REGULAR MEETING OF THE LADY LAKE TOWN COMMISSION

DATE: **Monday, May 19, 2014**
TIME: **6:00 p.m.**
PLACE: **Town Hall Commission Chambers**
409 Fennell Blvd., Lady Lake, Florida

ALL INTERESTED PERSONS ARE CORDIALLY INVITED TO ATTEND THIS PUBLIC MEETING

AGENDA*

A. CALL TO ORDER: Mayor Ruth Kussard

B. PROCEDURAL: *Citizens are encouraged to participate in the Town of Lady Lake meetings. Speakers will be limited to three (3) minutes. Additional time may be granted by the Mayor. Citizen groups are asked to name a spokesperson and the Mayor, at his/her discretion, may allow longer than three minutes. Upon being recognized by the Mayor, please approach the dais, state your name and address, and speak into the microphone. The order of agenda items may be changed if deemed appropriate by the Town Commission. Please be respectful of others and put your cell phone on silent mode.*

C. PLEDGE OF ALLEGIANCE: Mayor Ruth Kussard

D. INVOCATION[1]: Reverend Tom Ash, New Song Community Church

E. ROLL CALL

F. PUBLIC COMMENTS[2]

G. PROCLAMATION:

1. "Poppy Days" Proclamation – For Presentation to the American Legion Auxiliary Unit 347 (Mayor Kussard/Ruth Sovern)

2. Law Enforcement Appreciation Month Proclamation (Mayor Kussard/Chris McKinstry)

3. Proclaiming the Month of May 2014 as "Motorcycle Safety Awareness Month" (Mayor Kussard/Al Monteleone, ABATE of Florida)

H. PRESENTATION:

4. Presentation by Carl Kusky Regarding Chula Vista Avenue

I. CONSENT[3]:

5. Minutes – May 5, 2014 – Regular Commission Meeting

6. Consideration to Accept and Sign a Change Order for the Rolling Acres Sidewalk Project Giving Art Walker Construction Additional Time to Complete the Project (Mike Burske)

J OLD BUSINESS:

K. NEW BUSINESS:

7. Consideration of Approval for an Amendment to the Sewer, Water, and Reuse Utility Agreement for the Sunset Professional Center, LLC, Formerly Known as Wild Blue/Plaza Blue – A Multi-Tenant Development Located at 801 Hwy 466 (Thad Carroll)

8. Consideration to Accept and Sign the Local Agency Program Agreement from F.D.O.T. District 5 for the Design Phase of the Rolling Acres Sidewalk Project Phase II Funded Through the Safe Routes to School Grant (Mike Burske)

9. Consideration of Approval to Put the Minor Field Fence Project Out To Bid (Mike Burske)

10. Discussion/Direction for Staff to Proceed with Procurement of Contractors to Perform the Avenida Central Resurfacing Project for this Fiscal Year (C.T. Eagle)

11. Update on Offer from Habitat for Humanity to Perform Potential Improvement Projects for Town of Lady Lake Facilities (C.T. Eagle)

L. TOWN ATTORNEY'S REPORT:

12. Resolution No. 2014-107 – First/Final Reading – Declaration of Qualifying Dates for the Office of Town Commissioner for Wards Two and Four for the November 4, 2014 General Election and Approval to Authorize the Lake County Supervisor of Elections to Conduct the General Election for the Town (Kris Kollgaard)

M. TOWN MANAGER'S REPORT:

N. MAYOR/COMMISSIONER'S REPORT:

O. PUBLIC COMMENTS[4]

P. ADJOURN

***Back up for agenda items is available on the Town's website at www.ladylake.org or contact the Town Clerk at (352) 751-1571.**

This public hearing is being conducted in a handicapped accessible location. Any handicapped person requiring an interpreter for the hearing impaired or the visually impaired should contact the Clerk's Office at least two (2) days prior to the meeting and an interpreter will be provided. To access a Telecommunication Device for Deaf Persons (TDD), please call (352) 751-1565. Any handicapped person requiring special accommodations at this meeting should contact the Clerk's Office at least two (2) days prior to the meeting.

Advice to the Public: If a person decides to appeal a decision made with respect to any matter considered at the above meeting or hearing, he may need a verbatim record of the proceedings including the testimony and evidence, a record of which is not provided by the Town of Lady Lake. (F.S. 286-0105)

Please be advised that one or more members of any other Town Board or Committee may be in attendance of this meeting.

NS/Word/Town Clerk/Agendas - Commission Meeting – 05-19-2014

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[1] *Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.*

[2] *This section is reserved for members of the public to bring up matters of concern or comments. It is not limited to items on the agenda and it is open to any concern or comments that the public may have.*

[3] *All items listed under consent are considered routine by the Town Commission and will be enacted by one motion. There will be no separate discussion of these items unless a Town Commissioner so requests, in which event the item will be removed from the consent agenda and considered in its normal sequence.*

[4] *This section is reserved for members of the public to bring up matters of concern or comments. It is not limited to items on the agenda and it is open to any concern or comments that the public may have.*

G-1

Proclamation

Whereas: The poppy, as a memorial flower for the American war dead, is a tradition which began in the years following the First World War; and

Whereas: Veterans returning to their homes in this country after World War I remembered the wild poppies which lined the devastated battlefields of France and Flanders Field; and

Whereas: The poppy is a symbol of hope for all veterans who served this great country through military service; and

Whereas: The American Legion Auxiliary adapted the poppy as its memorial flower to pay tribute to the war dead and aid the living veterans and their families; and

Now, Therefore, I, Ruth Kussard, Mayor of the Town of Lady Lake, Florida, do hereby proclaim the dates of **May 23rd and May 24th, 2014** as

"Poppy Days"

and urge all citizens to pay tribute to those who have made the ultimate sacrifice in the name of freedom by wearing the Memorial Poppy on these days.

In Witness Whereof, I have hereunto set my hand and caused the Official Seal of the Town of Lady Lake to be affixed this 19th day of May, 2014.

Ruth Kussard

Ruth Kussard, Mayor

ATTEST:

Kristen Kollgaard

Kristen Kollgaard, Town Clerk

G-2

Proclamation

WHEREAS, Law Enforcement Officers are dedicated men and women who have sworn to serve and protect the citizens of Lady Lake; and

WHEREAS, the fundamental duty of a Law Enforcement Officer is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all people to liberty, equality, and justice; and

WHEREAS, the Law Enforcement Officer plays an intricate role in the protection, safety and well being of the citizens of Lady Lake; and

WHEREAS, the Law Enforcement Officer is a symbol of public faith and trust; and

WHEREAS, the citizens of Lady Lake are hereby called upon to recognize the dedication and contributions of these valued Law Enforcement Officers; and

WHEREAS, a copy of this Proclamation shall be presented to the Lady Lake Police Department.

NOW, THEREFORE, I, **Ruth Kussard**, **Mayor** of the Town of Lady Lake, do hereby proclaim the Month of May as

Law Enforcement Month

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the Town of Lady Lake to be affixed this **19th** day **of May, 2014**.

Ruth Kussard

Ruth Kussard, Mayor

Attest:

Kristen Kollgaard

Kristen Kollgaard, Town Clerk

G-3

Proclamation

WHEREAS Florida's climate and scenery make motorcycle riding an attraction in the Sunshine State, and riders consider our roadways to be some of the nation's best for riding, and

WHEREAS motorcycles are increasingly used as a regular means of transportation; and

WHEREAS the motorcycle is an energy-efficient vehicle that reduces fuel consumption, traffic and parking congestion; and

WHEREAS the motorcycle is an important form of transportation for commuting, touring, and recreation; and

WHEREAS as a matter of safety, it is necessary to develop appropriate driving habits to handle these vehicles on Florida roadways; and

WHEREAS more than 977,000 drivers in Florida have a motorcycle endorsement on their driver's license; and

WHEREAS to prevent injuries and deaths on Florida's roadways, motorcyclists and motorists must be vigilant in their efforts to share the road and ensure the safety of everyone; and

WHEREAS Motorcycle Safety Awareness Month raises public awareness for a lifetime of safe motorcycle riding;

NOW, THEREFORE, I, Ruth Kussard, Mayor of the Town of Lady Lake, Florida, do hereby proclaim the month of May 2014 as

Motorcycle Safety Awareness Month

in the Town of Lady Lake, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the Town of Lady Lake to be affixed this 19th day of May, 2014.

Ruth Kussard, Mayor

Attest:

Kristen Kollgaard, Town Clerk

H-4

There Is No

Packet Item

For H-4

I-5

MINUTES OF THE REGULAR MEETING
OF THE LADY LAKE TOWN COMMISSION
LADY LAKE, FLORIDA
May 5, 2014

The Regular Meeting of the Lady Lake Town Commission was held in the Commission Chambers at Lady Lake Town Hall, 409 Fennell Blvd., Lady Lake, Florida with Mayor Ruth Kussard presiding. The meeting convened at 6:00 p.m.

A. CALL TO ORDER: Mayor Ruth Kussard

B. PROCEDURAL: *Citizens are encouraged to participate in the Town of Lady Lake meetings. Speakers will be limited to three (3) minutes. Additional time may be granted by the Mayor. Citizen groups are asked to name a spokesperson and the Mayor, at his/her discretion, may allow longer than three minutes. Upon being recognized by the Mayor, please approach the dais, state your name and address, and speak into the microphone. The order of agenda items may be changed if deemed appropriate by the Town Commission. Please be respectful of others and put your cell phone on silent mode.*

C. PLEDGE OF ALLEGIANCE: Mayor Ruth Kussard

D. INVOCATION[i]**:** Reverend Carolyn Thomas – Lady Lake United Methodist Church

E. ROLL CALL: Tony Holden, Commissioner Ward 2
Paul Hannan, Commissioner Ward 4
Jim Richards, Commissioner Ward 5
Ruth Kussard, Mayor/Commissioner Ward 1

ABSENT: Dan Vincent, Commissioner Ward 3

STAFF MEMBERS PRESENT: Kris Kollgaard, Town Manager; Derek Schroth, Town Attorney; Thad Carroll, Growth Management Director; C.T. Eagle, Public Works Director; Chief Chris McKinstry, Police Department; John Pearl, I.T. Director; Jeannine Michaud, Finance Director; and Nancy Slaton, Deputy Town Clerk

F. PUBLIC COMMENTS[ii]

Mayor Kussard asked if anyone in the audience would like to speak on any item. There were no comments.

G. CONSENT[iii]**:**

1. <u>Minutes</u> – April 21, 2014 – Special Commission Meeting
– April 21, 2014 – Regular Commission Meeting

2. <u>Consideration and Approval to Apply to the Bulletproof Vest Partnership Initiative for Sworn Police Personnel Vest Purchases and Replacements (Aubrey Cash/Chris McKinstry)</u>

The background summary for this agenda item is on file in the Clerk's office. It states that staff is requesting approval to apply for, and accept if awarded, the 2014 U.S. Department of Justice Bulletproof Vest Partnership Initiative during the open solicitation period beginning April 1, 2014 and ending May 13, 2014. The Bulletproof Vest Partnership Initiative is a 50/50 grant that provides assistance to local law enforcement agencies with the purchase of new vests or replacement vests coming out of warranty. Vests carry a five year warranty.

The Police Department anticipates the need to purchase seven new/replacement vests. The average cost per vest is $625.00, plus shipping (estimated at $60.00 per vest), for an estimated total cost of $4,795.00. Funding decisions are made within three months after the application period closes.

Upon a motion by Commissioner Richards and seconded by Commissioner Hannan, the Commission approved Consent Items #G-1 and G-2, by a vote of 4 to 0.

H. OLD BUSINESS: No old business.

Mayor Kussard took agenda item J-4 out of order as the applicant has requested that it be tabled to a date uncertain. She asked the Commissioners for their consensus.

J. TOWN ATTORNEY'S REPORT:

4. Resolution No. 2014-102 – First/Final Reading (tabled from 3-17-14; continued to 4-21-14; continued to 5-5-14) – Plaza Professional Center – Variance Request to Authorize the Removal of a 38" Historic Live Oak Tree to Accommodate a New Office Building on the Last Remaining Parcel at the Plaza Professional Center – Located at 302 La Grande Blvd. (Thad Carroll)

The background summary for this agenda item is on file in the Town Clerk's office. It states that staff recommends approval of a motion to table Resolution No. 2014-102 to a date uncertain, as per the applicant's request, in an effort to allow more time to explore what other alternatives may exist to save the tree and provide adequate parking for the proposed building. Tabling the item will also provide additional time to formulate a site plan that would be suitable for presentation and approval by The Villages Development Review Committee (DRC) prior to bringing a final proposal to the Town Commission for their consideration. The applicant is tasked with providing all required spaces for approval by The Villages, as well as the other tenants of the professional park, even though the Town Commission may be willing to grant a variance to the parking requirements in an effort to preserve the tree.

Commissioner Hannan stated he is favor of tabling the resolution, but he noted for the record that the site plan dated 9/20/2003 does not show the historic tree in question. He also stated that the Commission suggested that the applicant try to move the building to another location, but did not suggest making the builder higher (with stories) with a smaller footprint, and he thought that might be a possibility.

Commissioner Richards stated the site plan that is dated 1987 specifies an office park, but the site plan that is approved in 2003 is specifically for the Allergy, Sinus and Asthma Center of Lady Lake and there is a letter written by Bill Vance, the Town Manager at the time, also

referring to the Allergy Center as being approved. Commissioner Richards asked the Town Attorney if in the future it could be justified that the approval is only for the Allergy Center site and nothing else shown on the site plan.

Town Attorney Derek Schroth agreed that it could be justified based on the evidence, and he confirmed that Brian Warwick, the applicant, is present and has heard this comment regarding the site plan.

Upon a motion by Commissioner Richards and a second by Commission Hannan, the Commission approved the applicant's request to table Resolution No. 2014-102 to a date uncertain by the following roll call vote:

HOLDEN	***YES***
HANNAN	***YES***
RICHARDS	***YES***
KUSSARD	***YES***

Thad Carroll, Growth Management Director, clarified that this resolution is being tabled to a date uncertain and that it will be re-advertised.

The original agenda order was then re-established.

I. NEW BUSINESS:

3. <u>Major Modification to Paradise Park Area "B" – MJM 03/14-001– Providing for Flexi-Paved Walking Recreational Trails and Concrete Sidewalks, Golf Cart Parking Areas, Landscaping Improvements, and Other Recreational Park Features such as Florida Accessible ADA Park Benches and Picnic Tables – Located just South of Wales Plaza (Thad Carroll)</u>

Growth Management Director Thad Carroll gave the background summary for this agenda item (on file in the Clerk's office). He stated that Janet Tutt, representing the Village Center Community Development District, property owner, has submitted a Major Modification to the Site Plan as per Town of Lady Lake Land Development Regulations, Chapter 7, Section 11.b.1, where a 10% or more change in the project acreage or square footage requires the submittal and approval of a Major Modification application. The proposed project includes 1,546 lineal feet of walking recreational trails and landscaping improvements located all along Paradise Park-Area "B", between Wales Plaza and the vacated Sunrise Plaza, referenced by address 1320 Paradise Drive (Alternate Key 2685280), just north of the archery range. The property is zoned Planned Commercial (CP) and the Future Land Use Map designation for the site is Commercial General-Retail Sales and Services (RET), which is consistent with directives of the Comprehensive Plan. The site plan modification engineering plans have been drawn and certified by Richard Vernon Busche, Professional Engineer with Kimley-Horn and Associates, Inc., dated April 28, 2014, and John Olters, Registered Landscape Architect with Michael Pape & Associates, P.A., dated April 14, 2014.

Mr. Carroll stated the proposed improvements include the following:

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- 11,235 sq. ft. of 6' Flexi-Pave sidewalk to be constructed along the internal park area and continuing along Paradise Drive
- 12,419 sq. ft. of parking area generating 19 parking spaces, including two Florida ADA accessible parking spaces
- 3,284 sq. ft. of 6' concrete sidewalk along the west side of the proposed parking lot area
- Construction of single dry retention area
- The improvements will require the removal of the following trees due to declining, diseased, and generally poor condition:

Live Oak	1
Laurel Oak	6
Southern Magnolia	2
Cherry Laurel	1
Crape Myrtle	11
Sabal Palm	21
East Palatka Holly	1
Slash Pine	14

- Landscaping improvements will be 516 sq. ft. of bench pads including features such as:
  - ADA Florida accessible park benches
  - ADA Florida accessible picnic table

Mr. Carroll reviewed photographs of the site, the site plan and aerial views of the project, as well as the landscape plan.

