3. Printing of all Contract Documents issued for bidding and construction.
- 9.1.4. Distribution of Contract Documents to Construction Manager for estimating and bidding purposes.

- 9.2. Mock-Up Services** relating to any space for study during the design phases and consisting of:
- 9.2.1. Design and documentation for the required mock-up.
 - 9.2.2. Construction administration of mock-up construction activities.
 - 9.2.3. Arrangements for testing performance of mock-up.
 - 9.2.4. Review, analysis and reporting of results.
- 9.3. Prepare an Inventory** of existing furniture and equipment that will be placed in the new facilities.
- 9.4. Value Engineering** – Value engineering is the detailed, systematic review of the design concepts, construction techniques, materials and building types associated with a project solely in terms of life cycle costs in an attempt to obtain optimum value for every dollar spent. If Owner chooses to engage in value engineering, Owner shall either retain the services of an independent Value Engineer (“VE”) to perform the above review services to be complete at a stage no later than the completion of schematic design, or may pay a mutually negotiated sum “at the time the services are requested” to CONSULTANT to perform the above review services at a stage later than the completion of schematic design, Owner acknowledges that schedule and cost impacts may occur.
- 9.4.1. If Owner chooses to retain an independent VE, all recommendations of the VE shall be given to CONSULTANT for its review and adequate time will be provided for CONSULTANT to respond to these recommendations. CONSULTANT may be compensated as an additional service for time spent to review the recommendations of the VE and to incorporate those accepted by both Owner and CONSULTANT. Objections to any recommendations made by the VE shall be stated in writing. Owner agrees that CONSULTANT shall not be responsible for any damage, cost or liability which arises in connection with or as a result of the incorporation of such design changes.
- 9.5. Commissioning** – The performance of a functional and operational check of all systems and equipment to verify the installation is performing to the design criteria. CONSULTANT would prepare this service in conjunction with an independent contractor experienced in such activities.
- 9.6. Structural Blast Resistance** - Analysis of building structural systems to resist loads imposed by blast forces on exterior of facility. This would require an additional blast consultant to be obtained.
- 9.7. Security Systems:** The Security portion of the project will include the design and documentation of Electronic Security System from Schematic Design through Construction Administration Services. The Electronic Security System will include intrusion detection, access control, electronic door control and monitoring,

operational intercom, fixed duress alarms, monitoring and control panels, CCVE systems, control room layouts, rough-ins for x-ray screening/magnetometer at entry lobby, and parcel screening. As part of the overall security plan CONSULTANT will provide a site analysis to determine passive security measures to be incorporated for the facility. Deliverables for the above scope for each task are as listed below.

- 9.7.1. **Schematic Design (SDs):** CONSULTANT will provide a written security narrative describing the Electronic Security System, reflecting the design approach based on program requirements. In addition, CONSULTANT will provide two people for a one day on site Security Workshop to validate the security program and establish the design intent.
- 9.7.2. **Design Development (DDs):** CONSULTANT will provide job specific draft specifications of the Electronic Security System including plans indicating device locations, and outline specifications, and equipment selections reflecting design approach. CONSULTANT will provide one person for 1 day to attend an on-site design review with the Owner and Design Team members to review the Electronic Security System Design Development documents.
- 9.7.3. **Construction Documents (CDs):** Upon completion of this review, CONSULTANT will provide completed biddable documents including plans, details, schedules, riser diagrams, and specifications required to fully document the Electronic Security System. In addition, CONSULTANT will provide, at the completion of the Construction Documents phase, two (2) copies of a Design Information Manual (DIM) outlining major equipment selections utilized as the basis of design for the Electronic Security Systems. CONSULTANT will conduct mid-point design review with Owner and Design Team members to review the Electronic Security Construction Documents.
- 9.7.4. **Bidding:** CONSULTANT will review all questions related to the Electronic Security System submitted, and provide answers in written addendum as required.
- 9.7.5. **Construction Administration (CA):** CONSULTANT will provide one person for four, one day intermediate site visits during construction. In addition, upon written notification of substantial completion CONSULTANT will provide two persons for one day (16 hours total) to review and test the Electronic Security System.
 - 9.7.5.1. Included in this phase of work is the review of security shop drawing submittals and written responses to security RFI from the contractor.
 - 9.7.5.2. Deliverable for this phase of work will include a written field report for the intermediate site visits, and a final report and punch list of the site visit made following written notice of substantial completion.

9.7.6. **Expanded Security System Design** - The following systems and services can be provided in addition to the Electronic Security Design defined in previous sections:

9.7.6.1. Assistance Stations

9.7.6.2. Parking Area Equipment (cameras, card access control)

9.7.6.3. Wireless Duress

9.7.6.4. Hydraulic Barriers

9.7.6.5. Biometrics

9.7.6.6. Perimeter protection systems

9.7.6.7. Post Construction Services: CONSULTANT will provide two people for one day (16 hours total) to conduct a pre-warranty expiration review of the electronic security system. The review will focus on inspection of equipment, operational functions, defects or deficiencies within the system and will be documented in report form and issued to the owner.



EXHIBIT C

SCHEDULE OF REIMBURSABLES

1. Reproduction Cost			
A.....	Regular Copying	Single Side	Double
Sided			
8 ½ x 11 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 11 (color)	\$ 0.30/page	\$ 0.40/sheet	
8 ½ x 14 (black & white).....	\$ 0.15/page	\$ 0.25/sheet	
8 ½ x 14 (color)	\$ 0.30/page	\$ 0.40/sheet	
11 x 17 (black & white).....	\$ 0.25/page	\$ 0.35/sheet	
11 x 17 (color)	\$ 0.40/page	\$ 0.50/sheet	
9 ½ x 24 Single Side Only.....	\$ 1.00/page		
17 x 22 Single Side Only.....	\$ 2.00/page		
18 x 24 Single Side Only.....	\$ 2.00/page		
24 x 36 Single Side Only.....	\$ 3.00/page		
30 x 30 Single Side Only.....	\$ 5.00/page		
32 x 34 Single Side Only.....	\$ 5.00/page		
Other sizes-per square inch	\$ 0.03/page		
Compact Digital Disk.....	\$ 6.00/disk		
B. Blueprint Copy.....		\$10.00/page	
2. Subcontractor Services		Actual Costs	
3. Special Consultants		Actual costs	
4. Telecommunications			
A. Local		Non-reimbursable	
B. Non-Local		Actual Costs	
5. Computer Services		Non-reimbursable	
6. Travel Expenses	In accordance with Chapter 112.061, F.S.; and further defined in the City of Kissimmee Employee Handbook		
7. Postage, Fed Express, UPS		Actual Costs	
8. Pre-approved Equipment (includes purchase and rental of equipment used in project)	Actual Costs		

EXHIBIT D

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

SOLICITATION NO.: RFP2023-006 PROJECT NAME: Architectural and Engineering Services

THE CITY OF KISSIMMEE, a MUNICIPAL CORPRATION OF THE STATE OF FLORIDA (CITY), WILL NOT INTENTIONALLY AWARD CITY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

THE CITY MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY THE CITY.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Attest:

CONSULTANT

By: _____

Corporate Secretary

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by means of ☐ physical presence or ☐ online notarization, by (name of person) as (type of authority) for (name of party on behalf of whom instrument was executed), a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:

Notary: _____

Print Name: _____

My Commission Expires: _____

AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

SOLICITATION NO.: RFQ2023-006 PROJECT NAME: Architectural and Engineering Services

THE CITY OF KISSIMMEE WILL NOT INTENTIONALLY AWARD CITY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

THE CITY OF KISSIMMEE MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY CITY OF KISSIMMEE.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: FRANKLIN DESIGN - A KPM - KMF JOINT VENTURE LLC
Signature: Joseph L Morgan Title: MANAGING MEMBER Date: AUG 31, 2023

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 31st day of August, 2023, by means of ☒ physical presence or ☐ online notarization, by (name of person) Joseph Morgan as (type of authority) Managing Member for (name of party on behalf of whom instrument was executed) Franklin Design, a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:



Erika Meaghan Lord
Notary Public
State of Florida
Comm# GG987287
Expires 5/11/2024

Notary: Erika Meaghan Lord
Print Name: Erika Meaghan Lord
My Commission Expires: 5/11/2024

ITEM 7.C

Bid Award for Shingle Creek Regional Trail South Phase 2A Lancaster Loop Project

Request

Approval to award the bid for the construction of the Shingle Creek Regional Trail South Phase 2A project to Atlantic Civil (contract # 20250094), in the total project amount of \$6,602,715.94. This project will be funded by the Florida Department of Transportation (FDOT) and the City of Kissimmee local fund, FIN 442334-1-58-01.

Explanation

Through the City's participation in MetroPlan Orlando, the City has been able to secure federal funding from the FDOT through a Local Agency Program (LAP) agreement for the construction of the Shingle Creek Regional Trail South Phase 2A project in the total amount of \$4,913,339.00. The City committed local funding for the balance of the project in the total amount of \$1,689,377.00 to cover the shortfall including items ineligible for reimbursement but necessary to meet the City's standards for the project.

The Shingle Creek Trail South Phase 2A project is within the future Lancaster Ranch Park property. The project consists of the construction of an approximately 1.88 miles long, 10-foot-wide to 14-foot-wide trail, and two 12-foot-wide pedestrian bridges. The project limits are between Hoagland Boulevard / Pleasant Hill Road and the west side of U.S.17-92 (John Young Parkway).