Reviews were completed for the Town by Town staff and The Villages Fire Department. The following items were included in the packet:

1) Response to comments by applicant, dated 4/28/2014, addressing outstanding site plan comments completed by Town Engineer, dated 4/29/2014 (satisfied).
2) Fire Review comments for the general site development completed by the Villages Fire Department, dated 4/09/2014 (satisfied).

All outstanding engineering comments have been properly satisfied by the applicant.

The Paradise Park Area "B" project received approval by St. John's River Water Management District (SJRWMD) for the proposed improvements under Permit No. IND-069-137495-1; to include a dry retention area to be constructed to address storm water within the site.

Note: The majority of the project is located within Special Flood Hazard Area-Flood Zone A in accordance with FEMA Flood Insurance Rate Map 120690C154E effective December 18, 2012, so the applicant incorporated Flood Plain Compensation measures within the design of the improvements.

The applicant has met all requirements of the Land Development Regulations (LDRs) for site plan submittal per Chapter 7 of the Land Development Regulations, as well as meeting Chapter 10 – Landscaping & Tree Protection.

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Mr. Carroll reported that the application was received on March 24, 2014 and the Technical Review Committee reviewed the Major Modification application at the regular meeting on April 15, 2014, and determined the application to be complete and ready for transmittal to the Town Commission by a vote of 5-0. He noted that the Planning and Zoning Board does not review the site plans.

Mr. Carroll stated that Richard Bush with Kimley-Horn Engineering is present if there are any questions.

Commissioner Hannan commented that he has no doubt that Area B of this park will be as nice as Area A and that the design, construction and landscape people with Kimley-Horn are a class act. He asked if there will be any overall differences between the two parks such as materials, landscaping, etc.

Richard Bush of Kimley-Horn Associates introduced himself as representative for the applicant, Janet Tutt. He stated the landscaping plan for this park is somewhat different as this park receives more sun than Area A, and the open pasture area in the middle will be retained for uninhibited recreation. Mr. Bush stated that this park will include a new vehicular parking area unlike Area A; and the Flexi Pave sidewalk will continue to Area A, with three little bump outs that will have specialty exercise equipment geared toward use by the older people in the community.

Commissioner Hannan asked if the fence between the new park area and the archery area will be the only fence between the two areas, as he is concerned that arrows might go astray.

Mr. Bush replied that it will be the only fence, but there will be additional plantings. He stated the archery range has assured him that it would be very abnormal for anything to leave that area as it is larger than regulation, although accommodation has been made on the site plan for additional screening.

Commissioner Hannan stated that Area A is allowing dogs, and he asked Mr. Bush if he knew whether Area B will allow dogs as he is concerned about continuing problems with people not picking up after their animals.

Mr. Bush replied that Area A has a dog park, and in addition, people will be allowed to walk their dogs on the trails in both area parks under the Town's ordinance in regard to leash laws and requiring clean-up of pet waste.

Commissioner Richards commented that he is glad to see that the paving will be finished between the cul-de-sac and the other area.

Mr. Bush replied that it became obvious that it was needed after the road was resurfaced and after Area A was completed.

Mayor Kussard asked if anyone in the audience had any questions or comments regarding this item.

- Joe Quinn of 633 Rainbow Blvd. reported that The Villages just renewed pets being allowed in Park Area A for another six month period. He stated that all the upgrades that

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have occurred in the Lady Lake area east of Hwy 27/441 are good for property values, and the modifications to Paradise Park is great for Lady Lake. He urged the Commissioners to approve this project.

Upon a motion by Commissioner Hannan and seconded by Commissioner Holden, the Commission approved the Major Modification to Paradise Park Area "B" – MJM 03/14-001, by a vote of 4 to 0.

K. TOWN MANAGER'S REPORT:

5. Consideration of Appointment(s)/Reappointment to the Economic Development Advisory Committee (Kris Kollgaard)

Town Manager Kris Kollgaard read the background summary for this agenda item (on file in the Town Clerk's office). She stated that there is currently one member whose term has expired and one member vacancy on the Economic Development Advisory Committee. Mr. Joe Quinn is currently a member of the Economic Development Advisory Committee and wishes to be reappointed. There is also one vacancy and there are three applications on file for consideration for this board: Mr. Frank Kirschenheiter, Mr. Alfred Monteleone, and Ms. Sue Nord.

Ms. Kollgaard stated that a couple of the applicants are present if the Commissioners have any questions. She asked the Commissioners to make their selection and pass the voting form to the Deputy Clerk.

Mayor Kussard confirmed that Alfred Monteleone and Sue Nord were present in the audience, and she asked if they would like to comment on their applications.

Commissioner Hannan stated that Mr. Monteleone presented his resume a few months back and that it should still stand.

Mayor Kussard reported that Mr. Monteleone is currently on the Planning and Zoning Board.

Mr. Monteleone stated from the audience that he is on the Planning and Zoning Board, the Water Conservation Board, and the Citizens Advisory Task Force.

Mayor Kussard thanked him for volunteering and asked Ms. Nord to speak.

Sue Nord introduced herself as a realtor working from her home; stating she lives in the historical area of The Villages within Lady Lake, and that she loves the town. She stated she moved here two and a half years ago from northern Minnesota and was on the city council there, and served as Chamber president for seven years in central Minnesota and worked with the EDA.

Joe Quinn stated he is a current member of the Economic Development Advisory Committee and that he would like to be reappointed. He stated the first year was exciting, and that although he does not have the business background, he is an involved citizen in the community.

The following results were read into the record and tallied:

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- Commissioner Richards voted for the reappointment of Joe Quinn and for Sue Nord to be appointed.
- Commissioner Holden voted for the reappointment of Joe Quinn and for Frank Kirschenheiter to be appointed.
- Commissioner Hannan voted for the reappointment of Joe Quinn and for Sue Nord to be appointed.
- Mayor Kussard voted for the reappointment of Joe Quinn and for Sue Nord to be appointed.

As a result of the vote, Joe Quinn was reappointed and Sue Nord was appointed to the Economic Development Advisory Committee.

The Commissioners thanked the volunteers for their service.

Ms. Kollgaard informed Ms. Nord that she will be receiving a packet from the Clerk's office with all the necessary information regarding the committee.

Ms. Kollgaard reported that Florida voters may pass a constitutional amendment this November legalizing the dispensing of medical marijuana. She asked if the Commission would like staff to draft an ordinance as some municipalities are starting to put ordinances in place outlining restrictions. She stated she can send the Commissioners copies of some of the draft ordinances that are being drawn up.

Commissioner Hannan stated that he would like that. He commented that the Sheriff is campaigning against medical marijuana.

Commissioner Richards, Commissioner Holden and Mayor Kussard also agreed it would be a good idea to look at drafting an ordinance.

Ms. Kollgaard reported that May is National Law Enforcement Month and a proclamation will be presented to the Chief at the next meeting. She thanked the Police Department for all their good work.

L. MAYOR/COMMISSIONER'S REPORT:

Mayor Kussard asked if the Commissioners had anything to report. There were no reports.

M. PUBLIC COMMENTS[iv]

Mayor Kussard asked if anyone had any further questions or comments. There were no questions or comments.

N. ADJOURN

There being no further discussion, the meeting was adjourned at 6:26 p.m.

Kristen Kollgaard, Town Clerk

Ruth Kussard, Mayor

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Minutes transcribed by Nancy Slaton, Deputy Town Clerk

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I-6

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE : May 19, 2014

SUBJECT: Consideration to Accept and Sign a Change Order for the Rolling Acres Sidewalk Project Giving Art Walker Construction Additional Time to Complete the Project

DEPARTMENT: Parks and Recreation

STAFF RECOMMENDED MOTION: Accept and Sign the Change Order for the Rolling Acres Sidewalk Project Giving Art Walker Construction Additional time to Complete the Project

SUMMARY: Art Walker Construction is seeking additional time to complete the construction of the sidewalks funded by the Safe Routes to School Program. As you will see, there were several time delays during the project and they would like to utilize the additional time to finish sodding and items that may appear on the punch list. The sidewalk construction is just about finished and should be completed by this Commission meeting. Please review the attached change order request from Art Walker Construction.

FISCAL IMPACT: No fiscal impact.

[ ] **Capital Budget**
[ ] **Operating**
[ ] **Other**

ATTACHMENTS: [ ] **Ordinance** [ ] **Resolution** [ ] **Budget Resolution**

[ ] **Other**

[ ] **Support Documents**

DEPARTMENT HEAD JMDB	**Submitted** 05/13/14	**Date** 05/19/14
HR	**Approved as to Form**	**Date**
FINANCE DEPARTMENT	**Approved as to Budget Requirements**	**Date**
TOWN MANAGER KC	**Approved Agenda Item for:** 5/19/14	**Date** 5/13/14

COMMISSION ACTION:

[ ] **Approved as Recommended** [ ] **Disapproved** [ ] **Tabled Indefinitely**

[ ] **Continued to Date Certain** [ ] **Approved with Modification**

JB

TOWN OF LADY LAKE CONTRACT CHANGE ORDER

CHANGE ORDER NO.: 01

DATE: May 9, 2014 **CONTRACTOR:** ART WALKER CONSTRUCTION
ROLLING ACRES SIDEWALK
FPN 427855-1-58-01

OWNER: TOWN OF LADY LAKE, FLORIDA **NTP DATE:** _____

The following changes are hereby made to the CONTRACT DOCUMENTS:

Original CONTRACT PRICE	$ 437,300.00
Current CONTRACT PRICE ADJUSTED by previous CHANGE ORDER*	$ 437,300.00
Net (Increase) Resulting from this CHANGE ORDER	$ 0.00
The current CONTRACT PRICE including this CHANGE ORDER	$ 437,300.00

ORIGINAL CONTRACT TIME:	120 Days (Substantial Completion)	Date: 05/13/2014
	135 Days (Final Completion)	Date: 05/28/2014
Current CONTRACT TIME adjusted by previous CHANGE ORDERS		Date: N/A
		Date: N/A

Net Increase Resulting from this CHANGE ORDER	(Substantial Completion*)	Days: 30
Net Increase Resulting from this CHANGE ORDER	(Final Completion**)	Days: 30

Current CONTRACT TIME Including this CHANGE ORDER

150 Days (Substantial Completion*)	Date: 06/12/2014*
165 Days (Final Completion**)	Date: 06/27/2014**

CHANGES ORDERED:

I. GENERAL

This Change Order is necessary to cover changes in the Work to be performed under this Contract. The GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, SPECIFICATIONS and all parts of the Project Manual listed in Article 1, Definitions, of the GENERAL CONDITIONS apply to and govern all Work under this Change Order.

II. REQUIRED CHANGES

1. Contract duration increase request of 30 calendar days.

   A. Requested CADD Files on 1/13/14 to begin construction and EOR submitted to Lady Lake on 1/22/14 and we distributed to Art Walker on 1/23/14 (**10 days**).

   B. Permitting Issues, Plan Review and clarification from EOR on plans in Lake County ROW accounted for a delay **(20 days)** required to complete this process. Some work was able to be completed within the Town's ROW, but did delay the contractors work and require more equipment mobilizations than originally necessary.

C. Neel-Shaffer delayed sending over signed and sealed changes to the plans for **(14 days),** at this time PSI decided to assist with the redesign using PPM/FDOT Indexes to facilitate production/completion of the project by field order, which accounted for another delay **(14 Days)**.

III. JUSTIFICATION

Increase contract time by the **thirty (30)** calendar days at the request of the contractor **(CEI accounted for a justifiable 58 days)** because of the following sequence of events:
See required changes A. thru C. above.

IV. PAYMENT

There will be no changes in the method of payment from the original contract.

V. NARRATIVE OF NEGOTIATIONS

Total value of this change order is a time increase of 30 days. No cost is associated with this change order.

VI. APPROVAL AND CHANGE AUTHORIZATION

Town Council, _____

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order; and,

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein.

CONTRACTOR acknowledges, by its execution and acceptance of this Change Order, that the adjustments in Contract Price and Time shown hereon constitute full and complete compensation and satisfaction for all costs and modifications of performance time incurred by the CONTRACTOR as a result of this Change Order. No other claim for increased costs of performance or modifications of time will be granted by the OWNER for the Work covered by this Change Order. The CONTRACTOR hereby waives and releases any further claims for cost or time against the OWNER arising from or relating to the matters or Work set forth or contemplated by this Change Order.

RECOMMENDED BY:

Town of Lady Lake

_____
Project Manager Date

_____
Parks and Recreation Director Date

_____
Budget Office Date

ACCEPTED BY:

Art Walker Construction Inc.

_____
Contractor Signature

_____
Contractor Name & Title *(printed)*

_____
Date

APPROVED BY: Town of Lady Lake, Florida

_____
Town Manager

_____
Date

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From: Grooms, Richard [Richard.Grooms@dot.state.fl.us] Sent: Mon 5/12/2014 1:38 PM

To: Woerner, Charles; D5-Construction Special Projects

Cc: r.rudd@aol.com; Stacy Moore; Matt Sloan; Mike Burske

Subject: RE: Town of Lady Lake Rolling Acres Rd Sidewalk Improvements, FPN 427855-1-58-01

Attachments: CO 01 psi draft.doc(70KB)

View As Web Page

Charles,

The Department concurs with the changes made to this contract via Change Order 1 (adds 30 days of contract time), as attached. Please upload an executed copy to LAPIT when it becomes available. You can wrap up the revisions to the work and costs involved in the next change order.

Please call or email us if you have any questions.

Thanks,

Rick Grooms

D5 Construction - Special Projects

Florida Department of Transportation

719 South Woodland Blvd. MS 3-506

DeLand, FL 32720

richard.grooms@dot.state.fl.us

Phone: 386-943-5364

From: Charles Woerner [mailto:charles.woerner@psiusa.com]
Sent: Friday, May 09, 2014 4:34 PM
To: D5-Construction Special Projects

Cc: r.rudd@aol.com; Stacy Moore; Matt Sloan; Mike Burske
Subject: FW: Town of Lady Lake Rolling Acres Rd Sidewalk Improvements, FPN 427855-1-58-01

D5,

I have not received all pertinent info to successfully allocate the increases/decreases within the contract unit prices for the plan changes in work directive (Field Order) #1 and per the Lady Lake Contract Section 01153. However, we should receive them soon. I am a little apprehensive of not processing the time request before the contract substantial completion date of 5/13/14. Please advise if you concur with the time justification, and I can either wait for the remaining overrun/underrun totals to complete the change order or move forward with a second change order at that time? Please advise and thanks in advance for your help.

Sincerely,

Charles Woerner

Department Manager – Transportation Construction Services

Professional Services Industries, Inc. (PSI)

1748 33rd Street

Orlando, FL. 32839

(407) 304-5560 x233 (Office)

(407) 304-5561 (Fax)

(407) 448-4204 (Mobile)

charles.woerner@psiusa.com

From: Office [mailto:Office@artwalkerconstruction.com]
Sent: Wednesday, May 7, 2014 5:05 PM
To: Charles Woerner
Cc: r.rudd@aol.com; mburske@ladylake.org; Stacy Moore; Brian Font
Subject: FW: Town of Lady Lake Rolling Acres Rd Sidewalk Improvements, FPN 427855-1-58-01

Charles:

The following is a brief summary of the numerous delays to the above referenced project that took place due to circumstances beyond our control. As you are aware, this project bid in August 2013. Due to the Fed shutdown, the project was not awarded until after the bid's expiration. Art Walker Construction, Inc. agreed to extend the period of time they would hold their bid prices. The preconstruction meeting was held on 1/7/13. At the preconstruction meeting, we requested cadd files from the engineer of record for the construction drawings to perform the construction layout. It was agree to accept a Notice To Proceed date on January 13, 2014. AWCI did not receive legible cadd files for layout purposes until 1/23/14 (**10 days lost due to cadd files**). After AWCI mobilized, set up Maintenance of Traffic, began clearing, stripping, grading and pouring concrete, we were notified on 2/6/14 that the Engineer of Record had never acquired the County right-of-way utilization permit. Due to the lack of a County Permit, AWCI was directed to reverse our schedule and only work on the portion of the project on City right-of-ways. The majority of this project is located on Lake County right-of-way. In order to help expedite the process, AWCI paid the permit fees to Lake County. Apparently, the EOR had received comments from Lake County in September 2013 and did not respond. Therefore, the EOR revised and resubmitted their drawings to Lake County. Their revisions included adding curbing on 25A to eliminate dropoff concerns, additional landings and handicap ramps on Griffin Avenue, additional curbing and drainage swales on Clay Avenue, and revising gravity wall to curbing on Rolling Acres Road. The Lake County permit was received after the revised plans were issued 3/12/14 (**34 days lost due to revised plans and permits**). After further review of the EOR's plans, it was apparent that they had not addressed the County's comments. In order to resolve this matter, it is my understanding that PSI revised the final plans that we received on 4/18/14 (**37 days lost due to revised plans**).

Based upon our calculations, we have been either delayed or unable to complete all or part of this project for more than 81 of the 120 contract days. AWCI has incurred significant costs associated with the manpower, idle equipment and maintenance of traffic resources that have been onsite throughout the majority of these delays. Our request for an additional 30 contract days is easily justified. Parties associated with this project that can confirm the information provided include Mike Burske, Robert Rudd, Charles Woerner, Brian Font and Seth Lynch.

If you require any additional information regarding this matter, please contact us at your convenience.

Michael A. Hartman

Art Walker Construction, Inc.

Office 352-629-1466

Cell 352-303-4565

michaelhartman@artwalkerconstruction.com

From: Charles Woerner [mailto:charles.woerner@psiusa.com]
Sent: Tuesday, April 29, 2014 4:39 PM
To: Office
Cc: Mike Burske; Brian Font; Stacy Moore; Matt Sloan; r.rudd@aol.com
Subject: Time Change Order Request

Mr. Hartman,

In order for us to process the "time" change order request, we will need further information documenting the delays and also will need to include any documentation you can provide regarding the decrease in Gravity Wall with Handrail pay item ($91,000) and any increases incurred on Art Walker's part for the plan revisions, IE: grading, sodding, excavation/embankment, project management, etc. per Article 13 of the contract documents. Please remember that you have already agreed that the submitted plan changes would not be a cost addition to the original contract. Following review of these submitted documents, we should be able to process your request with FDOT. Mike Burske should be able to provide the standard change order form that The Town uses for you to complete this task as stated in Article 13, Part D, paragraph 2. If you have any questions or would like to further discuss, please feel free to contact me.

Sincerely,

Charles Woerner

Department Manager – Transportation Construction Services

Professional Services Industries, Inc. (PSI)

1748 33rd Street

Orlando, FL. 32839

(407) 304-5560 x233 (Office)

(407) 304-5561 (Fax)

(407) 448-4204 (Mobile)

charles.woerner@psiusa.com

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<mime-attachment>

-----Original Message-----
From: Mike Burske
Sent: Tuesday, May 13, 2014 8:04 AM
To: Kris Kollgaard
Subject: FW: Change Order Document

Kris, FYI...Mike

-----Original Message-----
From: Derek Schroth [mailto:dschroth@brslegal.com]
Sent: Mon 5/12/2014 8:45 PM
To: Mike Burske
Subject: RE: Change Order Document

I approve as to form.

Sincerely,

DEREK A. SCHROTH
BOWEN RADSON SCHROTH, P.A.
600 Jennings Ave.
Eustis, Florida 32726
Telephone: (352) 589-1414
Facsimile: (352) 589-1726
Florida Bar No. 0352070
Web Site: www.brslegal.com

Florida Bar Board Certified in City, County and Local Government Law.

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-----Original Message-----
From: Mike Burske [mailto:mburske@ladylake.org]
Sent: Monday, May 12, 2014 3:40 PM
To: Derek Schroth
Subject: Change Or\der Doceument

Derek, could you look over the change order for the sidewalk project. Art Walker is seeking more time and no additional cost.

Thanks,
Mike Burske
Parks and Recreation Director
Town of Lady Lake
(352) 430-0451

K-7

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE: May 19, 2014

SUBJECT: **Consideration of Approval for an Amendment to the Sewer, Water, and Reuse Utility Agreement for the Sunset Professional Center, LLC, Formerly Known as Wild Blue/Plaza Blue – A Multi-Tenant Development Located at 801 Hwy 466**

DEPARTMENT: **Growth Management**

STAFF RECOMMENDED MOTION:

Approval of the Amended Sewer, Water, and Reuse Utility Agreement for the Sunset Professional Center, LLC, Formerly Known as Wild Blue/Plaza Blue – A Multi-Tenant Development Located at 801 Hwy 466 (referenced by Alternate Key #1809134).

SUMMARY:

Owner, Sunset Professional Center, LLC, is the fee simple owner of approximately 5.0 +/- acres of real property situated in Lady Lake, Lake County, Florida. The Developer is in the process of connecting to Town Water Facilities and Sewer Facilities and has entitlement to sufficient capacity in these facilities to serve and sustain the operation of twenty (20) equivalent residential units (ERUs) or 5,000 gallons per day, under a prior agreement executed on July 20, 2009, by the former land owner. At this time, the applicant is seeking an additional reservation of eighteen (18) equivalent residential units (ERUs) or 4,932 gallons per day for Reuse Facilities to be utilized by the multi-tenant development consisting of 45,462 square feet of medical offices and professional services land uses currently under construction.

Sunset Professional Center, formerly known as Wild Blue/ Plaza Blue, already has entitlements to twenty (20) Sewer and Water equivalent residential units (ERUS); these entitlements were reserved and paid in the amount of $67,260. Reuse capacity, however, was not allocated under the prior agreement with Wild Blue, and thus will be satisfied by means of the amended agreement.

The Developer has agreed to utilize the Town's water distribution utilities, sanitary sewer collection facilities and reuse distribution utilities to benefit the Development and to the use of the Water, Sewer, and Reuse facilities on the terms and conditions hereinafter set forth in the attached Agreement, as provided by Utility (The Town). This agreement was reviewed by Town Attorney, Derek Schroth, on May 12, 2014, and determined correct in form for consideration and approval by the Town Commission.

FISCAL IMPACT: $ 5,256.00 in Revenue

[ ] Capital Budget
[ ] Operating
[X] Other

ATTACHMENTS: [ ] Ordinance(s) [ ] Resolution [ ] Budget Resolution

[X] Other – Utility Agreement

[ ] Support Documents/Contracts Available for Review in Manager's Office

5-12-14 DEPARTMENT HEAD Submitted 5/12/14 Date

FINANCE DEPARTMENT JRM Approved as to Budget Requirements Date 5/12/14

TOWN ATTORNEY Approved as to Form and Legality Date

TOWN MANAGER Approved Agenda Item for: 5/19/14 Date 5/12/14

COMMISSION ACTION: [ ] Approved as Recommended [ ] Disapproved

[ ] Tabled Indefinitely [ ] Continued to Date Certain

[ ] Approved with Modification

AMENDMENT TO SEWER, WATER, AND REUSE UTILITY AGREEMENT LADY LAKE, FLORIDA

THIS UTILITY AGREEMENT made this _____ day of _____, 2014 by and between the Town of Lady Lake, a Florida Municipality (hereinafter referred to as "Utility") Sunset Professional Center LLC its heirs, successors and assigns (hereinafter referred to as the "Developer").

WITNESSETH

WHEREAS, Developer is the fee simple owner of approximately 5.0 acres of real property situated in Lake County, Florida, described with particularity in Exhibit "A" attached hereto and made a part hereof, which property is hereinafter referred to as the "Property"; and

WHEREAS, the Property may hereinafter be developed and improved into a multi-tenant development consisting of 45,462 of medical offices and professional services requiring central water, central sewer, and central reuse (hereinafter referred to as the "Development"); and

WHEREAS, Utility is the owner and operator of water production and distribution facilities ("Water Facilities") and sanitary sewer collection and treatment facilities ("Sewer Facilities") and wastewater reuse facilities ("Reuse Facilities"); and

WHEREAS, Developer has requested connection to said Water Facilities, Sewer Facilities, and Reuse Facilities and that the Utility allocate and reserve sufficient capacity in these facilities to serve and sustain the operation of the Development; and

WHEREAS, the Developer ~~agrees~~ has agreed to connect to Utility's future Reuse Distribution Facility ("Reuse Facilities") when available, dependent on Utility's available reuse capacity. Reuse services will require an Addendum Agreement once established.

WHEREAS, the Developer has agreed to construct certain water distribution, sanitary sewer collection facilities, and reuse facilities at its expense that will benefit Development; and

WHEREAS, Utility has agreed to make its water, and sanitary sewer service available to the Development by means of connection to and use of the Water Facilities and Sewer Facilities on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing which is incorporated herein and in consideration of the work to be done by the Developer and the sums to be paid by Developer for the work related thereto and as described hereafter, Developer and Utility agree as follows:

1. **EXCLUSIVE SERVICE TO THE PROPERTY.** Developer hereby agrees and covenants that the Development shall be served exclusively by Utility's Water, Sewer, and Reuse Facilities. Developer further agrees that this Agreement shall be a covenant binding upon and running with title to the Property. Utility hereby agrees to make water, sewer, and reuse services available to the Development hereafter constructed on the Property for the rates and under the conditions set forth in this Agreement. Utility agrees that such services shall be made available through Utility's existing Water Facilities, Sewer Facilities, and Reuse Facilities, and through the facilities to be constructed by Developer; provided, however, that Utility is not prevented by law or governmental regulation from providing such water and sewer service for any reason. Utility agrees that it will have sufficient capacity in the amount of 5,000 gallons per day ("gpd") in its Sewer Facilities, and in the amount of 5,000 ("gpd") in its Water Facilities to serve the Development for a maximum peak flow of twenty (20) Equivalent Residential Units (ERU's). Further, Utility agrees that it will have sufficient capacity in the amount of 4,932 ("gpd"), or eighteen (18) Equivalent Residential Units (ERUs), in its Reuse Facilities to service the Development. Utility further agrees that the water and sewer service to be provided hereunder shall meet the current standards or requirements, as the

case may be, of all state, local, and federal governmental agencies having jurisdiction over Utility; provided, however, that Utility shall not be responsible for any failure to meet or comply with said standards or requirements to the extent that such failure shall be occasioned by defect in the construction of facilities to be constructed by Developer; and further, the acceptance of any such facilities by Utility shall not be an admission of, or acceptance of such responsibility. Utility hereby agrees to provide water and sewer services to the Development after Developer shall make a written request for such service to Utility, but not before the Off-Site Improvements and On-Site Facilities on the Property described in Paragraph 3 hereof are completed in accordance with this Agreement. Additionally, Utility reserves the right to do site inspections and audits of said Water Facilities, Sewer Facilities, and Reuse Facilities at any given time without due notice to the Developer to determine if water, sewer, and reuse ERU allocations are correct. Based on the results of these audits and site inspections, Utility reserves the right to adjust amount of ERU allocations and assess applicable fees accordingly.

2. **PAYMENT BY DEVELOPER OF LADY LAKE SANITARY SEWER, WATER, AND REUSE IMPACT FEES**. Developer shall be responsible for payment of the Utility's sanitary sewer, water and reuse impact fees for the sanitary sewer, water and reuse volumes reserved under this agreement. Utility's sanitary sewer impact fee rate granted under the Wild Blue project was Two Thousand Ninety-five dollars and no cents ($2,095.00) per equivalent residential unit. Utility's water impact fee granted under the Wild Blue project was One Thousand Two Hundred Sixty-eight dollars and no cents ($1,268.00) per equivalent residential unit. Utility's reuse impact fee is two hundred ninety-two dollars and no cents ($292.00) per equivalent residential unit. Payment has already been received for water and sewer made in accordance with section 12(h) of this agreement in the lump sum amount of Forty-one Thousand Nine Hundred dollars and no cents ($41,900.00) for sanitary sewer capacity and Twenty-five Thousand Three Hundred Sixty dollars and no cents ($25,360.00) for

water capacity; for a total amount of Sixty-seven Thousand Two Hundred Sixty dollars and no cents ($67,260.00).

Utility's reuse impact fee is two hundred ninety-two dollars and no cents ($292.00) per equivalent residential unit. Commercial units are charged based on the formula outlined in the Land Development Regulation of the Town of Lady Lake, as amended from time to time. For reuse capacity, five thousand two hundred fifty-six dollars and no cents ($5,256.00) has been calculated. Please see table below:

Sanitary Sewer Capacity Reservation		
Gallon per Day (gpd) Calculations	ERUs Allocation (gpd/250 gpd)	Impact Fees Paid (ERUs x *$2095.00)
5,000 gpd	20	*$41,900

Water Capacity Reservation		
Gallon per Day (gpd) Calculations	ERUs Allocation (gpd/250 gpd)	Impact Fees Paid (ERUs x *$1,268.00)
5,000 gpd	20	*$25,360.00

Reuse Capacity Reservation		
Gallon per Day (gpd) Calculations	ERUs Allocation (gpd/274 gpd)	Impact Fees Due (ERUs x $292.00)
4,932 gpd	18	$5,256.00

Total= $5,256.00

*Impact fees payment received.

*Note: The Reuse Capacity Reservation calculations were determined by the Developer's Landscape Architect of record as allowed per Town of Lady Lake Land Development Regulations, Chapter 14-Water, Reuse, and Sewer Standard

Specification. Further, a waiver to Chapter 14 is required for changes or deviations to the Code.

Should Developer not obtain a building permit to initiate construction of the Developer's project noted above within 180 days of the date this Utility Agreement is approved by Commission, the capacity herein reserved will be forfeited and all money paid to reserve capacity shall also be forfeited. Should Developer fail to obtain a building permit to initiate construction of the Developer's project noted above within 180 days of the date this Utility Agreement is approved by Commission, Developer agrees to release any and all claims against the Town for a return of any of the money paid to reserve capacity. Developer understands that capacity may not be available to the Developer should no building permits be obtained within 180 days after this Utility Agreement is approved.

3. **CONSTRUCTION OF IMPROVEMENTS**. In order to provide water, sewer, and reuse services to the Development and any Future Development(s), certain Off-Site Improvements, On-Site Improvements and Oversize Utility Improvements will need to be constructed.

(a) **OFF-SITE IMPROVEMENTS**. The construction of Off-Site Improvements shall be those improvements which are determined by Utility and Developer to be necessary to transport water from Utility's plant and transport sewer to the Utility's plant, which will serve the Development, to and from the Development and any Future Development(s), including all lines, mains, valves, hydrants, lift station(s) and other such facilities necessary to serve Development and Future Developments. The engineer's estimate of the Off-Site Improvements is set forth in Exhibit "B" which is attached hereto, incorporated herein, and is hereinafter referred to as Off-Site Improvement Costs. As a condition precedent to the Utility's obligation to provide the services to the Development and Future Development(s) hereunder, Developer shall at Developer's expense construct the Off-Site Improvements and interconnect the Off-Site Improvements with Utility's existing water and sewer systems at points

specified by the Utility plans attached as Exhibit "C" hereto and incorporated herein by this reference.

Developer agrees that the construction and installation of such Off-Site Improvements shall be subject to the following:

The Off-Site Improvements shall be constructed and installed by Developer only after the approval of the Plans and specifications therefore by Utility. The Plans and Specifications shall be in accordance with the requirements of Utility's standard engineering practices and all applicable regulatory authorities, and Developer shall obtain approval thereof from such agencies prior to commencement of construction.

Upon approval of the Plans and Specifications by Utility, as provided herein, the Off-Site Improvements shall be constructed strictly in accordance with such Plans and Specifications. Utility shall be advised as to the progress of such construction and afforded the right to make inspection of said construction; provided, however, Utility shall have no duty to make such inspections, and by making such inspections shall incur no responsibility for the correct installation or construction thereof. Should the Utility not inspect said construction within two (2) days from the date the inspection is requested, Developer shall have the right to continue with the construction of the Off-Site Improvements.

(b) **ON-SITE IMPROVEMENTS**. When the Property is developed, Developer shall construct and install therein, at its own cost and expense, all necessary On-Site Improvements, as agreed to by Utility and Developer, to allow the Development to be constructed on the Property to the Off-Site Improvements or the lines of Utility, and including specifically, all lines, mains, valves, hydrants, lift stations and other such facilities including service connections necessary to serve the Development.

Developer agrees that the construction and installation of such On-Site Improvements shall be subject to the following:

The On-Site Improvements shall be constructed and installed by Developer only after the approval of the Plans and specifications therefore by Utility. The Plans and Specifications shall be in accordance with the

requirements of Utility's standard engineering practices and all applicable regulatory authorities, and Developer shall obtain approval thereof from such agencies prior to commencement of construction.