Construction of the new paved recreational trail includes roadway items such as base and asphalt application, concrete sidewalk, concrete end walls, retaining wall system, pedestrian / bicycle railings, concrete curb, landscaping, root control barriers, fence removal and installation, drainage modifications, and the construction of two pedestrian bridges. Additional site amenities such as signs, benches, trash receptacles, pet waste station, tables, square shelters, bike racks, and concrete pads are also included. There will also be landscaping installed including pine and small trees, and shrubs planted in different layouts throughout the trail.

The project was advertised on Sunday, May 5, 2024. Bids were opened on July 3, 2024, Bid # IFB2024-002. Three contractors submitted bids for the construction of Shingle Creek Regional Trail Phase South 2A Project with the following results:

Contractor/Duration (Days):

Atlantic Civil Contractors Corp / 380 days – Bid Total: \$6,602,715.94. (Lowest responsible and responsive bidder)

CM Engineering Services / 380 days – Bid Total: \$9,037,952.08

Cathcart Construction / 380 days – Bid Total: \$9,913,850.00

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
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City of Kissimmee

15145206 506393	SCRTPH2A23	Increase	\$2,135,669.00	
15100334 334490		Increase	\$1,200,000.00	
10550700 509276		Decrease	\$500,000.00	
10445206 506393	ST2306	Decrease	\$435,669.00	

Financial Summary:

The project is fully funded by FDOT and the City of Kissimmee.

Recommendation

Approval to award the bid for the construction of the Shingle Creek Regional Trail South Phase 2A to Atlantic Civil, in the total project amount of \$6,602,715.94.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Contractor's Contract
2. Notice of Intent to Award
3. LAP Supplemental Agreement #1

CONTRACT

CITY OF KISSIMMEE SHINGLE CREEK REGIONAL TRAIL PROJECT AREA ~ SOUTH PHASE 2A – LANCASTER LOOP

This Contract, entered into this ____ day of _____, 20____, 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) LAP Division I Specifications
- (e) Specifications Package
- (f) Construction Plans Titled; Shingle Creek Regional Trail - Project Area ~ Phase 2A South
- (g) Specifications and Addenda Nos. 1-4
- (h) Bid Summary
- (i) Contract
- (j) FDOT Standard Specifications for Road & Bridge Construction, Latest edition
- (k) Public Construction Bond
- (l) Appendix A, B and C

2. The Contractor agrees to furnish all materials and perform all work to complete the construction of the Shingle Creek Regional Trail – Project Area ~ South Phase 2A - Lancaster Loop 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. This is a ONE NOTICE TO PROCEED contract.

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

SIX MILLION SIX HUNDRED TWO THOUSAND SEVEN HUNDRED FIFTEEN DOLLARS AND NINETY FOUR CENTS

_____ Dollars (\$ 6,602,715.94) based on the estimated quantities and unit or lump sum prices contained herein.

5. Liquidated damages for any failure of the Contractor to complete the Contract work within the Contract time will be assessed per day in amounts presented in the Liquidated damages section of the LAP Division I Specifications.

6. The contract time is 380 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:	<u>Bitco General Insurance Corp</u>
Address	<u>3700 Market Square Circle, Davenport, IA 52807</u>
Telephone Number	<u>800-822-2905</u>

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:	<u>Bitco General Insurance Corp</u>
Address	<u>3700 Market Square Circle, Davenport, IA 52807</u>
Telephone Number	<u>800-822-2905</u>

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:	<u>Bitco General Insurance Corp</u>
Address	<u>3700 Market Square Circle, Davenport, IA 52807</u>
Telephone Number	<u>800-822-2905</u>

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:	<u>Bitco General Insurance Corp</u>
Address	<u>3700 Market Square Circle, Davenport, IA 52807</u>
Telephone Number	<u>800-822-2905</u>

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.

9. Indemnification. "To the extent provided 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 acts 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. 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;

ATTEST:

Atlantic Civil Constructors Corp

BY:



(SEAL)

Approved as to Form and Legality:

BY:

City Attorney

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 29 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply 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). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Superseded General Decision Number: FL20230181

State: Florida

Construction Type: Highway

County: Osceola County in Florida.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date
0 01/05/2024

ELEC0915-004 12/04/2023

	Rates	Fringes
ELECTRICIAN.....	\$ 33.59	42.5%+\$0.35

SUFL2013-042 08/19/2013		

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 14.10 **	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 13.00 **	0.00
FENCE ERECTOR.....	\$ 10.23 **	0.00
HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine).....	\$ 15.88 **	0.00
HIGHWAY/PARKING LOT STRIPING: Painter.....	\$ 12.13 **	0.00
IRONWORKER, ORNAMENTAL.....	\$ 13.48 **	0.00
IRONWORKER, REINFORCING.....	\$ 16.28 **	0.00
IRONWORKER, STRUCTURAL.....	\$ 16.42 **	0.00
LABORER (Traffic Control Specialist).....	\$ 11.61 **	0.00
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor.....	\$ 14.05 **	0.00
LABORER: Common or General.....	\$ 10.89 **	0.00
LABORER: Flagger.....	\$ 13.09 **	0.00
LABORER: Grade Checker.....	\$ 15.25 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 12.58 **	0.00
LABORER: Pipelayer.....	\$ 13.70 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 15.18 **	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 12.88 **	0.00
OPERATOR: Broom/Sweeper.....	\$ 12.91 **	0.00
OPERATOR: Bulldozer.....	\$ 15.22 **	0.00
OPERATOR: Concrete Finishing Machine.....	\$ 15.44 **	0.00
OPERATOR: Crane.....	\$ 23.11	0.00
OPERATOR: Curb Machine.....	\$ 18.45	0.00
OPERATOR: Drill.....	\$ 13.04 **	0.00
OPERATOR: Forklift.....	\$ 10.43 **	0.00

OPERATOR: Gradall.....	\$ 14.71 **	0.00
OPERATOR: Grader/Blade.....	\$ 18.20	0.00
OPERATOR: Loader.....	\$ 13.93 **	0.00
OPERATOR: Mechanic.....	\$ 18.05	0.00
OPERATOR: Milling Machine.....	\$ 14.79 **	0.00
OPERATOR: Oiler.....	\$ 16.67 **	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 14.91 **	0.00
OPERATOR: Piledriver.....	\$ 17.23	0.00
OPERATOR: Post Driver (Guardrail/Fences).....	\$ 15.97 **	0.00
OPERATOR: Roller.....	\$ 13.50 **	0.00
OPERATOR: Scraper.....	\$ 12.21 **	0.00
OPERATOR: Screed.....	\$ 14.24 **	0.00
OPERATOR: Trencher.....	\$ 14.25 **	0.00
PAINTER: Spray.....	\$ 19.57	0.00
TRAFFIC SIGNALIZATION:		
Traffic Signal Installation.....	\$ 16.08 **	0.00
TRUCK DRIVER: Dump Truck.....	\$ 12.78 **	0.00
TRUCK DRIVER: Flatbed Truck.....	\$ 14.28 **	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 15.89 **	0.00
TRUCK DRIVER: Slurry Truck.....	\$ 11.96 **	0.00
TRUCK DRIVER: Water Truck.....	\$ 13.29 **	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours

they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the

wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

OPINION OF ATTORNEY

This is to certify that I have examined the attached Contract Documents, and that I am of the opinion that such documents conform to the Laws of the State of Florida, and that the execution of the Contract is in due and proper form, and that the foregoing agreements constitute valid and binding obligations on such parties.

Attorney for the City of Kissimmee,
Florida

This _____ day of _____, 20__.



PURCHASING OFFICE
101 CHURCH STREET KISSIMMEE,
FL 34741

NOTICE OF INTENDED ACTION

Date: August 15, 2024
To: All Submitters on Record
Issued By: Debbie Luke, Purchasing Coordinator
Subject: IIFB2024-002 Shingle Creek Trail Phase 2A Lancaster Loop

The Public Works/Engineering Department has completed their reviews and evaluations 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

**LOCAL AGENCY PROGRAM
SUPPLEMENTAL AGREEMENT**

SUPPLEMENTAL NO.

1

FEDERAL ID NO. (FAIN)

D522 025 B

CONTRACT NO.

G2S93

FEDERAL AWARD DATE

12/19/2023; 09/11/2024; 11/19/2024

FPN

442334-1-58-01

RECIPIENT UNIQUE ENTITY ID SAM NO.

DPHBBJP7RHY3

Recipient, (City of Kissimmee), and the Florida Department of Transportation _____, desires to supplement the original Agreement entered into and executed on January 30, 2024 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 Shingle Creek Trail Phase 2A Length ~1.88 miles

Termini from John Young Parkway to Pleasant Hill Road

Description of Work:

The Shingle Creek Trail South Phase 2A project is with the City of Kissimmee (Recipient). The project consists of the construction of an approximately 1.88 miles long, 10-foot-wide to 14-foot-wide trail and two 120-foot-long, 12-foot-wide pedestrian bridges. The project limits are from Hoagland Boulevard / Pleasant Hill Road and ends west of U.S. 17-92 (John Young Parkway).

Construction of the new paved recreational trail includes roadway items such as base and asphalt application, 4-inch fiber reinforced concrete sidewalk, concrete end walls, retaining wall system, 42-inch pedestrian / bicycle railings, Type A concrete curb, landscaping, root control barrier panels, fence removal and installation, Geosynthetic Reinforced Soil bridge abutment, Geosynthetic Reinforced Soil gravel fill and the construction of two pedestrian bridges. Additional site amenities such as signs, benches, trash receptacles, pet waste station, tables, square shelters, bike racks, and 4-inch and 6-inch concrete pads are also included. Drainage modifications (such as pipes, mitered end sections, rip rap, concrete flumes, and ditch bottom inlets) will be constructed. There will also be installation of landscaping including pine, small tree, and shrub planting in different layouts (linear planting, mass planting, and around the shelter areas) throughout the trail.