Upon approval of the Plans and Specifications by Utility, as provided herein, the On-Site Improvements shall be constructed strictly in accordance with such Plans and Specifications. Utility shall be advised as to the progress of such construction and afforded the right to make inspection of said construction; provided, however, Utility shall have no duty to make such inspections, and by making such inspections shall incur no responsibility for the correct installation or construction thereof. Should the Utility not inspect said construction within two (2) days from the date the inspection is requested, Developer shall have the right to continue with the construction of the On-Site Improvements.

4. **USE OF OFF-SITE AND ON SITE IMPROVEMENTS**. At the time Developer desires to connect the On-Site Improvements and Off-Site Improvements constructed by it to Utility's water, sewer, and reuse facilities, and as a condition precedent for the right to make such connection, Developer shall convey to Utility, at no cost to Utility, the Off-Site Improvements and On-Site Improvements. Further, Developer agrees to convey to Utility any easements reasonably necessary by Utility for the construction and maintenance of said improvements. Such conveyance shall be by warranty deed or other appropriate instrument as determined by Utility to ensure Utility's ownership of the Off-Site Improvements and On-site Improvements, and shall be free and clear of all liens and encumbrances whatsoever. In the event that Off-Site Improvements or On-Site Improvements have been connected to Utility's systems without said conveyance, the requirement to convey said improvements to Utility shall not be waived and Utility may thereafter, at any time, require the conveyance of such improvements. Notwithstanding the foregoing, Utility shall not be required to accept such conveyance, or undertake the maintenance of any portion of the Off-Site Improvements or On-Site Improvements which are not in a public right-of-way and do not have adequate access easements to allow proper maintenance,

or are not constructed in accordance with the Town of Lady Lake's Land Development Regulations. In addition, Utility shall not be obligated to make any connections until Utility has received the Engineer's (as that term is defined herein below) certification that all construction has been performed in substantial conformance with the engineering plans and that the tests specified in Chapter 14 of the Town of Lady Lake Land Development Regulations have been satisfactorily performed, and necessary approvals for use have been received from the Florida Department of Environmental Protection (FDEP) or other governmental bodies responsible for the issuance of such approvals. The cost of all materials, construction tests and testing and installation for Off-Site Improvements and On-Site Improvements and line extensions shall be paid in full by Developer prior to the transfer to Utility. By conveyance of the Off-Site Improvements and On-Site Improvements, Developer shall be deemed to have represented and warranted to Utility (1) that all costs therefore have been paid in full and that Utility will be furnished such evidence including releases of lien of each and every contractor and subcontractor who performed labor or materials for the Development, before the Town reimburses the Developer and (2) that said Off-Site Improvements and On-Site Improvements have been constructed in a good and workmanlike manner, free from all defects, and that Developer will correct any defect occurring or discovered in said improvements within a period of two (2) years from the date of such conveyance. To ensure the Town can recover on said warranty should the warranty be breached, Developer shall provide a bond from a bond company or an irrevocable letter of credit from a financial institution authorized to do business in the state of Florida which shall be valid for two (2) years from the date the improvements are conveyed and shall be in an amount equal to 10% of the total On-Site Improvement Costs and Off-Site Improvement Costs.

5. **RATES AND CHARGES.** The rates to be charged by Utility for water and sewer service to the Development hereafter built on the Property or any Future Development(s) shall be those rates and charges made by Utility to its customers which are from time to time approved by the Town Commission of

the Town of Lady Lake or by any other governmental regulatory body from time to time having jurisdiction over such matters. Utility reserves the right to withhold or disconnect service to any active customer, or to refuse to give or provide new or additional services to any active customer, at any time the charges are not paid on a current basis within twenty-five (25) days after the same are billed: provided that written notification of such delinquency has been made by Utility to such customer; provided, the failure of an active customer to pay sums due Utility shall not affect Developer's rights under this Agreement. Moreover, the service to the Development and Future Development (s) shall be subject to such other regulations from time to time lawfully imposed on Utility with respect to the operations of its water system, and except as limited by such regulations, the amounts of utility deposits, billing practices and times, liability for damage to Utility's Property and rate changes shall be exclusively within the discretion and control of Utility.

6. **WATER METERS AND REUSE WATER.** It is hereby agreed by the parties hereto that a water meter and reuse meter, and or water meters or reuse meters shall be installed by Developer as Utility shall deem to be necessary to serve the Development and Future Development(s). Utility shall have the right to designate the number, type, quality and size of said meter or meters. The cost for said water meter and reuse meter, and or water meters and reuse meters and the labor charges associated with its installation shall be paid to Utility by Developer or Future Development(s) prior to installation of each such meter at the rate from time to time approved by the Town Commission of the Town of Lady Lake or any other governmental regulatory body from time to time having jurisdiction over such matters. Said sum shall be due and payable prior to the time of installations of said meter or meters. All water meters or reuse meters so installed shall remain the property of Utility.

7. **ALIENABILITY RESTRICTION.** Unless express written consent of the Town of Lady Lake is obtained, the Property and the rights and obligations of this Agreement which burden the Property shall not be transferred prior to

Developer's connection to the On-Site and Off-Site Improvements. For the purposes of this paragraph and provision (Alienability Restriction), "transferred" means the conveyance of the Property to another person or entity or the conveyance of the controlling interest (more than 50%) in Developer (if a corporation or limited liability company). After Developer's connection to the On-Site and Off-Site Improvements this provision (Alienability Restriction) terminates and has no effect and concurrent with the severance of the Alienability Restriction via connection, Developer shall submit to the Town of Lady Lake an affidavit for the Town Manager's signature attesting that the Developer has indeed connected to the On-Site and Off-Site Improvements. Provided the form affidavit is agreeable to the Town of Lady Lake, the executed affidavit shall be returned to the Developer for Developer to record at Developer's expense.

8. **PLATS.** Any plats of the Property, or portions thereof, filed among the Public Records of Lake County, Florida, or any other governmental unit, shall provide for such dedicated rights-of-way and utility easements as may be reasonable and necessarily required for the purpose of serving the Property, or portions thereof, with the water and sewer service to be provided hereunder.

9. **SALE TO GOVERNMENTAL ENTITY.** In the event Utility shall hereafter sell the utility systems, or any part thereof serving the Property, to the State of Florida, Lake County or a duly constituted municipality, or any agency or entity under such State's, County or municipality's control, supervision or direction, Developer agrees that with respect to water and sewer service to the Property and Future Development(s), the rules and regulations of such purchaser, and not the provisions of this contract, shall control, and that, upon assignment of this Agreement to the Purchaser, Utility shall be relieved of all further obligations hereunder.

10. **NOTICES**. Payments required to be made under the terms hereof and notices permitted, or required to be made under the terms hereof, shall be delivered to the parties at the respective addresses:

Utility:	Town of Lady Lake Utility Department 409 Fennell Boulevard Lady Lake, FL 32159
With a copy to:	Derek A. Schroth, Esq. Bowen Radson Schroth, P.A. 600 Jennings Avenue Eustis, Florida 32726
Developer/Owner	John Toscani, Title Manager 837 Hwy 466 Lady Lake, FL 32159

Any notices required or permitted hereunder shall be considered properly made if in writing and mailed by United States Mail, postage prepaid, to the addresses set forth herein.

11. **TERM.** The term of this Agreement shall be for a period of ten (10) years from the date hereof, and from year to year thereafter

12. **OTHER ESSENTIAL TERMS.**

a. Time is hereby made of essence of this Agreement in all respects.

b. This Agreement constitutes the entire Agreement of the parties and expressly supersedes all negotiations, previous agreements or representations whether verbal or written, and may not be amended in any way whatsoever except by a writing executed by both parties hereto in a manner equal in dignity to the execution of this Agreement.

c. This Agreement shall inure to the benefit of and be binding upon the heirs, successors, personal representatives and assigns of the parties hereto and shall run with the land.

d. Developer shall name Utility as co-insured on any insurance policy concerning coverage for the property while construction of the on-site improvements is taking place. Similarly, Developer shall name Utility as co-insured on any insurance policy providing coverage concerning the construction of off-site improvements.

e. This Agreement shall be governed by the laws of the State of Florida and venue shall be in Lake County, Florida. Developer shall indemnify protect and hold harmless the Utility from any and all claims, causes, actions, judgments, costs, attorney's fees, expenses and losses of every kind and character, whether direct or indirect, of any manner, or in anyway whatsoever arising on account of any action, claim or demand due to the incident and matters associated with the construction of the on-site improvements or off-site improvements, including but not limited to

i) All claims for enforcement of liens; subrogation; and/or contribution to include but not to be limited to any and all mechanic's and contractor's liens associated with the construction of the on-site improvements or off-site improvements;

ii) Any and all bills from any source associated with the construction of the on-site improvements or off-site improvements;

iii) Any and all claims under any federal, state or local act or ordinance associated with the construction of the on-site improvements or off-site improvements;

iv) Any and all claims for reimbursement; subrogation; and/or contribution associated with the construction of the on-site improvements or off-site improvements;

v) Any and all claims for reimbursement, and/or subrogation of liens asserted by any insurance company or any party, that provides insurance coverage or benefits of any nature associated with the construction of the on-site improvements or off-site improvements;

vi) Any and all claims, liens, reimbursement or subrogation under any contract or agreement with any group, organization, partnership or corporation associated with the construction of the on-site improvements or off-site improvements;

vii) All actions, claims or demands whatsoever of any type or nature which may hereafter be brought or asserted against one another on account of and/or allegedly associated with the construction of the on-site improvements or off-site improvements .

f. This Agreement shall be effective upon proper execution by both parties hereto.

g. This Agreement shall be executed in several counterparts each of which if properly executed by both parties shall be considered an original.

h. Developer shall pay all amounts required under this agreement within 30 days after the Town of Lady Lake executes this agreement. Should Developer fail to pay all amounts required under this agreement within 30 days after the Town of Lady Lake executes this agreement, the Town, in its sole discretion may rescind and void this agreement in its entirety.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their names and their seals to be hereunto affixed, by their proper officers thereunto duly authorized, on the day and year first above written.

Attest:

TOWN OF LADY LAKE

_____ _____

Kristen Kollgaard, Town Clerk Ruth Kussard, Mayor

Approved as to form:

_____

Town Attorney
Derek A. Schroth, Esquire

SUNSET PROFESSIONAL CENTER, LLC

_____ _____

Witness Title Manager

_____

Print Name:

_____

Witness

_____

Print Name:

STATE OF FLORIDA
COUNTY OF LAKE

This is to certify that on this _____ day of _____, 2014, Before me, An officer duly authorized to take acknowledgements in the State and County aforesaid, personally appeared_____ on behalf of the company. S/he is personally know to me o has produced _____ as identification and did or did not take an Oath.

_____

Signature of Acknowledger
SEAL

_____ Name of Acknowledger Typed

EXHIBIT "A"

LEGAL DESCRIPTION

That certain piece, parcel, and tract of land located in LAKE County, Florida, described as follows:

That part of Government Lot 8, Section 18, Township 18 South, Range 24 East, Lake County Florida, described as follows: From the Southwest corner of said Government Lot 8 run Northerly along the Westerly line of said Government Lot 8 a distance of 40 feet to the Northerly right of way line of S.R. 466; thence Easterly along said right of way line 315.14 feet to the point of beginning; thence North 00 degrees 23 minutes 19 seconds West 624.07 feet to the North line of the South ¼ of said Government Lot 8; thence North 89 degrees 41 minutes 19 seconds East along said North line 349.05 feet, more or less, to the East line of the Southwest ¼ of the South ½ of said Government Lot 8; thence Southerly along said East line 624.08 feet, more or less, to the Northerly right of way line of S.R. 466; thence Westerly along said right of way line 349.05 feet to the point of beginning.

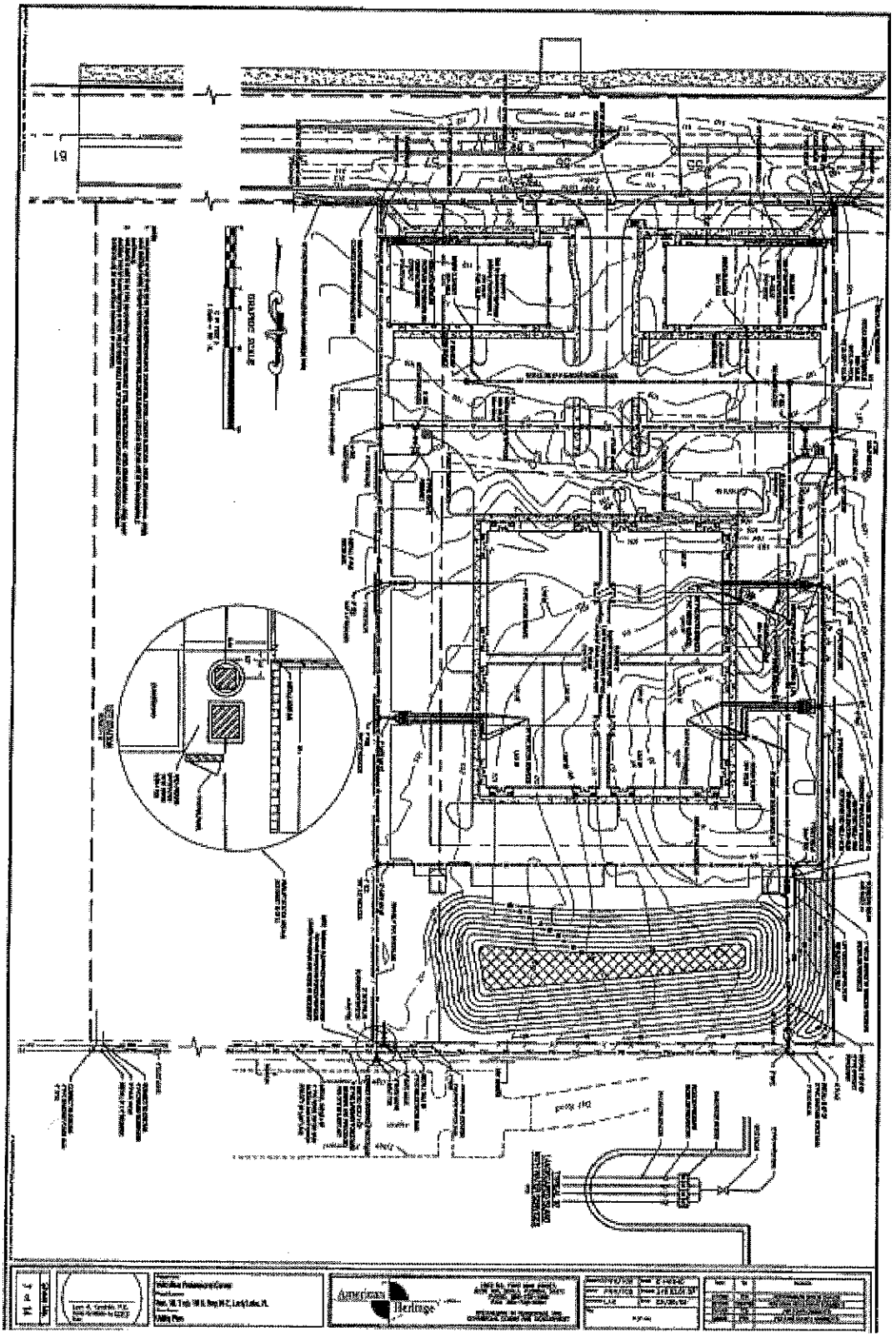
EXHIBIT "B"

Opinion of Cost
For
Wildblue Offsite Utilities
January 12, 2009

	ITEM	QUANTITY		UNIT PRICE		EXTENSION
1.00	**WATER**					
1.01	12" PVC WATER MAIN	358.00	LF	$30.00	/LF	$10,740.00
1.02	12" X 12" 8" TEE	2.00	EA	$300.00	/EA	$600.00
1.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
1.04	16" PVC SLEEVE	65.00	LF	$15.00	/LF	$975.00
1.05	12" GATE VALVE	1.00	EA	$1,485.00	/EA	$1,485.00
1.06	2" BLOWOFF	1.00	EA	$200.00	/EA	$200.00
1.07	6" X 6" X 4" TEE	1.00	EA	$285.00	/EA	$285.00
1.08	4" GATE VALVE	1.00	EA	$500.00	/EA	$500.00
1.09	4" PVC WATER LINE	14.00	LF	$380.00	/LF	$5,320.00
2.00	**SEWER**					
2.01	3" PLUG	1.00	EA	$180.00	/EA	$180.00
2.02	3" PVC FORCE MAIN	700.00	LF	$10.00	/LF	$7,000.00
2.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
2.04	3" PLUG VALVE	2.00	EA	$400.00	/EA	$800.00
2.05	3" WYE	1.00	EA	$350.00	/EA	$350.00
2.06	3" ELBOW (45°)	1.00	EA	$350.00	/EA	$350.00
2.07	3" X 4" REDUCER	1.00	EA	$350.00	/EA	$350.00
2.08	4" WYE	1.00	EA	$350.00	/EA	$350.00
2.09	4" ELBOW (45°)	1.00	EA	$375.00	/EA	$375.00
3.00	**REUSE**					
3.01	4" PLUG	1.00	EA	$200.00	/EA	$200.00
3.02	4" REUSE WATER MAIN	370.00	LF	$14.00	/LF	$5,180.00
3.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
3.04	4" GATE VALVE	2.00	EA	$500.00	/EA	$1,000.00
3.05	4" X 4" X 2" TEE	1.00	EA	$400.00	/EA	$400.00

SUB TOTAL	**$39,640.00**
15% Contingency	**$5,946.00**
ESTIMATED GRAND TOTAL	**$45,586.00**

EXHIBIT "C"



CFN 2009079330
Bk 03798 Pgs 1488 - 1489; (2pgs)
DATE: 07/24/2009 01:02:48 PM
NEIL KELLY, CLERK OF COURT
LAKE COUNTY
RECORDING FEES 18.50

PHYLLIS EHART
TOWN OF LADY LAKE-CLERK'S OFFICE
409 FENNELL BOULEVARD
LADY LAKE, FL 32159

AMENDMENT TO SEWER & WATER UTILITY AGREEMENT
LADY LAKE, FLORIDA

THIS AMENDMENT TO THE UTILITY AGREEMENT made this 20th day of July, 2009 by and between the Town of Lady Lake, a Florida Municipality (hereinafter referred to as "Utility"), and Wild Blue, LLP, a Florida limited liability company, and its successors and assigns (hereinafter referred to as the "Developer") amends a portion of section 1 and a portion of section 2 of the Sewer and Water Utility Agreement ("Original Agreement") executed by the same above parties and recorded in OR Book 3773, Pages 929-943, Public Records of Lake County, Florida as follows:

1. Utility agrees that it will have sufficient capacity in the amount of 5,000 gallons per day ("gpd") in its Sewer Facilities, and in the amount of 5,000 ("gpd") in its Water Facilities to serve the Development for a maximum of 20 ERU's.

2. Developer shall be responsible for payment of the Utility's sanitary sewer and water impact fees for the sanitary sewer and water volumes reserved under this agreement. Utility's sanitary sewer impact fee is Two Thousand Ninety-five dollars and no cents ($2,095.00) per equivalent residential dwelling unit. Utility's water impact fee is One Thousand two hundred sixty-eight dollars and no cents ($1,268.00) per equivalent residential dwelling unit. Commercial units are charged based on the formula outlined in the Land Development Regulation of the Town of Lady Lake, as amended from time to time. Payment of said fee shall be made in accordance with section 12(h) of the original agreement in the lump sum amount of $41,900 for sanitary sewer capacity and $25,360 for water capacity for a total amount of $67,260 calculated as follows:

Sanitary Sewer Capacity Reservation

5,000 gpd/250 gpd/eru *$2,095/eru =

20 erus x 2,095 = $ 41,900

Water Capacity Reservation

5,000 gpd/250 gpd/eru *$1,268/eru =

20 erus x 1,268 = $ 25,360

TOTAL = $ 67,260

3. The Original Agreement's terms and provisions which are not inconsistent with this Amendment remain in full effect. To the extent any term of this Amendment conflicts with the Original Agreement, this Amendment governs and supersedes.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their names and their seals to be hereunto affixed, by their proper officers thereunto duly authorized, on the day and year first above written.

Attest:

Kris Kollgaard

Kristen Kollgaard, Town Clerk

TOWN OF LADY LAKE

Jim Richards, Mayor

Approved as to form:

Town Attorney
Derek A. Schroth, Esquire

Witnesses:

Print Name: Phyllis Ehart

Phyllis Ehart

Print Name: Jayne York

Jayne York

Wild Blue, LLP

By:

Name: Mike Hanna

Title: Managing Partner

STATE OF Florida
COUNTY OF Lake

This is to certify that on this 9 day of July, 2009, Before me, an officer duly authorized to take acknowledgements in the State and County aforesaid, personally appeared Mike Hanna, Managing partner (title) of Wild Blue, LLP. He/She is personally know to me or has produced _____ as identification and did or did not take an Oath.

Ashley M. Jones

Signature of Acknowledger

Ashley M. Jones

Name of Acknowledger Typed

NOTARY PUBLIC STATE OF FLORIDA
Ashley M. Jones
Commission # DD578260
Expires July 26, 2010
Bonded Troy Fain - Insurance, Inc. 800-385-7019

SEAL

CFN 2009055190
Bk 03773 Pgs 0929 - 943; (15pgs)
DATE: 05/22/2009 09:34:45 AM
NEIL KELLY, CLERK OF COURT
LAKE COUNTY
RECORDING FEES 129.00

SEWER & WATER UTILITY AGREEMENT
R LADY LAKE, FLORIDA

THIS UTILITY AGREEMENT made this 18 day of May, 2009 by and between the Town of Lady Lake, a Florida Municipality (hereinafter referred to as "Utility"), and Wild Blue, LLP, a Florida limited liability company, and its successors and assigns (hereinafter referred to as the "Developer").

WITNESSETH

WHEREAS, Developer is the fee simple owner of approximately 5.0 acres of real property situated in Lake County, Florida, described with particularity in Exhibit "A" attached hereto and made a part hereof, which property is hereinafter referred to as the "Property"; and

WHEREAS, the Property may hereinafter be developed and improved into a multi-phase medical office development requiring central water and central sewer (hereinafter referred to as the "Development"); and

WHEREAS, Utility is the owner and operator of water production and distribution facilities ("Water Facilities") and sanitary sewer collection and treatment facilities ("Sewer Facilities"); and

WHEREAS, Developer has requested connection to said Water Facilities and Sewer Facilities and that the Utility allocate and reserve sufficient capacity in these facilities to serve and sustain the operation of the Development; and

WHEREAS, the Developer agrees to connect to Utilities future Reuse Distribution Facility ("Reuse Facilities") when available, dependent on Utility's available reuse capacity. Reuse services will require an Addendum Agreement once established.

WHEREAS, the Developer has agreed to construct certain water distribution, sanitary sewer collection facilities and reuse distribution at its expense that will benefit Development; and

WHEREAS, Utility has agreed to make its water and sanitary sewer service available to the Development by means of connection to and use of the

Water Facilities and Sewer Facilities on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing which is incorporated herein and in consideration of the work to be done by the Developer and the sums to be paid by Developer for the work related thereto and as described hereafter, Developer and Utility agree as follows:

1. **EXCLUSIVE SERVICE TO THE PROPERTY.** Developer hereby agrees and covenants that the Development shall be served exclusively by Utility's Water and Sewer Facilities. Developer further agrees that this Agreement shall be a covenant binding upon and running with title to the Property. Utility hereby agrees to make water and sewer services available to the Development hereafter constructed on the Property for the rates and under the conditions set forth in this Agreement. Utility agrees that such services shall be made available through Utility's existing Water Facilities and Sewer Facilities, and through the facilities to be constructed by Developer; provided, however, that Utility is not prevented by law or governmental regulation from providing such water and sewer service for any reason. Utility agrees that it will have sufficient capacity in the amount of 5,750 gallons per day ("gpd") in its Sewer Facilities, and in the amount of 5,750 ("gpd") in its Water Facilities to serve the Development for a maximum of 23 ERU's. Utility further agrees that the water and sewer service to be provided hereunder shall meet the current standards or requirements, as the case may be, of all state, local, and federal governmental agencies having jurisdiction over Utility; provided, however, that Utility shall not be responsible for any failure to meet or comply with said standards or requirements to the extent that such failure shall be occasioned by defect in the construction of facilities to be constructed by Developer; and further, the acceptance of any such facilities by Utility shall not be an admission of, or acceptance of such responsibility. Utility hereby agrees to provide water and sewer services to the Development after Developer shall make a written request for such service to Utility, but not before the Off-Site Improvements and On-Site

Facilities on the Property described in Paragraph 3 hereof are completed in accordance with this Agreement.

2. **PAYMENT BY DEVELOPER OF LADY LAKE SANITARY SEWER AND WATER IMPACT FEES**. Developer shall be responsible for payment of the Utility's sanitary sewer and water impact fees for the sanitary sewer and water volumes reserved under this agreement. Utility's sanitary sewer impact fee is Two Thousand Ninety-five dollars and no cents ($2,095.00) per equivalent residential dwelling unit. Utility's water impact fee is One Thousand two hundred sixty-eight dollars and no cents ($1,268.00) per equivalent residential dwelling unit. Commercial units are charged based on the formula outlined in the Land Development Regulation of the Town of Lady Lake, as amended from time to time. Payment of said fee shall be made in accordance with section 12(h) of this agreement in the lump sum amount of $48,185 for sanitary sewer capacity and $29,164 for water capacity for a total amount of $77,349 calculated as follows:

Sanitary Sewer Capacity Reservation

5,750 gpd/250 gpd/eru *$2,095/eru =

23 erus x 2,095 = $ 48,185

Water Capacity Reservation

5,750 gpd/250 gpd/eru *$1,268/eru =

23 erus x 1,268 = $ 29,164

TOTAL = $ 77,349

Should Developer not obtain a building permit to initiate construction of Phase I of the project noted above within 180 days of the date this Developer's Agreement is approved by Commission, the capacity herein reserved will be forfeited and all money paid to reserve capacity shall also be forfeited. Should Developer fail to obtain a building permit for Phase I of the project within 180 days of the date this Developer's Agreement is approved by Commission, Developer agrees to release any and all claims against the Town for a return of any of the money paid to reserve capacity. Developer understands that capacity

may not be available to the Developer should no building permits be obtained within 180 days after this Developer's Agreement is approved.

3. **CONSTRUCTION OF IMPROVEMENTS**. In order to provide water and sewer services to the Development, certain Off-Site Improvements and On-Site Improvements will need to be constructed.

(a) **OFF-SITE IMPROVEMENTS**. The construction of Off-Site Improvements shall be those improvements which are determined by Utility and Developer to be necessary to transport water from Utility's plant and transport sewer to the Utility's plant, which will serve the Development, to and from the Development, including all lines, mains, valves, hydrants, lift station(s) and other such facilities necessary to serve the Development. An engineering estimate of the Off-Site Improvements is set forth in Exhibit "B" which is attached hereto, incorporated herein, and is hereinafter referred to as Off-Site Improvement Costs. As a condition precedent to the Utility's obligation to provide the water and sewer services to the Development hereunder, Developer shall at Developer's expense construct the Off-Site Improvements and interconnect the Off-Site Improvements with Utility's existing water and sewer systems at points specified by the plans attached as Exhibit "C" hereto and incorporated herein by this reference.

Developer agrees that the construction and installation of such Off-Site Improvements shall be subject to the following:

The Off-Site Improvements shall be constructed and installed by Developer only after the approval of the plans and specifications therefore (the "Plans and Specifications") by Utility. The Plans and Specifications shall be in accordance with the requirements of Utility's standard engineering practices and all applicable regulatory authorities, and Developer shall obtain approval thereof from such agencies prior to commencement of construction.

Upon approval of the Plans and Specifications by Utility, as provided herein, the Off-Site Improvements shall be constructed strictly in accordance with such Plans and Specifications. Utility shall be advised as to the progress of such construction and afforded the right to make inspection of said construction;

provided, however, Utility shall have no duty to make such inspections, and by making such inspections shall incur no responsibility for the correct installation or construction thereof. Should the Utility not inspect said construction within two (2) working days from the date the inspection is requested, Developer shall have the right to continue with the construction of the Off-Site Improvements.

(b) **ON-SITE IMPROVEMENTS**. When the Property is developed, Developer shall construct and install therein, at its own cost and expense, all necessary On-Site Improvements, as agreed to by Utility and Developer, to allow the Development to be connected to the Off-Site Improvements or the lines of Utility, and including specifically, all lines, mains, valves, hydrants, lift stations and other such facilities including service connections necessary to serve the Development.

Developer agrees that the construction and installation of such On-Site Improvements shall be subject to the following:

The On-Site Improvements shall be constructed and installed by Developer only after the approval of the Plans and Specifications therefore by Utility. The Plans and Specifications shall be in accordance with the requirements of Utility's standard engineering practices and all applicable regulatory authorities, and Developer shall obtain approval thereof from such agencies prior to commencement of construction.

Upon approval of the Plans and Specifications by Utility, as provided herein, the On-Site Improvements shall be constructed strictly in accordance with such Plans and Specifications. Utility shall be advised as to the progress of such construction and afforded the right to make inspection of said construction; provided, however, Utility shall have no duty to make such inspections, and by making such inspections shall incur no responsibility for the correct installation or construction thereof. Should the Utility not inspect said construction within two (2) working days from the date the inspection is requested, Developer shall have the right to continue with the construction of the On-Site Improvements.

4. **USE OF OFF-SITE AND ON SITE IMPROVEMENTS**. At the time Developer desires to connect the On-Site Improvements and Off-Site

Improvements constructed by it to Utility's Water Facilities and Sewer Facilities, and as a condition precedent for the right to make such connection, Developer shall convey to Utility, at no cost to Utility, the Off-Site Improvements and On-Site Improvements. Further, Developer agrees to convey to Utility any easements reasonably necessary for the construction and maintenance of said improvements. Such conveyance shall be by warranty deed or other appropriate instrument as reasonably determined by Utility to ensure Utility's ownership of the Off-Site Improvements and On-Site Improvements, and shall be free and clear of all liens and encumbrances whatsoever. In the event that Off-Site Improvements or On-Site Improvements have been connected to Utility's systems without said conveyance, the requirement to convey said improvements to Utility shall not be waived and Utility may thereafter, at any time, require the conveyance of such improvements. Notwithstanding the foregoing, Utility shall not be required to accept such conveyance, or undertake the maintenance of any portion of the Off-Site Improvements or On-Site Improvements which are not in a public right-of-way, do not have adequate access easements to allow proper maintenance, or are not constructed in accordance with the Town of Lady Lake's Land Development Regulations. In addition, Utility shall not be obligated to make any connections until Utility has received the Engineer's (as that term is defined herein below) certification that all construction has been performed in substantial conformance with the engineering plans and that the tests specified in Chapter 14 of the Town of Lady Lake Land Development Regulation have been satisfactorily performed, and necessary approvals for use have been received from the Florida Department of Environmental Protection (FDEP) or other governmental bodies responsible for the issuance of such approvals. The cost of all materials, construction tests and testing and installation for Off-Site Improvements and On-Site Improvements shall be paid in full by Developer prior to the transfer to Utility. By conveyance of the Off-Site Improvements and On-Site Improvements, Developer shall be deemed to have represented and warranted to Utility (1) that all costs therefore have been paid in full and that Utility will be furnished such evidence including releases of lien of each and

every contractor and subcontractor who performed labor or furnished materials for the Development and (2) that said Off-Site Improvements and On-Site Improvements have been constructed in a good and workmanlike manner, free from all defects, and that Developer will correct any material defect occurring or discovered in said improvements within a period of two (2) years from the date of such conveyance. To ensure the Utility can recover on said warranty should the warranty be breached, Developer shall provide a bond from a bond company or an irrevocable letter of credit from a financial institution authorized to do business in the state of Florida which shall be valid for two (2) years from the date the improvements are conveyed and shall be in an amount equal to 10% of the total Off-Site Improvement Costs.

5. **RATES AND CHARGES.** The rates to be charged by Utility for water and sewer service to the Development hereafter built on the Property shall be those rates and charges made by Utility to its customers which are from time to time approved by the Town Commission of the Town of Lady Lake or by any other governmental regulatory body from time to time having jurisdiction over such matters. Utility reserves the right to withhold or disconnect service to any active customer, or to refuse to give or provide new or additional services to any active customer, at any time the charges are not paid on a current basis within twenty-five (25) days after the same are billed: provided that written notification of such delinquency has been made by Utility to such customer; provided, the failure of an active customer to pay sums due Utility shall not affect Developer's rights under this Agreement. Moreover, the service to the Development shall be subject to such other regulations from time to time lawfully imposed on Utility with respect to the operations of its water system, and except as limited by such regulations, the amounts of utility deposits, billing practices and times, liability for damage to Utility's property and rate changes shall be exclusively within the discretion and control of Utility.