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, regular and subsoil excavation, embankment (to include surcharge), and sod.

The following items are not eligible for reimbursement and will be locally funded:

Fiber reinforcement for concrete sidewalk

Thickened edge for concrete sidewalk

All pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination will be required during construction and utility work schedules have been developed. An Environmental Resource Permit (ERP) has been obtained from the South Florida Water Management District (SFWMD). The City (Recipient) shall construct the project within the limits of the existing right-of-way or easements.

**LOCAL AGENCY PROGRAM
SUPPLEMENTAL AGREEMENT**

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 \$6,602,716.00. This results in an increase of total construction funding by \$2,135,669.00. The federal funding is to be increased by \$1,200,000.00, which is the difference between previous federal funding of \$3,713,339.00 and the current federal funding of \$4,913,339.00. Local Funds will be increased by \$935,669.00, which is the difference between previous local funding of \$753,708.00 and the current local funding of \$1,689,377.00.
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: 442334-1-58-01

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: 2022-2023 (LAP) FY: 2024-2025 (LAP) FY: (Insert Program Name) Total Construction Cost	 \$4,467,047.00 \$0.00 \$4,467,047.00	 \$0.00 \$2,135,669.00 \$2,135,669.00	 \$4,467,047.00 \$2,135,669.00 \$6,602,716.00	 \$753,708.00 \$935,669.00 \$1,689,377.00	 \$0.00 \$0.00 \$ 0.00	 \$3,713,339.00 \$1,200,000.00 \$4,913,339.00
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	\$4,467,047.00	\$2,135,669.00	\$6,602,716.00	\$1,689,377.00	\$ 0.00	\$4,913,339.00

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
Signature
11/26/2024 | 5:25 PM EST
Date

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:

DocuSigned by:
By: *Adkins, Jack*
Name: C. Jack Adkins
Title: Director of Transportation Development
Date: 12/02/2024 | 8:12 AM EST

Legal Review:

DocuSigned by:
Daniel McDermott
585E81E26BBA45C...

IN WITNESS WHEREOF, the parties have executed this Agreement on the date last ascribed herein.

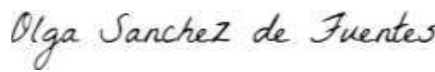
RECIPIENT CITY OF KISSIMMEE

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.

RESOLUTION NO. 06-2023

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 THE SHINGLE CREEK TRAIL PHASE 2A - LANCASTER LOOP TRAIL, FPN 442334-1-58-01.

WHEREAS, The State of Florida Department of Transportation and the City of Kissimmee desire to facilitate the Shingle Creek Trail Phase 2A - Lancaster Loop Trail,

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 442334-1-58-01.

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

Section 1. The foregoing recitals are true, correct legislative findings incorporate by this reference.

Section 2. The City Commission does hereby authorize the Mayor to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 442334-1-58-01.

Section 3. The City Commission further authorizes the City Manager to execute any subsequent documentation and amendments to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN 442334-1-58-01, that may be required in furtherance and for completion of the construction project.

DONE AND RESOLVED this 6th day of June, 2023.

ATTEST:

Linda S. Hansell
City Clerk



CITY OF KISSIMMEE

Olga Gonzalez
Mayor-Commissioner

Approval as to Form & Legality:

Olga Sanchez de Fuentes

City Attorney

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=cfda&is_active=true&page=1
Award Amount: \$4,913,339.00
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>

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).

To: Sarah.McNamara@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G2S93
11/22/2024

CONTRACT INFORMATION

Contract:	G2S93
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF KISSIMMEE
Vendor ID:	F596000348006
Beginning Date of This Agreement:	02/08/2024
Ending Date of This Agreement:	09/30/2025
Contract Total/Budgetary Ceiling:	ct = \$4,913,339.00
Description:	Shingle Creek Trail Phase 2A from John Young Parkway to Pleasant Hill Road

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR JASON ADANK, CPA, COMPTROLLER ON 11/22/2024

Action:	Supplemental
Reviewed or Approved:	APPROVED
Organization Code:	55054010508
Expansion Option:	AF
Object Code:	780000
Amount:	\$1,200,000.00
Financial Project:	44233415801
Work Activity (FCT):	215
CFDA:	20.205
Fiscal Year:	2025
Budget Entity:	55150200
Category/Category Year:	088717/25
Amendment ID:	S001
Sequence:	00
User Assigned ID:	1
Enc Line (6s)/Status:	0002/04

Total Amount: \$1,200,000.00

Certificate Of Completion

Envelope Id: B6956D191E19457089C17C026F3EBD36

Status: Completed

Subject: Complete with Docusign: 442334-1-58-01 (G2S93) – LAP SA#1.pdf

Contract Number (ex. C9A12, optional): G2S93

Document Contains Confidential Information?: No

Fin Proj Num (ex.123456-1-32-01, Optional): 442334-1-58-01

Office (contact Procurement if add is needed):

Local Programs

HR Action?: No

Source Envelope:

Document Pages: 11

Signatures: 3

Envelope Originator:

Certificate Pages: 2

Initials: 0

Sarah McNamara

AutoNav: Enabled

605 Suwannee Street

Envelopeld Stamping: Enabled

MS 20

Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Tallahassee, FL 32399-0450

Sarah.McNamara@dot.state.fl.us

IP Address: 156.75.252.6

Record Tracking

Status: Original

Holder: Sarah McNamara

Location: DocuSign

11/25/2024 12:44:31 PM

Sarah.McNamara@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)

DocuSigned by:

Precious L. Lewis

738E143F5C974E3...

Signature Adoption: Pre-selected Style

Using IP Address: 156.75.252.6

Timestamp

Sent: 11/25/2024 12:47:49 PM

Viewed: 11/26/2024 5:23:05 PM

Signed: 11/26/2024 5:25:24 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Daniel McDermott

Daniel.McDermott@dot.state.fl.us

District Chief Counsel

FL DOT

Signing Group: D5 General Law Legal Group

Security Level: Email, Account Authentication (None)

DocuSigned by:

Daniel McDermott

585E81E26BBA45C...

Signature Adoption: Pre-selected Style

Using IP Address: 156.75.252.6

Sent: 11/26/2024 5:25:25 PM

Viewed: 12/2/2024 8:05:59 AM

Signed: 12/2/2024 8:08:12 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Adkins, Jack

jack.adkins@dot.state.fl.us

Director of Transportation Development

FDOT

Security Level: Email, Account Authentication (None)

DocuSigned by:

Adkins, Jack

1752524FC337485...

Signature Adoption: Pre-selected Style

Using IP Address: 156.75.252.6

Sent: 12/2/2024 8:08:14 AM

Viewed: 12/2/2024 8:12:46 AM

Signed: 12/2/2024 8:12:54 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events

Editor Delivery Events

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: 11/26/2024 5:25:26 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: 11/26/2024 5:25:27 PM
Precious L. Lewis Precious.Lewis@dot.state.fl.us Kristen Webb Kristen.Webb@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: 12/2/2024 8:12:56 AM Resent: 12/2/2024 8:13:01 AM Viewed: 12/2/2024 3:08:04 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/25/2024 12:47:49 PM
Certified Delivered	Security Checked	12/2/2024 8:12:46 AM
Signing Complete	Security Checked	12/2/2024 8:12:54 AM
Completed	Security Checked	12/2/2024 8:12:56 AM
Payment Events	Status	Timestamps

ITEM 7.D

Interlocal Agreement with Toho Water Authority for Utility Line Relocations for the City of Kissimmee Connect Kissimmee Complete Streets Project

Request

Approval of Interlocal Agreement between City of Kissimmee (COK) and Toho Water Authority (TWA) relating to utility line relocations for the Connect Kissimmee Complete Streets project (contract # 20250135), in the total utility line relocations project amount of \$6,677,440. This amount will be funded by Toho Water Authority.

Explanation

The City of Kissimmee Connect Kissimmee Complete Streets project consists of improvements to provide safety and efficient operations for all modes of transportation within the downtown Kissimmee area.

Project Description: This is a complete street improvement project for W. Emmett Street, Broadway, and N. Main Street from John Young Parkway to Vine Street (HW 192). The goal is to provide better pedestrian, bicycle, and transit connectivity; reduce vehicle speeds and cut-through traffic; enhance the sense of place and help promote the corridor as a destination; and enhance accessibility to businesses using methods appropriate for the changing contexts throughout the corridor.

The total project length is approximately 1.45 miles.

Utility line relocation work is required during the construction of the City of Kissimmee Connect Kissimmee Complete Streets project. The purpose of this Agreement is to adjust the amount to be reimbursed by TWA to the COK with respect to the estimate costs of utility line relocations work as explained below:

Phase 1

Construction cost estimate and 10% contingency	\$1,383,000
CEI Services	\$138,300
City Administrative Cost Estimate	\$27,660
Total Phase 1	\$1,548,960

Phase 2

Construction cost estimate and 10% contingency	\$4,579,000
CEI Services	\$457,900
City Administrative Cost Estimate	\$91,580
Total Phase 2	\$5,128,480

Total Phase 1 and 2	\$6,677,440
---------------------	-------------

Recommendation

Approval of Interlocal Agreement between City of Kissimmee and Toho Water Authority relating to utility line relocations for the Connect Kissimmee Complete Streets project, in the total utility line relocations project amount of \$6,677,440.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Toho ILA - Connect Kissimmee

Prepared by or under the direction of and
return to:
Anthony Cotter
Office of General Counsel
Tohopekaliga Water Authority
951 Martin Luther King Blvd.
Kissimmee, Florida 34741

*Interlocal Agreement for
City of Kissimmee
Complete Streets Project*

**INTERLOCAL AGREEMENT
between
CITY OF KISSIMMEE and TOHO WATER AUTHORITY
relating to
UTILITY LINE RELOCATIONS
for the
CITY OF KISSIMMEE CONNECT KISSIMMEE
COMPLETE STREETS PROJECT**

THIS INTERLOCAL AGREEMENT (“**Interlocal Agreement**”) is entered into by and between the City of Kissimmee, Florida, a Florida municipal corporation, 101 Church Street, Kissimmee, Florida 34741 (“**CITY**”) and the Tohopekaliga Water Authority, an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, 951 Martin Luther King Blvd., Kissimmee, Florida 34741 (“**TOHO**”). For the purposes of this Interlocal Agreement, the CITY and TOHO may be individually referred to as a “**Party**” and collectively as the “**Parties**.”

R E C I T A L S

WHEREAS, Section 166.021, Florida Statutes, otherwise referred to as the "Municipal Home Rule Powers Act," authorizes the CITY to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 10(1), Laws of Florida 2003-368, authorizes TOHO to enter into interlocal agreements to provide for and maintain its facilities; and

WHEREAS, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," as amended, authorizes local government units to enter into interlocal agreements for the mutual benefit of the governmental units; and

WHEREAS, the objectives of this Interlocal Agreement achieve a public purpose, and each of the Parties represent to the other that it has the power, privilege, and authority to undertake and enter into this Interlocal Agreement; and

WHEREAS, the CITY is planning certain improvements within the downtown Kissimmee corridor known as the City of Kissimmee Connect Kissimmee Complete Streets Project (the “**Streets Project**”); and

WHEREAS, the CITY will manage the Streets Project in two Phases, Phase 1 and Phase 2, each with its own bid package. As defined in the plans from AECOM, Phase 1 includes construction of a roadway roundabout at the intersection of Emmett St, Ruby Ave, Broadway Ave, and Stewart Ave. and other roadway and drainage improvements on Broadway Ave., Darlington Ave., Monument Ave., Dakin Ave., and Sproule Ave. Phase 2 of the project includes roadway and drainage improvements to Emmett St. from John Young Parkway to Orlando Ave., and Main St. from Neptune Rd. to Vine St.

WHEREAS, the CITY’s improvements consist of street improvements and stormwater improvements (collectively “**Streets Improvements**”); and

WHEREAS, TOHO currently owns, operates, and maintains utility facilities (collectively the “**Utilities**”), which are located within the City right-of-way affected by the Streets Project, as more particularly described on Exhibit “A” attached hereto and by this reference incorporated herein (the “**Project Area**”); and

WHEREAS, to avoid conflict with the Streets Project, TOHO has agreed to relocate, replace, remove and/or abandon-in-place the Utilities within the Project Area as necessary, and as more particularly described on Exhibit “B” attached hereto and by this reference incorporated herein (the “**Utility Improvements**”) pursuant to the terms and conditions set forth herein; and

WHEREAS, TOHO has retained Dewberry to serve as consultant to prepare the design, plans, and specifications for the Utility Improvements for the Streets Project. Dewberry, as TOHO’s consultant, will prepare all permit applications and submit such applications to the appropriate government entities for processing of the necessary construction permits related to their respective portion of the Utility Improvements; and

WHEREAS, as further described herein, the Parties agree that the CITY will publicly advertise the bid documents for construction of the Streets Improvements together with the Utility Improvements on behalf of TOHO (collectively, the “**Joint Project**”); and

WHEREAS, TOHO agrees to cooperate with the CITY in the bidding and contract award by awarding the Utility Improvements contract to the same contractor as that of the CITY for the Streets Improvements, unless TOHO deems it necessary to award for the Utility Improvements contract to another contractor; and

WHEREAS, TOHO agrees to reimburse the CITY for construction costs associated with the Utility Improvements up to the established amount, as set forth in this Interlocal Agreement.

NOW, THEREFORE, in consideration of the terms and conditions, promises, covenants, and payments hereinafter set forth, the CITY and TOHO agree as follows:

1. **Recitals Incorporated.** The foregoing recitals (“**Recitals**”) are true and correct and are incorporated herein by reference, as if such Recitals were fully set forth herein.

2. **Compliance with Applicable Laws and Regulations.** Construction of the Streets Improvements and Utility Improvements must be performed in accordance with all applicable laws, ordinances, and regulations, and standards and specifications that TOHO will issue for the Utility Improvements and regulations of the CITY’s Land Development Code. The Streets Improvements and Utility Improvements are subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. 117-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in the Joint Project must be produced in the United States, as further outlined by the Office of Management and Budget’s Memorandum M-24-02, Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, October 25, 2023.

3. **Preparation of Plans.** TOHO shall provide CITY a suitable copy of the design and plans for the Utility Improvements, on standard size sheets (11” x 17”), together with a complete set of technical specifications covering all construction requirements for the Utility Improvements for use by the CITY in its bid advertisement (“**Design Specifications**”). The Design Specifications shall include a “Summary of Quantities” sheet. The Design Specifications shall be certified by an engineer licensed by the State of Florida.

4. **Construction Cost Sharing.** Based on preliminary estimates performed by or at the request of TOHO, the cost of construction for each phase of the Utility Improvements shall be as set forth below

a) Phase 1 Utility Improvements. Based on 90% design estimates performed by or at the request of TOHO; the costs for the Utility Improvements in Phase 1 are estimated to be \$1,257,000.00. With the allowance of a 10% contingency, TOHO shall be obligated to pay up to, but not exceeding, \$1,383,000.00 (the “Utility Improvements Cap”), as more particularly described on Exhibit “C” attached hereto and incorporated by this reference (“Construction Cost Summary”). Any changes to the Streets Improvements that cause the construction cost of the Utility Improvements to exceed \$1,257,000.00, but not exceed \$1,383,000.00, must be approved in advance in writing by TOHO’s Executive Director/CEO, which approval shall not be unreasonably withheld. In order to facilitate the award of the construction bid (Reference: FPID No. 437472-2-58-01) managed by the City, if TOHO’s Executive Director/CEO has not issued an approval or denial within 5 business days of a written request from the CITY, a change and cost increase shall be deemed approved so long as it does not exceed the Utility Improvements Cap. Any excessive delays in securing additional construction funding by TOHO shall not cause undue hardship to the City and their bidder/potential contractor to start the construction of Connect Kissimmee (Reference FPID:4347472-2-58-01). Furthermore, In the event, TOHO could not find additional funding related to the work defined in Exhibit A, TOHO will compensate the City for rebidding the contract if required and pay for re-procurement services to the City. The City of Kissimmee solely retains the rights to award/reject any bidder without consulting with TOHO based on their needs and discretion. TOHO agrees to reimburse the City 10% of construction cost for the Construction Engineering and Inspection (CEI) services as recommended by the City, which is expected to be approximately \$138,300. Additionally, TOHO agrees to reimburse the City 2% of construction cost for the project

administration and coordination work which is expected to be approximately \$27,660 based on TOHO's construction cost estimate. These amounts will be adjusted based on the "bid award" amount. TOHO agrees to fully (100%) reimburse the City within 30 calendar days of sending the invoices to TOHO for the 2% project administration, 10% CEI and Construction work.

Any changes by the CITY to the Joint Project that cause the construction cost of the Utility Improvements to exceed \$1,383,000.00 shall be paid by the CITY. Any changes by TOHO to the Joint Project that cause the construction cost of the Utility Improvements to exceed \$1,383,000.00 shall be paid by TOHO. The Construction Cost Summary specifically excludes all costs related to preparation of the Design Specifications.

b) Phase 2 Utility Improvements. Based on 90% design estimates performed by or at the request of TOHO; the costs for the Utility Improvements in Phase 2 are estimated to be \$4,163,000.00. With the allowance of a 10% contingency, TOHO shall be obligated to pay up to, but not exceeding, \$4,579,000.00 (the "Utility Improvements Cap"), as more particularly described on Exhibit "C" attached hereto and incorporated by this reference ("Construction Cost Summary"). Any changes to the Streets Improvements that cause the construction cost of the Utility Improvements to exceed \$4,163,000.00, but not exceed \$4,579,000.00, must be approved in advance in writing by TOHO's Executive Director/CEO, which approval shall not be unreasonably withheld. In order to facilitate the award of the construction bid (Reference: FPID No. 437472-4-58-01) managed by the City, if TOHO's Executive Director/CEO has not issued an approval or denial within 5 business days of a written request from the CITY, a change and cost increase shall be deemed approved so long as it does not exceed the Utility Improvements Cap. Any excessive delays in securing additional construction funding by TOHO shall not cause undue hardship to the City and their bidder/potential contractor to start the construction of Connect Kissimmee (Reference FPID:4347472-4-58-01). Furthermore, In the event, TOHO could not find additional funding related to the work defined in Exhibit A, TOHO will compensate the City for rebidding the contract if required and pay for re-procurement services to the City. The City of Kissimmee solely retains the rights to award/reject any bidder without consulting with the County based on their needs and discretion. TOHO agrees to reimburse the City 10% of construction cost for the Construction Engineering and Inspection (CEI) services as recommended by the City, which is expected to be approximately \$457,900. Additionally, TOHO agrees to pay the City 2% of construction cost for the project administration and coordination work, which is expected to be approximately \$91,580 based on TOHO's construction cost estimate. These amounts will be adjusted based on the "bid award" amount of the utility work as defined in Appendix A. TOHO agrees to fully (100%) reimburse the City within 30 calendar days of sending the invoices to TOHO for the 2% project administration, 10% CEI and Construction work. Any changes by the CITY to the Joint Project that cause the construction cost of the Utility Improvements to exceed \$4,579,000.00 shall be paid by the CITY.