6. **WATER METERS AND REUSE WATER.** It is hereby agreed by the parties hereto that a water meter and or water meters shall be installed by Developer as Utility shall deem to be necessary to serve the Development.

Utility shall have the right to designate the number, type, quality and size of said meter or meters. All water meters so installed shall become the property of Utility. Developer agrees to connect to Utilities future Reuse Distribution Facility ("Reuse Facilities") when available, dependent on Utility's available reuse capacity. Reuse services will require an Addendum Agreement once established.

7. **ALIENABILITY RESTRICTION.** Unless express written consent of the Town of Lady Lake is obtained, the Property and the rights and obligations of this Agreement which burden the Property shall not be transferred prior to Developer's connection to the On-Site and Off-Site Improvements. For the purposes of this paragraph and provision (Alienability Restriction), "transferred" means the conveyance of the Property to another person or entity or the conveyance of the controlling interest (more than 50%) in Developer (if a corporation or limited liability company). After Developer's connection to the On-Site and Off-Site Improvements this provision (Alienability Restriction) terminates and has no effect. To eliminate this Alienability Restriction after connection, Developer shall submit to the Town of Lady Lake an affidavit for the Town Manager's signature attesting that the Developer has indeed connected to the On-Site and Off-Site Improvements. Provided the form affidavit is agreeable to the Town of Lady Lake, the executed affidavit shall be returned to the Developer for Developer to record at Developer's expense.

8. **PLATS.** Any plats of the Property, or portions thereof, filed among the Public Records of Lake County, Florida, or any other governmental unit, shall provide for such dedicated rights-of-way and utility easements as may be reasonable and necessarily required for the purpose of serving the Property, or portions thereof, with the water and sewer service to be provided hereunder.

9. **SALE TO GOVERNMENTAL ENTITY.** In the event Utility shall hereafter sell the utility systems, or any part thereof serving the Property, to the State of Florida, Lake County or a duly constituted municipality, or any agency or entity under such State's, County or municipality's control, supervision or direction, Developer agrees that with respect to water and sewer service to the

Property, the rules and regulations of such purchaser, and not the provisions of this contract, shall control, and that, upon assignment of this Agreement to the Purchaser, Utility shall be relieved of all further obligations hereunder.

10. **NOTICES**. Payments required to be made under the terms hereof and notices permitted, or required to be made under the terms hereof, shall be delivered to the parties at the respective addresses:

Utility:	Town of Lady Lake Utility Department 409 Fennell Boulevard Lady Lake, FL 32159
With a copy to:	Derek A. Schroth, Esq. Bowen Radson Schroth, P.A. 600 Jennings Avenue Eustis, Florida 32726
Developer/Owner:	Wild Blue, LLP 912-1 Venture Ave. Leesburg, FL 34748

Any notices required or permitted hereunder shall be considered properly made if in writing and mailed by United States Mail, postage prepaid, to the addresses set forth herein.

11. **TERM.** The term of this Agreement shall be for a period of ten (10) years from the date hereof, and from year to year thereafter.

12. **OTHER ESSENTIAL TERMS.**

a. Time is hereby made of essence of this Agreement in all respects.

b. This Agreement constitutes the entire Agreement of the parties and expressly supersedes all negotiations, previous agreements or representations whether verbal or written, and may not be amended in any way whatsoever except by a writing executed by both parties hereto in a manner equal in dignity to the execution of this Agreement.

c. This Agreement shall inure to the benefit of and be binding upon the heirs, successors, personal representatives and assigns of the parties hereto and shall run with the land.

d. Developer shall name Utility as co-insured on any insurance policy concerning coverage for the property while construction of the on-site improvements is taking place. Similarly, Developer shall name Utility as co-insured on any insurance policy providing coverage concerning the construction of off-site improvements.

e. This Agreement shall be governed by the laws of the State of Florida and venue shall be in Lake County, Florida. Developer shall indemnify protect and hold harmless the Utility from any and all claims, causes, actions, judgments, costs, attorney's fees, expenses and losses of every kind and character, whether direct or indirect, of any manner, or in anyway whatsoever arising on account of any action, claim or demand due to the incident and matters associated with the construction of the on-site improvements or off-site improvements, including but not limited to

vi) All claims for enforcement of liens; subrogation; and/or contribution to include but not to be limited to any and all mechanic's and contractor's liens associated with the construction of the on-site improvements or off-site improvements;

ii) Any and all bills from any source associated with the construction of the on-site improvements or off-site improvements;

iii) Any and all claims under any federal, state or local act or ordinance associated with the construction of the on-site improvements or off-site improvements;

iv) Any and all claims for reimbursement; subrogation; and/or contribution associated with the construction of the on-site improvements or off-site improvements;

v) Any and all claims for reimbursement, and/or subrogation of liens asserted by any insurance company or any party, that provides insurance coverage or benefits of any nature associated with the construction of the on-site improvements or off-site improvements;

vi) Any and all claims, liens, reimbursement or subrogation under any contract or agreement with any group, organization, partnership or corporation associated with the construction of the on-site improvements or off-site improvements;

f. This Agreement shall be effective upon proper execution by both parties hereto.

g. This Agreement shall be executed in several counterparts each of which if properly executed by both parties shall be considered an original.

h. Developer shall pay all amounts required under this agreement within 30 days after the Town of Lady Lake executes this agreement. Should Developer fail to pay all amounts required under this agreement within 30 days after the Town of Lady Lake executes this agreement, the Town, in its sole discretion may rescind and void this agreement in its entirety.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their names and their seals to be hereunto affixed, by their proper officers thereunto duly authorized, on the day and year first above written.

[signatures on following page]

Attest:

Kristen Kollgaard, Town Clerk

Approved as to form:

Town Attorney
Derek A. Schroth, Esquire

TOWN OF LADY LAKE

~~Jim Richards, Mayor~~
Ruth Kussard, Mayor Pro-Tem

Witnesses:

Print Name: Ron Watson

Print Name: Marc Matthews

Wild Blue, LLP

By:
Name: Mike Hanna
Title: Managing Partner

STATE OF FL
COUNTY OF Lake

This is to certify that on this 18 day of March, 2009, Before me, an officer duly authorized to take acknowledgements in the State and County aforesaid, personally appeared Mike Hanna Managing Partner (title) of Wild Blue, LLP. He/She is personally know to me or has produced _____ as identification and did or did not take an Oath.

Ashley M. Jones
Commission # DD578260
Expires July 26, 2010
Bonded Troy Fain - Insurance, Inc. 800-385-7019

Signature of Acknowledger

Ashley M. Jones
Name of Acknowledger Typed

EXHIBIT "A"
Page 1 of 1
LEGAL DESCRIPTION

THAT PART OF GOVERNMENT LOT 8, SECTION 18, TOWNSHIP 18 SOUTH, RANGE 24 EAST, LAKE COUTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 8 RUN NORTHERLY ALONG WESTERLY LINE OF SAID GOVT. LOT 8 A DISTANCE OF 40 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF S.R. 466; THENCE EASTERLY ALONG SAID RIGHT OF WAY LINE 314.4 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 degrees 23'39" WEST 624.07 FEET TO THE NORTH LINE OF THE SOUTH ¼ OF SAID GOVERNMENT LOT 8; THENCE NORTH 89 degrees 41'19" EAST ALONG SAID NORTH LINE 349.05 FEET MORE OR LESS, TO THE EAST LINE OF THE SOUTHWEST ¼ OF THE SOUTH ½ OF SAID GOVT. LOT 8; THENCE SOUTHERLY ALONG SAID EAST LINE 624.08 FEET MORE OR LESS, TO THE NORTHERLY RIGHT OF WAY LINE OF S.R. 466; THENCE WESTERLY ALONG SAID RIGHT OF WAY LINE 349.05 FEET TO THE POINT OF BEGINNING.

AK#1809134

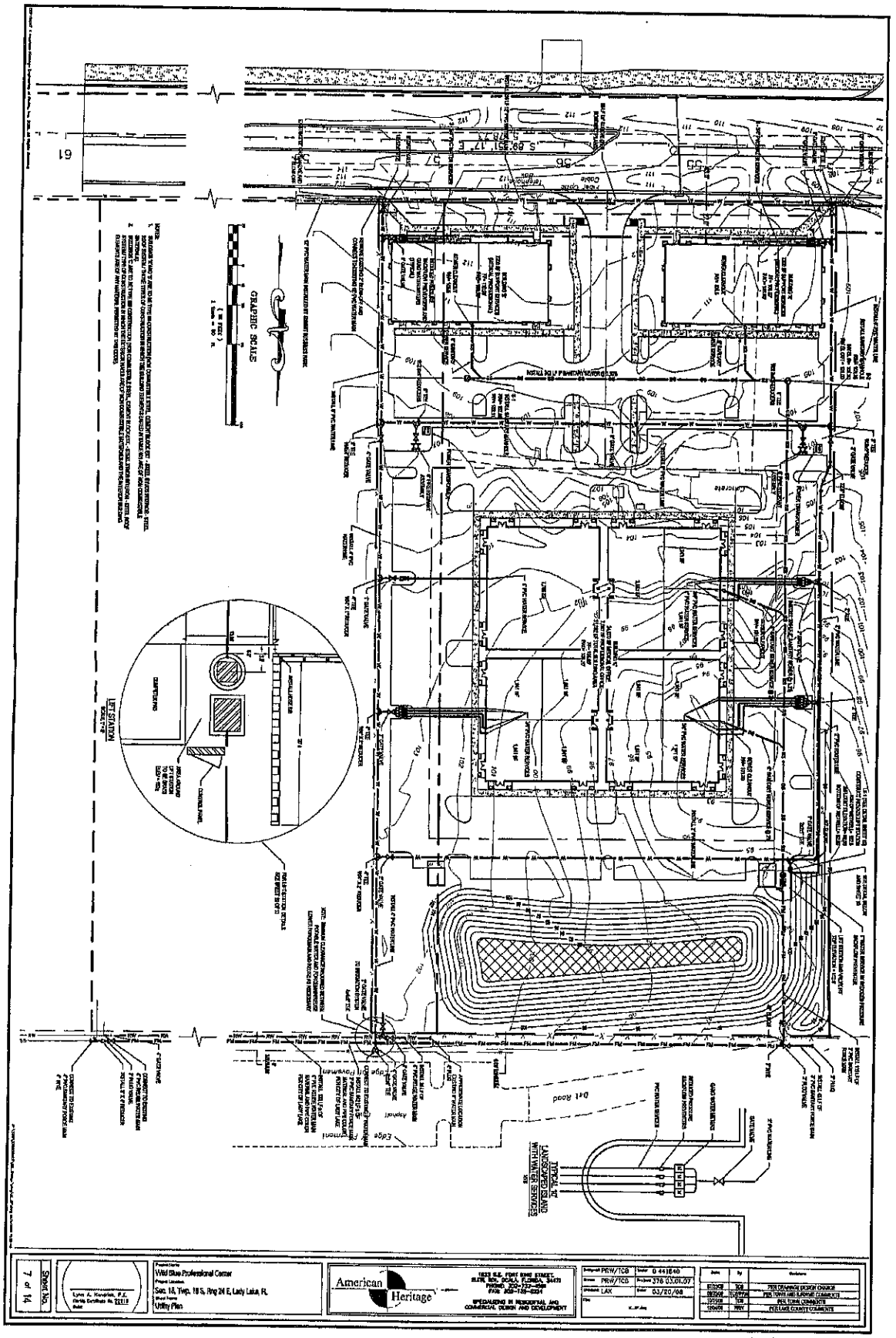
EXHIBIT "B"

Opinion of Cost
For
Wildblue Offsite Utilities
January 12, 2009

	ITEM	QUANTITY		UNIT PRICE		EXTENSION
1.00	**WATER**					
1.01	12" PVC WATER MAIN	358.00	LF	$30.00	/LF	$10,740.00
1.02	12" X 12" 8" TEE	2.00	EA	$300.00	/EA	$600.00
1.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
1.04	18" PVC SLEEVE	65.00	LF	$15.00	/LF	$975.00
1.05	12" GATE VALVE	1.00	EA	$1,485.00	/EA	$1,485.00
1.06	2" BLOWOFF	1.00	EA	$200.00	/EA	$200.00
1.07	6" X 6" X 4" TEE	1.00	EA	$285.00	/EA	$285.00
1.08	4" GATE VALVE	1.00	EA	$500.00	/EA	$500.00
1.09	4" PVC WATER LINE	14.00	LF	$380.00	/LF	$5,320.00
2.00	**SEWER**					
2.01	3" PLUG	1.00	EA	$180.00	/EA	$180.00
2.02	3" PVC FORCE MAIN	700.00	LF	$10.00	/LF	$7,000.00
2.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
2.04	3" PLUG VALVE	2.00	EA	$400.00	/EA	$800.00
2.05	3" WYE	1.00	EA	$350.00	/EA	$350.00
2.06	3" ELBOW (45°)	1.00	EA	$350.00	/EA	$350.00
2.07	3" X 4" REDUCER	1.00	EA	$350.00	/EA	$350.00
2.08	4" WYE	1.00	EA	$350.00	/EA	$350.00
2.09	4" ELBOW (45°)	1.00	EA	$375.00	/EA	$375.00
3.00	**REUSE**					
3.01	4" PLUG	1.00	EA	$200.00	/EA	$200.00
3.02	4" REUSE WATER MAIN	370.00	LF	$14.00	/LF	$5,180.00
3.03	CONNECTION TO EXISTING SYSTEM	1.00	LS	$1,000.00	/LS	$1,000.00
3.04	4" GATE VALVE	2.00	EA	$500.00	/EA	$1,000.00
3.05	4" X 4" X 2" TEE	1.00	EA	$400.00	/EA	$400.00

SUB TOTAL	**$39,640.00**
15% Contingency	**$5,946.00**
ESTIMATED GRAND TOTAL	**$45,586.00**

EXHIBIT "C"



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K-8

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE : May 19, 2014

SUBJECT: Consideration to Accept and Sign the Local Agency Program Agreement from F.D.O.T. District 5 for the Design Phase of the Rolling Acres Sidewalk Project Phase II Funded Through the Safe Routes to School Grant

DEPARTMENT: Parks and Recreation

STAFF RECOMMENDED MOTION: Accept and Sign the Local Agency Program Agreement from F.D.O.T. District 5 for the Design Phase of the Rolling Acres Sidewalk Project Phase II Funded Through the Safe Routes to School Grant

SUMMARY: A very similar document to the one for this agenda item was brought before the Town Commission on March 3, 2014. Soon after this document was passed, Lake County asked if we would add additional aprons and sidewalk to the intersection of Griffin Avenue and C.R. 25. I asked F.D.O.T. District Five and they granted the request to have it added to the design and the L.A.P. Agreement. The packet includes the original agreement given to the Town Commission back in March and the new one tonight showing the additions. The design funding will be the same as it is a simple addition with the sidewalks, aprons and crossings to be added. The rest of the information in this summary is a briefing of what this grant entails. The Town of Lady Lake was awarded a total of $274,085.00 for Phase II of the Rolling Acres Sidewalk Project. At this time, the F.D.O.T. has appropriated $36,000.00 for the design of the project. Please note that the figure of $31,484.00 on the Notice-to-Proceed and the $36,000.00 on the LAP Agreement are different. F.D.O.T. District 5 raised the design funds to $36,000.00. We will have to submit a Request for Qualifications for a design firm and form a committee of Town employees. If the negotiated fee comes in at higher than $36,000.00, the Town may have to fund the balance if F.D.O.T. District 5 decides against funding the difference.