Any changes by TOHO to the Joint Project that cause the construction cost of the Utility Improvements to exceed \$4,579,000.00 shall be paid by TOHO. The Construction Cost Summary specifically excludes all costs related to preparation of the Design Specifications.

Should the contractor damage any TOHO infrastructure, the damaged infrastructure shall be replaced to like-new condition at no cost to TOHO, including, but not limited to, any temporary works necessary to maintain continuous service, remediation of environmental impacts and any resultant fines or fees imposed by regulatory agencies.

Should the CITY require TOHO to adjust or relocate any portion of the completed Utility Improvements constructed in accordance with the conformed documents or adjustments approved by the CITY, the CITY shall be responsible for all costs associated with such adjustment and/or relocation.

The CITY agrees to provide payment to the contractor for the Utility Improvements work performed under this Interlocal Agreement, subject to reimbursement by TOHO. Any such payment shall be paid in accordance with the requirements set forth in Chapter 255, Florida Statutes.

The CITY agrees to allow TOHO to utilize the design survey prepared by the CITY's consultant for the Streets Improvements at no expense to TOHO. TOHO agrees that if the Utility Improvements require additional survey work, not completed as part of Streets Improvements, TOHO will pay for the cost of the additional work.

In areas where both construction of Utility Improvements and Streets Improvements require the removal of unsuitable materials, the CITY and TOHO shall equally share the cost of unsuitable material removal and replacement material on a pro-rated basis according to impact.

5. Bid Requirements and Contracting. The CITY shall, pursuant to its established purchasing policies and procedures, advertise for and receive bids for construction of both the Streets Improvements and the Utility Improvements. The plans and specifications for the Streets Improvements and Utility Improvements shall be separately identified. Any person or firm desiring to bid shall be required to bid on both the Streets Improvements and the Utility Improvements, however the CITY shall require the bids to be separately itemized. All bidders must certify that products to be used for the Joint Project will meet BABAA requirements and shall provide a Manufacturer's Certification for BABAA requirements to the CITY for each manufacturer providing materials to the bidder. The bids for the Utility Improvements must be submitted to TOHO for advanced written approval by staff. Upon approval of unit prices, TOHO shall submit the pricing to the TOHO Executive Director/CEO for formal approval, subject to the limitations set forth in Section 4 above. Notwithstanding the foregoing, TOHO retains the right, in its sole discretion, to award the construction contract for the Utility Improvements to a bidder other than that chosen by the CITY for the Streets Improvements if deemed necessary or appropriate by TOHO, in its sole discretion.

In the event TOHO awards the Utility Improvements to a bidder other than that chosen by the CITY: (a) each contractor shall be required to utilize bid pricing as submitted for both the Streets Improvements and Utility Improvements; (b) the contractors shall be required to coordinate construction activities and schedule for the overall project; and (c) TOHO shall assign the construction contract to the CITY to perform the construction of the Utility Improvements. These requirements shall be included in the CITY's and TOHO's project design documents.

All contracts between the CITY and any Streets Improvements contractor or subcontractor responsible for any construction work related to the Utility Improvements, shall name TOHO as a third-party beneficiary. All construction reports and other Utility Improvement related documents shall be certified for use and reliance by TOHO. The contract with the contractor responsible for the Utility Improvements shall require that contractor obtain and deliver to TOHO

both payment and performance bonds, and a two-year maintenance bond(s), all with dual-obligee riders naming TOHO a dual-obligee, as reasonably acceptable to TOHO, pursuant to Section 255.05, Florida Statutes. The CITY shall require all contractors or subcontractors to certify upon competition that all work and materials have complied with BABAA requirements. The CITY will not require duplicative performance, payment, and maintenance bonds related to the Utility Improvements. The purpose of the maintenance guarantee is to guarantee the materials, workmanship, structural integrity, functioning, and maintenance of the construction guarantees. If the maintenance guarantee is provided in the form of an irrevocable letter of credit, the instrument must be drawn on a financial institution having an office for the letter of credit presentation in either Orange or Osceola Counties and the financial institution shall be on the State of Florida approved "qualified public depositories" list for local government; and a Certificate of Insurance naming, as additional insurers: TOHO, their engineers, their consultants, any subsidiaries or affiliates, and each of their directors, officers, employees, representatives, agents or volunteers. In addition, all of the policies of Property Insurance required of the contractor shall be endorsed to include subcontractors as additional insurers. The insurance afforded to these additional insurers shall be primary insurance. If the additional insurers have other insurance, which might be applicable to any loss, the amount of insurance provided under the contractor's policies of insurance shall not be reduced or prorated by the existence of other insurance. Insurance limits shall be equal to the CITY's contractual requirements.

TOHO shall at all times have the right to inspect and approve or reject the work associated with the Utility Improvements and shall do so in a timely manner. The CITY shall invoice TOHO on a monthly basis for all construction work associated with the Utility Improvements, which has been completed and accepted by TOHO during the previous 30-day period. TOHO agrees to remit payment to the CITY up to the amount of the Utility Improvements Cap for the construction services provided under this Interlocal Agreement within 30 days of TOHO's approval of the same, in accordance with Section 7 of this Interlocal Agreement.

6. **Conflicts.** In the event that conflicts arise between the Streets Improvements and the Utility Improvements, the CITY shall provide reasonable notice of next Streets Improvements project meetings and TOHO shall attend the meetings held by the CITY to promptly facilitate resolution of the conflict.

7. **Construction Costs.** Notwithstanding the requirements set forth in Section 5 above, and subject to the Utility Improvements Cap limitations set forth in Section 4 of this Interlocal Agreement, TOHO shall be responsible for all construction costs associated with the Utility Improvements, including construction costs, construction, administration, engineering, certifications, any additional relocations and/or adjustments of Utility Improvements, as more particularly described in the Construction Cost Summary described on **Exhibit "C"** attached hereto and incorporated by this reference.

8. **Project Coordination.** TOHO and the CITY agree to coordinate closely on the schedule for the Joint Project. Should the CITY's work be delayed due to an intentional or unreasonable delay by TOHO, TOHO shall be responsible for any and all costs associated with the resulting time delays to the extent that said delays relate to the CITY's portion of the work being performed. Any delays caused by TOHO's rejection of non-conforming work shall not be construed

as intentional or unreasonable delays.

Likewise, should the Utility Improvements be delayed due to an intentional or unreasonable delay by the CITY, the CITY shall be responsible for any and all costs associated with the resulting time delays to the extent that said delays relate to TOHO's portion of the work being performed. Any delays caused by the CITY's rejection of non-conforming work shall not be construed as intentional or unreasonable delays. Time delay claims under this Interlocal Agreement by either Party shall be limited to controlling items of work, as defined by the construction schedule in place at the time of delay.

Where there is an event of force majeure, the Party prevented from or delayed in performing its obligations under this Interlocal Agreement must immediately notify the other Party giving full particulars of the event of force majeure and the reasons for the event of force majeure preventing that Party from, or delaying that Party in, performing its obligations under this Interlocal Agreement and that Party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its or their performance of the contract and to fulfill its or their obligations under the contract.

Upon completion of the event of force majeure the Party affected must recommence, as soon as reasonably practicable, the performance of its obligations under this Interlocal Agreement. An event of force majeure includes, but is not limited to, acts of God, such as severe acts of nature or weather including floods, fire, earthquakes, hurricanes; war, acts of terrorism, and epidemics; and strikes and labor disputes. An event of force majeure does not relieve a Party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

CITY and TOHO shall each additionally:

- a. Acquaint all contractor(s) with the schedule and stress items of work and materials that are critical to the coordination and completion of the Joint Project.
- b. Discuss the schedule at the pre-bid conference(s) with potential contractors and review each potential contractor's submission and qualifications with regard to the ability of each of the contractors to perform the work in a good and workmanlike manner and to complete the work in the time set forth in the contract documents.
- c. Include provisions in all contracts related to the Joint Project that require contractors to meet the Joint Project schedule as applies to each respective contractor.
- d. Provide administrative, management, supervision, and related services as required to coordinate work of the contractors with each other to complete the projects in accordance with the contract documents and specifications.
- e. Provide sufficient organization, personnel, management and supervision to carry out the requirements of the work.

9. **Other Utility Construction.** The owner of a utility lying within the Joint Project area which is in conflict with the Streets Improvements or Utility Improvements is required to relocate the utility at its own expense, unless the conflicting utility lies within its own private easement. If the utility lies within its own private easement and conflicts with the Streets Improvements, then the CITY must bear the cost of relocation of the utility. Or, if the utility lies within its own private easement and conflicts with the Utility Improvements, then TOHO must bear the cost of relocation of the utility. Or, if the utility lies within its own private easement and conflicts with both the Streets Improvements and the Utility Improvements, the CITY and TOHO shall each bear its own cost of relocating the utility. Notwithstanding the foregoing, if the utility lies within a public easement which provides that the CITY shall pay the costs for utility relocation, then the CITY shall pay the relocation costs attributable to the Joint Project. In any event, the CITY and TOHO shall coordinate their efforts in the relocation of conflicting utilities in a manner that does not cause unnecessary delay to the Utility Improvements contractor(s) or the Streets Improvements contractor(s).

10. **Clearing, Grubbing and Soil Density and Geotechnical Verification.** Within the Utility Improvements and Streets Improvements construction limits, all clearing and grubbing shall be performed by the CITY's contractor at no cost to TOHO. Within said limits, the CITY's contractor shall be responsible for the maintenance of traffic, at no cost to TOHO, provided the Utilities Improvements phasing is coordinated with the Streets Improvements phasing and Traffic Control Plan. All construction phase soil density and geotechnical verification testing is to be performed by the CITY with copies of all reports provided monthly to TOHO. The costs for such testing are reimbursable to the CITY by TOHO on a pro-rata basis only for testing related to the Utility Improvements ("**Soil & Geotechnical Costs**"). The Utility Improvements contractor, TOHO Project Manager, and TOHO inspector are to be notified of any failing tests immediately by the CITY's contractor in writing. In the event that TOHO awards the Utility Improvements to a bidder other than that chosen by the CITY, as described in Section **Error! Reference source not found.** of this Interlocal Agreement, TOHO shall coordinate and pay for maintenance of traffic and construction phase testing through its own contractors and agreements.

11. **Permitting.** TOHO shall be responsible for obtaining water and wastewater permits for the Utility Improvements. The CITY shall be responsible for obtaining all other necessary federal, state and local permits necessary for the Road Project including, but not limited to, construction, stormwater, and dewatering, and shall ensure that such permits also meet the needs of TOHO's proposed Utility Improvements. Upon completion of the bidding process set forth in Section **Error! Reference source not found.** of this Interlocal Agreement, the CITY will issue Right-of-Way Utilization Permits to the contractor selected for construction of the Utility Improvements and waive all associated fees for Utility Improvements construction work performed under this Interlocal Agreement. The Right-of-Way Utilization Permits shall specifically include and provide for perpetual operation and maintenance of the Utility Improvements by TOHO upon completion of both the Streets Improvements and Utility Improvements. TOHO will waive all water and wastewater impact fees for temporary construction facilities associated with the Streets Improvements. The CITY shall share its existing survey information and provide any additional surveys necessary for subsurface utility exploration.

12. Maintenance of Constructed Utility Improvements. Upon completion and acceptance by TOHO of the Utility Improvements, the CITY will deliver to TOHO a bill of sale for the Utility Improvements in a form mutually agreed upon between TOHO and the CITY, and forward to TOHO any and all warranties or maintenance guarantees/bonds related to the Utility Improvements, as well as the “as-builts” and a certificate of completion from the contractor for the Utility Improvements (“**Completion Documents**”). Upon acceptance and delivery to TOHO of Completion Documents, TOHO will own, maintain, and keep in repair all of such constructed Utility Improvements so as to comply with all provisions of federal, state and local law, and applicable agreements between the Parties. In the event of an emergency, TOHO shall notify the CITY of its need to work in the right-of-way. TOHO’s continued use of the subject right-of-way shall not unreasonably impede the use of the roadway or the CITY’s use and/or enjoyment of the same. TOHO is not responsible for the maintenance of any portion or segment of the Streets Improvements.

13. Maintenance of Streets Improvements. Upon completion and acceptance of the Streets Improvements, the CITY will own, control, and be responsible for Streets Improvements, except for any Utility Improvements constructed as part of the Streets Improvements. The CITY must maintain and keep in repair all of such constructed Streets Improvements so as to comply with all provisions of federal, state and local law and of CITY ordinances, resolutions, and applicable agreements between the Parties. The CITY is not responsible to maintain any portion or segment of the Utility Improvements.

14. Liability and Insurance. Both the CITY and TOHO are responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers and employees acting within the scope of their employment. In addition, each party is subject to the provisions of Section 768.28, Florida Statutes. Neither this provision nor any other provision of this Interlocal Agreement shall be construed as a waiver of sovereign immunity of either party.

Both the CITY and TOHO must acquire and maintain throughout the term of this Interlocal Agreement such general liability insurance, automobile insurance, and worker's compensation insurance as required by their current rules and regulations. Each party must require their respective contractor(s) and subcontractors of every tier to procure and maintain for the term of this Interlocal Agreement, including renewals, worker’s compensation insurance, commercial general liability insurance, comprehensive automobile liability insurance, and umbrella liability insurance as required by their current rules and regulations. The contractor(s) and subcontractor(s) of every tier for both parties must name both the CITY and TOHO as a certificate holder and as additional insured, to the extent of the services to be provided hereunder, on all required insurance policies except for the worker’s compensation policy.

15. Assignment. This Interlocal Agreement may not be assigned in whole or part without the written approval of all Parties. Any such assignment or attempted assignment shall be null and void.

16. Disclaimer of Third-Party Beneficiaries. This Interlocal Agreement is for the benefit of the CITY and TOHO and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third-party.

17. **Effective Date; Recording of Interlocal Agreement.** This Interlocal Agreement will be effective on the date recorded with the Clerk of the Circuit Court in and for Osceola County, Florida, in accordance with Subsection 163.01(11), Florida Statutes (the “**Effective Date**”). The CITY is responsible for recording a fully executed original of this Interlocal Agreement.

18. **Term and Termination.** The term of this Interlocal Agreement begins on the Effective Date and will continue until completion of construction of the Joint Project unless earlier terminated by mutual agreement of the CITY and TOHO.

19. **Dispute Resolution & Indemnification.** TOHO has the right to participate in any dispute resolution proceedings with the contractor related to Utility Improvements, so long as TOHO pays its proportionate share of any associated costs. Proportionate share of the associated dispute resolution costs shall be determined by the proportionate contract value of the disputed item to the overall Joint Project value. The CITY, to the extent provided by law, shall defend, save, and hold harmless TOHO from any and all legal actions, claims, or demands by any person or legal entity against TOHO arising out of any gross negligent act of the CITY’s officers, employees, servants, or agents during construction of the Joint Project. TOHO, to the extent provided by law, shall defend, save, and hold harmless the CITY from any and all legal actions, claims, or demands by any person or legal entity against the CITY arising out of any negligent act of TOHO’s officers, employees, servants, or agents during construction of the Joint Project. However, nothing contained herein shall constitute a waiver of either Party’s sovereign immunity and the limitations set forth in Section 768.28, Florida Statutes, or other limitations imposed on either Party’s potential liability under state or federal law. This Interlocal Agreement shall not be construed to extend such immunity or limitations to any person or entity other than the CITY or TOHO. This paragraph shall survive termination of this Interlocal Agreement

20. **Notices.** When either Party desires to give form notice to the other concerning this Interlocal Agreement, it must be given by written notice, sent by certified United States mail, with return receipt requested, by hand delivery, or by overnight carrier, and addressed to the party for whom it is intended, at the place last specified. For the present, the Parties designate the following as the respective places for giving of notice:

CITY: City of Kissimmee
101 North Church Street
Kissimmee, Florida 34741
Attn: City Manager

Copy to: City of Kissimmee
101 North Church Street
Kissimmee, Florida 34741
Attn: City Attorney

TOHO: Tohopekaliga Water Authority
951 Martin Luther King Boulevard
Kissimmee, Florida 34741
Attn: Executive Director/CEO

Copy to: Tohopekaliga Water Authority
951 Martin Luther King Boulevard
Kissimmee, Florida 34741
Attn: General Counsel

Either Party may change its address or designate different or other persons or entities who receive notice by notifying the other Party in a manner described in this Section. A Party receiving a notice which does not comply with the technical requirements for notice under this Section may, in its sole discretion, elect to waive any deficiencies and treat the notice as having been properly given.

21. Contract Administration.

21.1. The City's Director of Public Works and Engineering or a designee shall, on behalf of the City, be responsible for the day-to-day administration of this Interlocal Agreement, and for administration of construction contracts entered into pursuant to this Interlocal Agreement.

21.2. Toho's Director of Engineering Services or a designee shall, on behalf of Toho, be responsible for the day-to-day administration of this Interlocal Agreement, and for administration of construction contracts entered into pursuant to this Interlocal Agreement.

22. Public Records. The Parties mutually acknowledge their respective responsibility to comply with the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes, and each Party agrees to cooperate with the other in such compliance.

23. Amendments. The Parties agree that no modification, amendment, or alteration in the terms or conditions contained in this Interlocal Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

24. Waiver. Failure by the Parties to insist upon strict performance of any covenant, terms, provision, or condition of this Interlocal Agreement, or to exercise any right or option contained herein, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but shall remain in full force and effect.

25. Remedies. The Parties expressly agree that the consideration, in part, for each of them entering into this Interlocal Agreement is the willingness of the other to limit the remedies as provided herein. Except as otherwise provided herein, in redress for the failure of a party to perform its obligations under this Interlocal Agreement, the Parties have only the following remedies

available against each other: (i) action for specific performance, (ii) action for injunction, (iii) action for declaratory judgment regarding the rights and obligations of the Parties; or (iv) any combination of the foregoing. The Parties expressly waive their respective rights to sue for damages of any type for breach of or default under this Interlocal Agreement.

26. Attorney's Fees; Waiver of Jury Trial; Venue. In the event that the CITY or TOHO is required to enforce this Interlocal Agreement by court proceedings or otherwise, by instituting suit or otherwise, then the Parties shall be responsible for their own attorneys' fees and costs of prosecuting or defending the action. The Parties agree to waive trial by jury in any litigation arising out of this Interlocal Agreement. Venue for any litigation arising from this Interlocal Agreement shall lie in state court in Osceola County, Florida.

27. Arm's Length Transaction. The Parties recognize that each contributed to the preparation, review, negotiation, and final drafting of this Interlocal Agreement. Accordingly, in construing this Interlocal Agreement, no provision of the agreement may be construed in favor of either party by virtue of the preparation, drafting, or negotiation.