FISCAL IMPACT: $36,000.00 of no match grant funding

[ ] **Capital Budget**
[ ] **Operating**
[X] **Other**

ATTACHMENTS: [ ] **Ordinance** [ ] **Resolution** [ ] **Budget Resolution**

[ ] **Other**

[ ] **Support Documents**

DEPARTMENT HEAD MDB	**Submitted** 05/12/14	**Date** 05/19/14	
HR	**Approved as to Form**	**Date**	
FINANCE DEPARTMENT JRM	**Approved as to Budget Requirements**	**Date** 5/12/14	
TOWN MANAGER	**Approved Agenda Item for:** 5/19/14	**Date** 5/12/14	

COMMISSION ACTION:

[ ] Approved as Recommended [ ] Disapproved [ ] Tabled Indefinitely

[ ] Continued to Date Certain [ ] Approved with Modification

LOCAL AGENCY PROGRAM AGREEMENT

FPN: 433200-1-38-01	Fund: HSP	FLAIR Approp: 088849
Federal No: 8886-469-A	Org Code: 55053010541	FLAIR Obj: 790089
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
County No: 11	Contract No:	Vendor No: F591-537-624-012

Data Universal Number System (DUNS) No: 80-939-7102 Local Agency DUNS No: 02-500-6321

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS AGREEMENT, made and entered into this _____ day of _____, _____ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and the TOWN OF LADY LAKE, 409 Fennell Boulevard, Lady Lake, FL 32159 hereinafter called the Agency.

W I T N E S S E T H:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide for the Department's participation in the Design of Villages Elementary School Sidewalk Safety Improvements and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "Project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the Project will be undertaken and completed.

1.01 Attachments: Exhibit(s) "A", "B", and "1" are attached and made a part hereof.

2.01 General Requirements: The Agency shall complete the Project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of the Project.

Inactivity and Removal of Any Unbilled Funds

Once the Department issues a Notice to Proceed (NTP) for the Project, the Agency shall be obligated to submit an invoice or other request for reimbursement to the Department for all work completed for the Project no less frequently than on a quarterly basis, beginning from the day the NTP is issued. If the Agency fails to submit quarterly (or more frequently than quarterly) invoices to the Department as required herein and in the event said failure to timely submit invoices to the Department results in FHWA removing any unbilled funding or in the loss of State appropriation authority (which may include the loss of state and Federal funds, if there are state funds programmed to the Project), then the Agency will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Agency waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of State appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Agency for future LAP Projects.

Removal of All Funds

If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Agency, and the Project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the Project on or before 2 years from the Agreement's execution date. If the Agency does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the Project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.04 Agency Funds: The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the Project.

2.05 Submission of Proceedings, Contracts, and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and the Federal Highway Administration (FHWA) may require. The Agency shall use the Department's Local Agency Program Information Tool and applicable information systems as required.

3.00 Project Cost:

3.01 Total Cost: The total cost of the Project is $ 36,000.00. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the Project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

3.02 Department Participation: The Department agrees to participate in the Project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:

a) Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;

c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and

d) Department approval of the Project scope and budget at the time appropriation authority becomes available.

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

3.05 Multi-Year Commitment: In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

3.06 Notice-to-Proceed: No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed (NTP) from the Department. The Agency agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Agency is not able to meet the scheduled advertisement, the District LAP Administrator should be notified as soon as possible.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records of the Agency and all subcontractors performing work on the Project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5.02 Costs Incurred for Project: The Agency shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 Documentation of Project Costs: All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

5.04 Audit Reports: Recipients of federal and state funds are to have audits done annually using the following criteria:

The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Department's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends $500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

3. If the recipient expends less than $500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).

4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to Project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

Part IV - Report Submission:

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

   a) The Department at each of the following address(es):

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

   b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

      Federal Audit Clearinghouse
      Bureau of the Census
      1201 East 10th Street
      Jeffersonville, IN 47132

   c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

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

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

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

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   a) The Department at each of the following address(es):

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

   b) The Auditor General's Office at the following address:

   Auditor General's Office
   Room 401, Pepper Building
   111 West Madison Street
   Tallahassee, Florida 32399-1450

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

   a) The Department at each of the following address(es):

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

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the Project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

7.01 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

7.02 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;

7.03 Approval by Department: The Agency shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained here in paragraph 12.07.

7.05 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the Project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all Projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the Project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project

commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7.08 Final Invoices: The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

8.00 Termination or Suspension of Project:

8.01 Termination or Suspension Generally: The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the Project is completed, the Agency shall be paid only for the percentage of the Project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

8.02 Action Subsequent to Notice-of-Termination or Suspension: Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, Project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the Project activities and contracts and other undertakings the cost of which are otherwise includable as Project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the Project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.00 Contracts of Agency:

9.01 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

9.02 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

> "The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> "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 C.F.R. 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."

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

11.01 Performance Evaluation: Agencies are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Agency's Responsible Charge or designee as part of the Project closeout process. The Department provides the evaluation to the Agency no more than 30 days after final acceptance.

11.02 Performance Evaluation Ratings: Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Agency failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Agency developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Agency developed the Project in accordance with applicable federal and state regulations, standards and procedures, without District involvement/oversight.

11.03 Delegation of Authority: The District will determine which functions can be further delegated to Agencies that continuously earn Satisfactory and Above Satisfactory evaluations.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: 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. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the Project, except contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

12.02 Title VI – Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

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

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

12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

> "No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.08 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

13.02 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

13.03 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

13.04 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

13.05 Bonus or Commission: By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

13.07 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 Right-of-Way Certification: Upon completion of right-of-way activities on the Project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.

13.09 Agency Certification: The Agency will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the Project is accepted by the Agency as suitable for the intended purpose.

13.10 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

13.11 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

13.12 Restrictions on Lobbying:

Federal: The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

State: No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

13.13 Maintenance: The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency ☒ will ☐ will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 30 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3) (b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one $1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

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

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.

13.16 E- VERIFY

The Agency:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and

2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY TOWN OF LADY LAKE

By: _____
Name:
Title:

Attest: _____
Title:

Legal Review:

_____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name: Frank J. O'Dea, P.E.
Title: Director of Transportation Development

Attest: _____
Title: Administrative Assistant

_____

See attached Encumbrance Form for date of funding approval by Comptroller.

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 433200-1-38-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

the Town of Lady Lake, 409 Fennell Boulevard, Lady Lake, FL 32159

Dated_____

PROJECT LOCATION:

The project ____ is _X_ is not on the National Highway System.

The project ____ is _X_ is not on the State Highway System.

PROJECT DESCRIPTION:

This project includes the design of 5-ft wide sidewalk along the north side of Oak Street from Clay Avenue to CR 25 (1,020 ft) and along the west side of CR 25 from Oak Street to Griffin Avenue (3,350 ft). Drainage design will be required, including minor ditch re-grading, removal of existing drainage structure, and inclusion of drainage inlets and Mitered End Section (MES). Additional improvements include the construction of driveways (both concrete and asphalt), curb and gutter, curb ramps and pedestrian landings, the removal of an existing retaining wall, and the construction of gravity wall with guiderail. All crosswalk, sidewalks, and pedestrian ramps will adhere to ADA standards. Improvements include detectable warning surfaces and required signing and pavement markings.

The project includes improvements at the intersection of CR 25 at Griffin Avenue. Improvements include installation of pedestrian signals, push button detectors, installation of traffic loops, updating traffic controller and signal timing to include new pedestrian phasing, and sidewalk connections to existing sidewalk. No additional R/W is anticipated. Utility coordination and adjustment is required and will be evaluated for reimbursement based on the final design.

The project funding shall be reduced to an amount equal to the award of the actual design contract cost.

SPECIAL CONSIDERATIONS BY AGENCY:

Invoices shall be submitted on a monthly basis and Progress Reports shall be submitted as requested to:

David Cooke, Project Manager Supervisor
Florida Department of Transportation
719 South Woodland Boulevard, MS 2-542
DeLand, Florida 32720

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) N/A Study to be completed by N/A.

b) Design to be completed by 1/31/2015.

c) Right-of-Way requirements identified and provided to the Department by N/A.

d) Right-of-Way to be certified by N/A.

e) Construction contract to be let by N/A.

f) Construction to be completed by N/A.

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

When real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the right of way to be acquired. It must show sufficient technical data, including land ties to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of right of way related maps and is a depiction of the right of way survey field work performed for a specific transportation project.

EXHIBIT "B"

SCHEDULE OF FUNDING

AGENCY NAME & BILLING ADDRESS	FPN:
Town of Lady Lake 409 Fennell Boulevard Lady Lake, FL 32159-3158	433200-1-38-01

PROJECT DESCRIPTION

Name: Villages Elementary School Sidewalk Safety Improvements Length: 0.650 miles

Termini: Sidewalk improvements along the north side of Oak Street from Clay Avenue to CR 25 and along the west side of CR 25 from Oak Street to Griffin Avenue. Intersection improvements at CR 25 at Griffin Avenue

TYPE OF WORK By Fiscal Year		FUNDING (1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
Planning	FY:			
	FY:			
	FY:			
	Total Planning Cost			
Project Development & Environment (PD&E)				
	FY:			
	FY:			
	FY:			
	Total PD&E Cost			
Design	FY: 2013-2014	$36,000.00		$36,000.00
	FY:			
	FY:			
	Total Design Cost	$36,000.00		$36,000.00
Right-of-Way	FY:			
	FY:			
	FY:			
	Total Right-of-Way Cost			
Construction	FY:			
	FY:			
	FY:			
	FY:			
	Total Construction Cost			
Construction Engineering and Inspection (CEI)				
	FY:			
	FY:			
	FY:			
	Total CEI Cost			
	Total Construction and CEI Costs			
	TOTAL COST OF THE PROJECT	$36,000.00		$36,000.00

EXHIBIT "1"

SINGLE AUDIT ACT

Federal Resources Awarded to the Recipient Pursuant to This Agreement Consist of the Following:

Federal Agency: Federal Highway Administration

CFDA #: 20.205 Highway Planning and Construction

Amount: $ 36,000.00

Compliance Requirement:

Allowable Activities: To be eligible, most projects must be located on public roads that are not functionally classified as local. The major exceptions are the Highway Bridge Replacement and Rehabilitation Program, which provides assistance for bridges on and off the federal-aid highways, highway safety activities, bicycle and pedestrian projects, transportation enhancement activities, the recreational trails program, and planning, research, development, and technology transfer. Proposed projects meeting these and other planning, design, environmental, safety, etc., requirements can be approved on the basis of state and local priorities within the limit of the funds apportioned or allocated to each state.

Allowable Costs: Eligible activities and allowable costs will be determined in accordance with Title 23 and Title 49 C.F.R. and the OMB cost principles applicable to the recipient/sub-recipient.

Eligibility: By law, the federal-aid highway program is a federally assisted state program that requires each state to have a suitably equipped and organized transportation department. Therefore, most projects are administered by or through State Departments of Transportation (State DOTs). Projects to be funded under the federal-aid highway program are generally selected by state DOTs or Metropolitan Planning Organizations (MPOs), in cooperation with appropriate local officials, as specified in 23 U.S.C. and implementing regulations. Territorial highway projects are funded in the same manner as other federal-aid highway projects, with the territorial transportation agency functioning in a manner similar to a state DOT. Most Federal Land Highway Program (FLHP) projects are administered by the Federal Highway Administration (FHWA) Office of Federal Lands Highway and its Divisions or by the various Florida Land Management Agencies (FLMAs). Under the FLHP, projects in the Indian Reservation Road (IRR) Program are selected by Tribal Governments and are approved by the Bureau of Indian Affairs (BIA) and the FHWA. Due to recent legislation, Tribal Governments meeting certain requirements may now administer various IRR projects on behalf of the BIA and FHWA. The Fish and Wildlife Service (FWS) and the National Park Service (NPS) select projects in the Refuge Road and Park Roads and Parkways Programs, respectively. For the Forest Highway Program, the Forest Service, the States and the FHWA jointly select projects.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to This Agreement Are As Follows: The recipient of Local Agency Program (LAP) funding must comply with the statutory requirements in Sections 112.061, 215.422, 339.12, and 339.135, Florida Statutes, and Title 23 and Title 49, C.F.R.

OLD LAP Agreement

LOCAL AGENCY PROGRAM AGREEMENT

FPN: 433200-1-38-01	Fund: HSP	FLAIR Approp: 088849
Federal No: 8886-469-A	Org Code: 55053010541	FLAIR Obj: 790089
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
County No: 11	Contract No:	Vendor No: F591-537-624-012

Data Universal Number System (DUNS) No: 80-939-7102 Local Agency DUNS No: 02-500-6321

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS AGREEMENT, made and entered into this _____ day of _____ , _____ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and the TOWN OF LADY LAKE, 409 Fennell Boulevard, Lady Lake, FL 32159 hereinafter called the Agency.

W I T N E S S E T H:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide for the Department's participation in Villages Elementary School Sidewalk Safety Improvements and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

1.01 Attachments: Exhibit(s) "A", "B", and "1" are attached and made a part hereof.

2.01 General Requirements: The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

Inactivity and Removal of Any Unbilled Funds

Once the Department issues a Notice to Proceed (NTP) for the Project, the Agency shall be obligated to submit an invoice or other request for reimbursement to the Department for all work completed for the Project no less frequently than on a quarterly basis, beginning from the day the NTP is issued. If the Agency fails to submit quarterly (or more frequently than quarterly) invoices to the Department as required herein and in the event said failure to timely submit invoices to the Department results in FHWA removing any unbilled funding or in the loss of State appropriation authority (which may include the loss of state and Federal funds, if there are state funds programmed to the Project), then the Agency will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Agency waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of State appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Agency for future LAP projects.

Removal of All Funds

If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before 2 years from the Agreement's execution date. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.04 Agency Funds: The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

2.05 Submission of Proceedings, Contracts, and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require. The Agency shall use the Department's Local Agency Program Information Tool and applicable information systems as required.

3.00 Project Cost:

3.01 Total Cost: The total cost of the project is $ 36,000.00. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

3.02 Department Participation: The Department agrees to participate in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;

b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;

c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and

d) Department approval of the project scope and budget at the time appropriation authority becomes available.

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

3.05 Multi-Year Commitment: In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

3.06 Notice-to-Proceed: No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed (NTP) from the Department. The Agency agrees to advertise or put the project out to bid thirty (30) days from the date the Department issues the NTP to advertise the project. If the Agency is not able to meet the scheduled advertisement, the District LAP Administrator should be notified as soon as possible.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5.02 Costs Incurred for Project: The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

5.04 Audit Reports: Recipients of federal and state funds are to have audits done annually using the following criteria:

The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Department's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends $500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

3. If the recipient expends less than $500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).

4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

Part IV - Report Submission:

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

   a) The Department at each of the following address(es):

      Lisa Buscher, District Local Government Program Administrator
      Florida Department of Transportation
      719 South Woodland Boulevard, MS 4-520
      DeLand, Florida 32720

   b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

      Federal Audit Clearinghouse
      Bureau of the Census
      1201 East 10th Street
      Jeffersonville, IN 47132

   c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards <u>directly</u> to each of the following:

   Lisa Buscher, District Local Government Program Administrator
   Florida Department of Transportation
   719 South Woodland Boulevard, MS 4-520
   DeLand, Florida 32720

   In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

Lisa Buscher, District Local Government Program Administrator
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-520
DeLand, Florida 32720

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   a) The Department at each of the following address(es):

      Lisa Buscher, District Local Government Program Administrator
      Florida Department of Transportation
      719 South Woodland Boulevard, MS 4-520
      DeLand, Florida 32720

   b) The Auditor General's Office at the following address:

      Auditor General's Office
      Room 401, Pepper Building
      111 West Madison Street
      Tallahassee, Florida 32399-1450

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

   a) The Department at each of the following address(es):

      Lisa Buscher, District Local Government Program Administrator
      Florida Department of Transportation
      719 South Woodland Boulevard, MS 4-520
      DeLand, Florida 32720

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

7.01 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

7.02 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

7.03 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained here in paragraph 12.07.

7.05 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7.08 Final Invoices: The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

8.00 Termination or Suspension of Project:

8.01 Termination or Suspension Generally: The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

8.02 Action Subsequent to Notice-of-Termination or Suspension: Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.00 Contracts of Agency:

9.01 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

9.02 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color,

national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

> "The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> "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 C.F.R. 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."

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

11.01 Performance Evaluation: Agencies are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Agency's Responsible Charge or designee as part of the project closeout process. The Department provides the evaluation to the Agency no more than 30 days after final acceptance.

11.02 Performance Evaluation Ratings: Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Agency failed to develop the project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the project was brought in-house by the Department. A rating of Satisfactory Performance means the Agency developed the project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Agency developed the project in accordance with applicable federal and state regulations, standards and procedures, without District involvement/oversight.