28. Independent Contractors. This Interlocal Agreement does not create an employee/employer relationship, joint venture, partnership, or other legal entity between the Parties. Each party will retain sole and absolute discretion in the judgment of the manner and means of carrying out that party's activities and responsibilities hereunder.

29. Severability. All clauses contained herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Interlocal Agreement. The Parties understand and mutually agree that if any part, term, or provision of this Interlocal Agreement is held by a court of competent jurisdiction to be illegal or otherwise in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the remaining rights and obligations of the Parties shall be construed and enforced as if the Interlocal Agreement did not contain the particular part, term or provision held to be invalid.

30. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Interlocal Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

IN WITNESS WHEREOF, the Parties have caused this Interlocal Agreement to be duly executed, by and through their authorized representatives, on the respective dates set forth below.

TOHOPEKALIGA WATER AUTHORITY

By: 
Henry Thacker

Title: Board of Supervisors, Chairman

Date: 11/13/24

ATTEST:

By: 
Tom White

Title: Board of Supervisors, Secretary

[REMAINING SIGNATURES ON FOLLOWING PAGE]

Approved by the CITY Commission of the CITY of Kissimmee on the ____ day of _____, 20__.

CITY OF KISSIMMEE

By: Jackie Espinosa Mayor-Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

EXHIBIT "A"

PROJECT AREA



EXHIBIT “B”

UTILITY IMPROVEMENTS

Utility Work:

Phase 1

- 1) Replacement of approximately 34 linear feet of 4” water main; and
- 2) Replacement of approximately 367 linear feet of 6” water main; and
- 3) Replacement of approximately 559 linear feet of 12” water main; and
- 4) Replacement of approximately 2,030 linear feet of 8” gravity sewer main; and
- 5) Replacement of approximately 130 linear feet of 12” gravity sewer main; and
- 6) Replacement of approximately 206 linear feet of 15” gravity sewer main.

Cost Estimates: Based on preliminary estimated performed by or at the request of TOHO, the cost of construction of the Utility Improvements are estimated to be \$1,257,000.00. With the allowance of a 10% contingency, TOHO shall be obligated to pay up to but not exceeding \$1,383,000.00.

TOHO agrees to pay 10% of construction cost for CEI work with 100% reimbursement to the City. Additionally, TOHO agrees to pay the City 2% of construction cost for the project administration and coordination work. It is the sole responsibility of TOHO to inspect all work in a timely manner and bring any deficient work to the City and Contractor’s attention within 24 hours of their observation with pictures and videos taken showing the deficient work. The City thru their CEI team will investigate the claim and take appropriate action. In the event the work to be redone, TOHO agrees to join the City to negotiate with the Contractor and will agree with the City to settle all contractor’s claims as recommended by the City Engineer.

Phase 2

- 1) Replacement of approximately 5,630 linear feet of 6” water main; and
- 2) Replacement of approximately 3,846 linear feet of 8” gravity sewer main; and
- 3) Replacement of approximately 1,562 linear feet of 18” gravity sewer main; and
- 4) Replacement of four (4) gravity sewer manholes.

Cost Estimates: Based on preliminary estimated performed by or at the request of TOHO, the cost of construction of the Utility Improvements are estimated to be \$4,163,000.00. With the allowance of a 10% contingency, TOHO shall be obligated to pay up to but not exceeding \$4,579,000.00.

TOHO agrees to pay 10% of construction cost for CEI work with 100% reimbursement to the City. Additionally, TOHO agrees to pay the City 2% of construction cost for the project administration and coordination work. It is the sole responsibility of TOHO to inspect all work in a timely manner and bring any deficient work to the City and Contractor’s attention within 24 hours of their observation with pictures and videos taken showing the deficient work. The City thru their CEI team will investigate the claim and take appropriate action. In the event the work to be redone, TOHO agrees to join the City to negotiate with the Contractor and will agree with the City to settle all contractor’s claims as recommended by the City Engineer.

EXHIBIT "C"

TOHO CONSTRUCTION COST SUMMARY

Cost Estimates: Based on preliminary estimated performed by or at the request of TOHO, the cost of construction of the Phase 1 Utility Improvements is estimated to be \$1,257,000.00. With the allowance of a 10% contingency, TOHO is expected to pay approximately \$1,383,000.00. Additionally, TOHO agrees to pay for 100% cost of the 10% Construction Engineering and Inspection (CEI) services and 2% project administration fee based on the "bid award" amount and CEI work as detailed out in section 4a and 4b.

Cost Estimates: Based on preliminary estimated performed by or at the request of TOHO, the cost of construction of the Phase 2 Utility Improvements is estimated to be \$4,163,000.00. With the allowance of a 10% contingency, TOHO shall be obligated to pay up to but not exceeding \$4,579,000.00. Additionally, TOHO agrees to pay for 100% cost of the 10% Construction Engineering and Inspection (CEI) services and 2% project administration fee based on the "bid award" amount and CEI work as detailed out in section 4a and 4b.

ITEM 7.E

Municipal Inter-Local Voluntary Cooperation Mutual Aid Agreement for the Kissimmee Police Department

Request

Approval to enter into a Municipal Interlocal Voluntary Cooperation Mutual Aid Agreement (contract #20250138) with various jurisdictions that will expire on January 1, 2029.

Explanation

The current Municipal Interlocal Voluntary Cooperation Mutual Aid Agreement between the Kissimmee Police Department and the City of Apopka, City of Belle Isle, Town of Eatonville, City of Edgewood, City of Maitland, Town of Oakland, City of Ocoee, School Board of Orange County Police, City of Orlando, University of Central Florida, City of St. Cloud, Town of Windermere, City of Winter Garden and City of Winter Park expires in January, 2025.

The law enforcement agencies are so located in relation to each other that it is to the advantage of each to receive and extend Mutual Aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people and in intensive situations including but not limited to emergencies as defined under Section 252.34 Florida Statutes. The City has a separate interlocal agreement with Osceola County which includes the School District of Osceola County.

Recommendation

Approval to enter into the Municipal Interlocal Voluntary Cooperation Mutual Aid Agreement with an expiration date of January 1, 2029, and also for the Mayor and City Clerk to sign the documentation in order to execute the agreement.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Police

Presenter:

Attachment(s):

1. (S) Municipal Interlocal Agreement 2025 Final

**MUNICIPAL
INTER-LOCAL VOLUNTARY COOPERATION
MUTUAL AID AGREEMENT**

**City of Apopka
City of Belle Isle
Town of Eatonville
City of Edgewood
City of Kissimmee
City of Maitland
Town of Oakland
City of Ocoee
School Board of Orange County
City of Orlando
The University of Central Florida, Board of Trustees
City of St. Cloud
Town of Windermere
City of Winter Garden
City of Winter Park**

WHEREAS, the subscribed law enforcement agencies are so located in relation to each other that it is to the advantage of each to receive and extend Mutual Aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people and in intensive situations including but not limited to emergencies as defined under Section 252.34 Florida Statutes; and

WHEREAS, the Apopka Police Department, the Belle Isle Police Department, the Eatonville Police Department, the Edgewood Police Department, the Kissimmee Police Department, the Maitland Police Department, the Oakland Police Department, the School Board of Orange County, the Ocoee Police Department, the Orlando Police Department, St. Cloud Police Department, the University of Central Florida Police Department, the Windermere Police Department, the Winter Garden Police Department, and Winter Park Police Department (individually hereinafter the "Party" or "Participating Agency" and collectively hereinafter the "Parties" or "Participating Agencies") have the authority under Part I of Chapter 23, Florida Statutes, the Florida Mutual Aid Act, to enter into a Voluntary Cooperation Agreement for assistance of a routine law enforcement nature that crosses jurisdictional lines and a Requested Operational Assistance Agreement for the rendering of assistance in connection with a law enforcement emergency.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section I. Provisions for Requested Operational Assistance

The aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the Participating Agencies may request or agree to render law enforcement assistance to any of the other Participating Agencies in law enforcement emergencies to include; but not necessarily be limited to, civil disturbances, large protest demonstrations, aircraft disaster, fires, natural or man-made disasters, sporting events, concerts, parades, escapes from detention facilities, incidents requiring utilization of specialized units, suspected terrorist incidents, active shooter incidents, any incident or situation that surpasses the resources of the Participating Agencies or other emergency as defined in Section 252.34 Florida Statutes.

Section II. Provisions for Voluntary Cooperation

The Participating Agencies hereby approve and enter into this Agreement whereby each of the Participating Agencies may request and render voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines. This assistance may address violations of any Florida Statute, including by way of illustration and not limitation, investigating homicides, sex offenses, robberies, assaults, burglaries, larcenies, gambling, motor vehicle thefts, and drug violations, pursuant to Chapter 893, Florida Statutes, back-up services, over-the-line arrests, over-the-line executions of warrants, inter-agency task forces, and/or joint investigations including but not limited to, City/County/State Traffic Enforcement Units, the Metropolitan Bureau of Investigation, Special Weapons and Tactics Teams, Canine Units, and the Bomb Disposal Unit.

Section III. Policy and Procedure

- A. In the event that a Party to this Agreement is in need of assistance as set forth above, it shall notify the agency head or their designee from the Participating Agency whom such assistance is required. The agency head or designee whose assistance is sought shall evaluate the situation and the agency's available resources, consult with his/her supervisors if necessary, and will respond in a manner he/she deems appropriate. The agency head's decision in this regard shall be final.
- B. The resources or facilities that are assigned by the assisting agency shall be under the immediate command of a supervising officer, designated by the assisting agency head. Such supervising officer shall be under the direct supervision and command of the agency head or his designee of the agency requesting assistance.
- C. Where investigative priorities arise during a law enforcement operation that may require the crossing of jurisdictional lines, each Party agrees that the agency administrator or his designee on duty shall notify the agency administrator of the jurisdiction entered, and request enforcement assistance. The responding agency administrator or his designee shall evaluate the situation, consult with his appropriate supervisor if necessary, and, if required, ensure that proper

enforcement assistance is rendered.

- D. Should an officer of a Participating Agency be in another jurisdiction for matters of a routine or investigative nature, such as traveling through the area on routine business, attending a meeting, or going to or from work, and a criminal violation of Florida Statutes occurs in the presence of said officer, and said violation is a felony, an offense constituting a breach of the peace, a crime of violence against a person, or the officer witnesses a driver engaged in a pattern of conduct that constitutes an immediate danger to the motoring public, the officer shall be deemed to have requested and received authorization to render enforcement assistance and act in accordance with the law and this Agreement.
- E. If a law enforcement officer of one of the Parties to this Agreement has probable cause to arrest an individual for a felony offense in their own jurisdiction and requests assistance in the location and apprehension of the suspect, and a law enforcement officer of one of the other Parties to this Agreement is in the jurisdiction of the Party requesting assistance and observes the suspect, the officer of the other Party shall be deemed to have requested and received authorization to render law enforcement assistance and act in accordance with the law and this Agreement.
- F. If a law enforcement officer of one of the Parties of this Agreement establishes probable cause to arrest an individual for a crime which occurred within their own jurisdiction, and learns that the individual has fled to the jurisdiction of another Participating Agency within this Agreement, the original officer who has probable cause may contact the jurisdiction for whom the suspect has fled into for permission to arrest said individual across jurisdictional boundaries. This provision shall only be used if the arrest is within a reasonable amount of time after the probable cause has been established and a warrant has not yet been obtained. A "reasonable amount of time" will not exceed 24 hours after the offense is reported to the agency.
- G. If one of the Parties to this Agreement requests another Party to assist in coverage of an off-duty assignment within their jurisdiction through the agency off-duty coordinator or system, the out of jurisdiction officer working the detail is authorized to take law enforcement action within the requestor's jurisdiction.
- H. A law enforcement officer of a Party outside of their jurisdiction is deemed to have requested and received authorization under this Agreement to take law enforcement action to continue an investigation of a crime which began in their jurisdiction in another Party's jurisdiction for the purpose of:
 - 1. Transporting a subject to the Orange County Jail or Baker Act facility.
 - 2. Interviewing witnesses, victims, or suspects.

3. Collection of evidence, except pursuant to a search or seizure warrant or when such warrant is required by law.

The Parties recognize that the above referenced activities may not constitute law enforcement action and operational assistance is only requested to the extent required by law. A law enforcement officer of a Party outside of their jurisdiction shall make a mutual aid request if the law enforcement officer intends to interview a suspect in another Party's jurisdiction and believes there is a substantial likelihood that the law enforcement officer will arrest the suspect in another Party's jurisdiction.

- I. If one of the Parties to this Agreement obtains a search warrant to search a location or object based on probable cause for an offense which occurred within their own jurisdiction, and the location or object is located in the jurisdiction of another Party to this Agreement, the original agency will contact the jurisdiction where the location or property is located to assist in the execution of the warrant or request permission to execute the warrant in their jurisdiction.
- J. Prior to enforcement action being taken in the other agency's jurisdiction, the officer shall notify that jurisdiction's Communications Center of the situation unless immediate action is necessary. If immediate action is necessary, the Communications Center of the other jurisdiction shall be notified immediately thereafter.
- K. Should additional violations of Florida Statutes occur in the presence of said officer, representing his or her respective agency in furtherance of this Agreement, he/she shall be deemed to have requested and received authorization to render enforcement assistance and act in accordance with the law and this Agreement.
- L. School Board Safety Officers, who are sworn law enforcement officers, pursuant to sec. 23.1225(1)(a) Fla Stat., may enforced laws in an area within 1,000 feet of an Orange County School or School Board property.

Section IV. Powers, Privileges, Immunities, and Costs

- A. Members of the Participating Agencies, when actually engaging in mutual cooperation and assistance outside of the jurisdictional limits of their respective agencies, under the terms of this Agreement, shall, pursuant to the provisions of Section 23.127, Florida Statutes, have the same powers, duties, rights, privileges, and immunities, as if they were performing their duties in the political subdivision in which they are normally employed.
- B. Each Party agrees to furnish necessary equipment, resources, and facilities, and to render services to the other Parties to the Agreement as set forth above, provided

however, that no Party shall be required to deplete unreasonably its own equipment, resources, facilities, and services, in furnishing such mutual aid.

- C. The Party furnishing aid pursuant to this Agreement shall bear the loss or damages to such equipment and shall pay any expense incurred in the operation and maintenance thereof.
- D. The Party furnishing aid pursuant to this Agreement shall compensate its appointees or employees during the time such aid is rendered, and shall defray the actual travel maintenance expenses of such appointees or employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such appointees or employees are engaged in rendering such aid.
- E. All the privileges and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, worker's compensation, salary, death, and other benefits that apply to the activity of such officers, agents or employees of any Party when performing their respective functions within the territorial limits of their respective public agencies, shall apply them to the same degree, manner, and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Mutual Aid Agreement. The provisions of this section shall apply with equal effect to full-time paid, part-time, volunteers, and reserve members.
- F. All employees of a Party, while acting under mutual aid in another Party's jurisdiction, shall be deemed to be acting within the course of their own agency's employment and shall not be construed to be acting as an employee of any other agency.

Section V. Indemnification

Each Party engaging in any mutual cooperation and assistance pursuant to this Agreement agrees with respect to any suit or claim for damages resulting from any and all acts, omissions, or conduct of such Party's own appointees or employees occurring while engaging in rendering such aid, pursuant to this Agreement, to hold harmless, defend, and indemnify the other Participating Agency and its appointees or employees, subject to provisions of Section 768.28, Florida Statutes, where applicable and to the extent permitted by law. Any Party having a duty to indemnify and defend under this Agreement shall have control of the defense of any suit or claim arising under said duty. Each Party shall be responsible for the acts, omissions, or conduct of its own employees. Nothing in this agreement shall be deemed a waiver of any Party's sovereign immunity.

Section VI. Insurance Provisions

Each Party shall provide satisfactory proof of liability insurance by one or more of the

means specified in Section 768.28(16), Florida Statutes, in an amount that is, in the judgment of the governing body of that Party, at least adequate to cover the risk to which that Party may be exposed. Should the insurance coverage, however provided, of any Party be canceled or undergo material change, that Party shall notify all other Parties to this Agreement of such change within ten (10) days of receipt of notice or actual knowledge of such change.

Section VII. Disclaimer to Third Party Beneficiaries

This Agreement is solely for the benefit of the Parties hereto. No right, remedy, cause of action or claim shall accrue to the benefit of any third party who is not one of the Parties executing this agreement.

Section VIII. Effective Date

This Agreement shall take effect upon execution and approval by the hereinafter named officials and shall continue in full force and effect until January 1, 2029, unless terminated prior thereto by any or all the Parties herein.

Section IX. Cancellation

This Agreement may be canceled by any Party upon delivery of written notice to the other Parties.

IN WITNESS WHEREOF, THE PARTIES HERETO CAUSE THESE PRESENTS TO BE SIGNED ON THE DATE SPECIFIED:

Pursuant to F.S. 23.1225(3), this agreement may be entered into by a chief executive officer of the agency who is authorized to contractually bind the agency. By signing below, an indication of such authorization is being made.

In acknowledgment and execution of the **MUNICIPAL INTER-LOCAL VOLUNTARY COOPERATION MUTUAL AID AGREEMENT**, pages one through six, inclusive, I hereby set my hand and seal:

KISSIMMEE POLICE DEPARTMENT

Robert Anzueto
Chief of Police

Date: _____

APPROVED:
KISSIMMEE, FLORIDA

ATTEST:

City Clerk

Jackie Espinosa
Mayor

Approved as to form and legal sufficiency:

City Attorney

ITEM 8.A

Advisory Board Vacancy: Board of Adjustment

Request

The Commission is requested to make appointments to fill a vacancy on the Board of Adjustment.

Explanation

Board of Adjustment Member, Luis Ruiz has notified the City that he no longer maintains a residence inside the city limits of Kissimmee. City Code Section 2-180 (c) states that "members of the board may be city or non-city residents. Non-city residents must either own property or maintain a business office within the city." Mr. Ruiz does not own property or maintain a business office within the City, and therefore, has been removed from the board and a new replacement must be appointed. Mr. Ruiz's term is set to expire May 31, 2026. Seat # 4 has been assigned to this vacancy.

The assigned Commissioners will have 30 days to make an appointment. If no extension is requested, the appointment will automatically roll over to the next Commissioner in the rotation.

Commissioner Rotation:	Appointment Expires:	Advisory Board:	Board Term Expires:	Requirements:
Seat # 4- Martinez <i>*No applications on file</i>	12/03/2024 01/07/2025	Board of Adjustment	05/31/2026	City resident and must have a Florida License as an Engineer, Architect, Surveyor, or Contractor. Members may be a non-resident, but must either own real property or maintain a business office within the City and must also have a Florida License as an Engineer, Architect, Surveyor or Contractor.

Recommendation

The Commission is requested to make appointments to fill a vacancy on the Board of Adjustment.

REQUESTED CITY COMMISSION ACTION:

Appoint/Reappoint

Department: City Manager

Presenter: Mike Steigerwald

Attachment(s):

None