11.03 Delegation of Authority: The District will determine which functions can be further delegated to Agencies that continuously earn Satisfactory and Above Satisfactory evaluations.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: 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. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except

contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

12.02 Title VI – Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

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

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

12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

> "No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.08 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

13.02 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

13.03 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

13.04 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

13.05 Bonus or Commission: By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

13.07 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the project and comments or recommendations covering any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 Right-of-Way Certification: Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

13.09 Agency Certification: The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

13.10 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

13.11 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

13.12 Restrictions on Lobbying:

Federal: The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

State: No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

13.13 Maintenance: The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency ☒ will ☐ will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 30 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3) (b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one $1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

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

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.

13.16 E- VERIFY

The Agency:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and

2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY TOWN OF LADY LAKE

By: _____
Name:
Title:

Attest: _____
Title:

Legal Review:

_____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name: Frank J. O'Dea, P.E.
Title: Director of Transportation Development

Attest: _____
Title: Administrative Assistant

_____

See attached Encumbrance Form for date of funding approval by Comptroller.

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 433200-1-38-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

the Town of Lady Lake, 409 Fennell Boulevard, Lady Lake, FL 32159

Dated_____

PROJECT LOCATION:

The project ____ is _X_ is not on the National Highway System.

The project ____ is _X_ is not on the State Highway System.

PROJECT DESCRIPTION:

This project includes the design of 5 feet wide sidewalk along the north side of Oak Street from Clay Avenue to CR 25 (1,020 feet) and along the west side of CR 25 from Oak Street to Fennell Boulevard (3,340 feet). Drainage design will be required, including minor ditch re-grading, removal of existing drainage structure, and inclusion of drainage inlets and mitered end sections. Additional improvements include the construction of driveways (both concrete and asphalt), curb and gutter, the removal of an existing retaining wall, and the construction of a gravity wall with guiderail. All crosswalks, sidewalks, and pedestrian ramps will adhere to the most current ADA requirements. Improvements also include detectable warning surfaces and required signing and pavement markings.

The project includes improvements at three intersections: SR 500 at Rolling Acres Road, SR 500 at Fennell Boulevard, and CR 25 at Griffin Avenue. Improvements include installation of pedestrian signals, push button detectors, traffic separator improvements and reconstruction, construction of a concrete pedestrian refuge island, installation of traffic loops, updating traffic controller and signal timing to include new pedestrian phasing and sidewalk connections to the existing sidewalk. No additional Right of Way is required. Although non-reimbursable, utility coordination and adjustment is required.

The project funding shall be reduced to an amount equal to the award of the actual design contract cost.

SPECIAL CONSIDERATIONS BY AGENCY:

Invoices shall be submitted on a monthly basis and Progress Reports shall be submitted as requested to:

David Cooke, Project Manager Supervisor
Florida Department of Transportation
719 South Woodland Boulevard, MS 2-542
DeLand, Florida 32720

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) N/A Study to be completed by N/A.

b) Design to be completed by 10/31/2014.

c) Right-of-Way requirements identified and provided to the Department by N/A.

d) Right-of-Way to be certified by N/A.

e) Construction contract to be let by N/A.

f) Construction to be completed by N/A.

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

When real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the right of way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal, acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of right of way related maps and is a depiction of the right of way survey field work performed for a specific transportation project.

EXHIBIT "B"

SCHEDULE OF FUNDING

AGENCY NAME & BILLING ADDRESS	FPN:
Town of Lady Lake 409 Fennell Boulevard Lady Lake, FL 32159-3158	433200-1-38-01

PROJECT DESCRIPTION

Name: Villages Elementary School Sidewalk Safety Improvements Length: 0.650 miles

Termini: Sidewalk improvements at CR 25 from Oak Street to Fennell Boulevard, North of Oak Street from Clay Avenue to CR 25, and CR 25 at Griffin Avenue. Intersection improvements at SR 500 at Rolling Acres Road, SR 500 at Fennell Boulevard, and CR 25 at Griffin Avenue.

TYPE OF WORK By Fiscal Year		FUNDING (1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
Planning	FY:			
	FY:			
	FY:			
	Total Planning Cost			
Project Development & Environment (PD&E)				
	FY:			
	FY:			
	FY:			
	Total PD&E Cost			
Design	FY: 2013-2014	$36,000.00		$36,000.00
	FY:			
	FY:			
	Total Design Cost	$36,000.00		$36,000.00
Right-of-Way	FY:			
	FY:			
	FY:			
	Total Right-of-Way Cost			
Construction	FY:			
	FY:			
	FY:			
	FY:			
	Total Construction Cost			
Construction Engineering and Inspection (CEI)				
	FY:			
	FY:			
	FY:			
	Total CEI Cost			
	Total Construction and CEI Costs			
	TOTAL COST OF THE PROJECT	$36,000.00		$36,000.00

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

EXHIBIT "1"

SINGLE AUDIT ACT

Federal Resources Awarded to the Recipient Pursuant to This Agreement Consist of the Following:

Federal Agency: Federal Highway Administration

CFDA #: 20.205 Highway Planning and Construction

Amount: $ 36,000.00

Compliance Requirement:

Allowable Activities: To be eligible, most projects must be located on public roads that are not functionally classified as local. The major exceptions are the Highway Bridge Replacement and Rehabilitation Program, which provides assistance for bridges on and off the federal-aid highways, highway safety activities, bicycle and pedestrian projects, transportation enhancement activities, the recreational trails program, and planning, research, development, and technology transfer. Proposed projects meeting these and other planning, design, environmental, safety, etc., requirements can be approved on the basis of state and local priorities within the limit of the funds apportioned or allocated to each state.

Allowable Costs: Eligible activities and allowable costs will be determined in accordance with Title 23 and Title 49 C.F.R. and the OMB cost principles applicable to the recipient/sub-recipient.

Eligibility: By law, the federal-aid highway program is a federally assisted state program that requires each state to have a suitably equipped and organized transportation department. Therefore, most projects are administered by or through State Departments of Transportation (State DOTs). Projects to be funded under the federal-aid highway program are generally selected by state DOTs or Metropolitan Planning Organizations (MPOs), in cooperation with appropriate local officials, as specified in 23 U.S.C. and implementing regulations. Territorial highway projects are funded in the same manner as other federal-aid highway projects, with the territorial transportation agency functioning in a manner similar to a state DOT. Most Federal Land Highway Program (FLHP) projects are administered by the Federal Highway Administration (FHWA) Office of Federal Lands Highway and its Divisions or by the various Florida Land Management Agencies (FLMAs). Under the FLHP, projects in the Indian Reservation Road (IRR) Program are selected by Tribal Governments and are approved by the Bureau of Indian Affairs (BIA) and the FHWA. Due to recent legislation, Tribal Governments meeting certain requirements may now administer various IRR projects on behalf of the BIA and FHWA. The Fish and Wildlife Service (FWS) and the National Park Service (NPS) select projects in the Refuge Road and Park Roads and Parkways Programs, respectively. For the Forest Highway Program, the Forest Service, the States and the FHWA jointly select projects.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to This Agreement Are As Follows: The recipient of Local Agency Program (LAP) funding must comply with the statutory requirements in Sections 112.061, 215.422, 339.12, and 339.135, Florida Statutes, and Title 23 and Title 49, C.F.R.

K-9

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE: May 19, 2014

SUBJECT: Consideration of Approval to Put the Minor Field Fence Project Out To Bid

DEPARTMENT: Parks and Recreation

STAFF RECOMMENDED MOTION: Approval to Put the Minor Field Fence Project Out To Bid

---

SUMMARY: In the 2014 Budget, the Commission approved $40,000.00 for the construction of a new fence at the Minor Field, located at the Guava Street Athletic Complex. $1,200.00 has been invested in the design of the fence. Neel Schaffer has provided the necessary papers as seen in the packet for the bid process. The dates and the information on who to send the bids to will be the only changes in the document, but the rest of the documents will stay the same. The design will be very similar to the fence built at the Hicks Field at the same complex. The Hicks Field fence has been heavily complimented and has proven to be very sturdy and serves its intended purpose. I met with the Little League in the design of the fence to make sure that it will be workable for them and will meet the standards for Little League. At this time, we will seek to invest in advertising for the bid and come back to the Town Commission with the bids and seek a recommendation to utilize the lowest competent contractor. Our goal is to have the fence completed by September.

FISCAL IMPACT: Estimated at $200.00 for advertising.

[X] Capital Budget
[ ] Operating
[ ] Other

ATTACHMENTS: **[ ] Ordinance** **[ ] Resolution** **[ ] Budget Resolution**

[ ] Other

[X] Support Documents

DEPARTMENT HEAD MDB	**Submitted** May 12/14	**Date** May 12/14
HR	**Approved as to Form**	**Date**
FINANCE DEPARTMENT JRM	**Approved as to Budget Requirements**	**Date** 5/12/14
TOWN MANAGER KK	**Approved Agenda Item for:** 5/19/14	**Date** 5/12/14

COMMISSION ACTION:

[ ] Approved as Recommended **[ ] Disapproved** **[ ] Tabled Indefinitely**

[ ] Continued to Date Certain **[ ] Approved with Modification**

CONTRACT DOCUMENTS
AND
TECHNICAL SPECIFICATIONS

FOR

GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

TOWN OF LADY LAKE
LAKE COUNTY, FLORIDA

NEEL-SCHAFFER
Solutions you can build upon

PROJECT No.: NS.11785.007

June, 2014

GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

TOWN OF LADY LAKE
LAKE COUNTY, FLORIDA

TABLE OF CONTENTS

BIDDING AND CONTRACT REQUIREMENTS

PART A	NOTICE OF BID
PART D	BID FORM
PART E	CONTRACT
	ATTACHMENT A
	ATTACHMENT B
	ATTACHMENT E
	ATTACHMENT F
	BID BOND EXHIBIT I
	MISCELLANEOUS FRONT END DOCUMENTS

DIVISION 1 – GENERAL REQUIREMENTS

SECTION	TITLE
01010	Summary of Working
01027	Application for Payments
01050	Field Engineering
01065	Permits and Fees
01150	Measurement and Method of Payment
01153	Change Order Procedures
01200	Project Meetings
01300	Submittals
01370	Schedule of Values
01510	Temporary Utilities
01520	Construction Aides
01600	Materials and Equipment
01700	Contract Closeout
01710	Cleaning
01720	Project Record Documents
01740	Warranties and Bonds

GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

TOWN OF LADY LAKE
LAKE COUNTY, FLORIDA

TABLE OF CONTENTS (Cont'd)

DIVISION 2 - SITEWORK

SECTION	TITLE
02830	Fences and Gates

DIVISION 3 – CONCRETE

SECTION	TITLE
03100	Concrete Formwork
03300	Cast-in-Place concrete

DIVISIONS 4-16 NOT USED

APPENDIX A

DRAWINGS

NOTICE
INVITATION FOR BID NO. _____
GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

Sealed bid offers (Original Bid Form and three (3) complete copies) for furnishing the above will be accepted up to **9:00 a.m. on _____, _____** in the Town Clerk's Office Town of Lady Lake, 409 Fennell Blvd., Lady Lake, Florida 32159. Bids will be opened shortly thereafter in the Town Council Chambers

Bid Documents may be obtained from ____Neel-Schaffer_____. Cost of the Bid Documents is **$** _30_ non-refundable.

The bid must be sealed in an envelope and addressed to Kris Kollgaard, Town Clerk, Town of Lady Lake, 409 Fennell Blvd., Lady Lake, Florida 32159 and MUST be marked on the outside with the following information:

BID NO. _____
GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

Bids received after the specified submittal date and time, or improperly marked, will be returned unopened.

Questions should be directed to _Mike Burske,_ The Town of Lady Lake reserves the right to reject any and all bids and to waive any informalities or irregularities therein.

SCOPE OF WORK: All work is to be performed on the Minor Baseball Field (northwestern field) at Guava Street Park in Lady Lake, Florida. The work consists of the demolition and removal of approximately 180 linear feet of existing baseball field fence, 60 linear feet of existing backstop, and 60 linear feet of dugout fence. The removed backstop and fencing shall be upgraded with approximately 220 linear feet of 18 foot tall backstop as well as 70 linear feet of 7 foot tall fence and a gate at the baseball field fence side of the bullpen. This 70 linear feet of bullpen fencing and gate will include the installation of bright yellow 4-1/2" Dia. HDPE chain link safety top cap. Construction also includes cutting out and framing openings in both Minor Field dugouts and installation of gates into the new backstop for passage through the dugouts. Additionally, the existing 15' of eastern bullpen gate and fencing will be removed and upgraded with a new 14 foot wide gate. The work includes all demolition, excavation, concrete, framing, gates, fencing, and hardware in addition to all incidental equipment, materials and labor required to complete the project

Kris Kollgaard, Town Clerk
Town of Lady Lake

****

ISSUED: _____

OFFICIAL BID FORM

FOR

GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

****

Mail or Hand Deliver

ORIGINAL BID FORM (MARKED "ORIGINAL") & THREE (3) COMPLETE COPIES

By 9:00 AM – _____

To:

TOWN CLERK
TOWN OF LADY LAKE
409 Fennell Boulevard
Lady Lake, Florida 32159

Bid Opening:

_____ - 9:05 AM

Town of Lady Lake
Town Council Chambers
Lady Lake, Florida 32159

_____

COMPANY NAME

_____

COMPLETE MAILING ADDRESS

_____

CITY, COUNTY, STATE, ZIP CODE

_____

TELEPHONE NUMBER & FAX NUMBER

_____

CONTACT PERSON

To: Town of Lady Lake Commission
Town of Lady Lake, Florida

Gentlemen:

The Undersigned, hereinafter called "Bidder", having visited the site of the proposed project and familiarized himself with the local conditions, nature and extent of the work, and having examined carefully the Contract Form, General Conditions, Supplementary Conditions, Plans and Specifications and other Contract Documents, with the Bond requirements herein, proposes to furnish all labor, materials, equipment and other items, facilities and services for the proper execution and completion of: GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES in full accordance with the drawings and specifications prepared in accordance with the Contract Documents and, if awarded the contract, to complete the said work within the time limits specified for the following LUMP SUM BASE BID AMOUNT.

It is understood that this is a lump sum contract and the estimated total base bid is the sum of all item totals from the attached bid schedule.

TOTAL LUMP SUM BASE BID AMOUNT;

_____DOLLARS
(In Words)

$_____

Contractor shall fill out attached bid breakdown form for the total bid amounts.

In the event the contract is awarded to this Bidder, he/she will enter into a formal written agreement with the Town in accordance with the accepted bid within ten (10) calendar days after said contract is submitted to him/her and will furnish to the Town a Contract Payment and Performance Bond with good and sufficient sureties, satisfactory to the Town, in the amount of 100% of the accepted bid. The Bidder further agrees that in the event of the Bidder's default or breach of any of the agreements of this proposal, the said bid deposit shall be forfeited as liquidated damages.

The Bidder hereby agrees that there is attached:

1.	Non-Collusion Affidavit, Attachment A	Yes ___	
2.	Required Disclosure, Attachment B	Yes ___	
3.	Bid Bond or Cashiers Check, Exhibit 1 (10% of Base Bid)	Yes ___	
4.	Four (4) Complete copies of this Bid Form with all attachments	Yes ___	
5.	References, Attachment E	Yes ___	
6.	Licenses	Yes ___	N/A ___
7.	Bid Breakdown form	Yes ___	

Acknowledgment is hereby made of receipt of the following Addenda issued during the bidding period:

Addendum No. _____Dated _____Addendum No. _____Dated _____

Addendum No. _____Dated _____Addendum No. _____Dated _____

If awarded this construction contract, the Bidder agrees to complete the work covered by this contract as follows:

1. Work shall start at the project site within ten (10) days of the effective date of the Notice to Proceed.

2. Substantially complete in ___30___ consecutive calendar days from date of Official Notice to Proceed.

3. Final completion in ___45___ consecutive calendar days from date of Official Notice to Proceed.

4. Should the Successful Bidder fail to complete work as specified, the liquidated damage clause will apply.

   The contract will be awarded to the best lowest responsive bidder, however, the Bidder hereby agrees that the Town reserves the right to waive informalities in any bid and to reject any or all bids, or to accept any bid that in its judgment will be for the best interest of the Town.

FLORIDA CONSTRUCTION INDUSTRIES LICENSING BOARD CERTIFICATION:

_____

(NAME OF HOLDER) (CERTIFICATE NO.)

_____

(SIGNATURE OF BIDDER) (CERTIFICATE EXPIRATION DATE)

_____

(NAME TYPED)

IDENTIFICATION OF BUSINESS ORGANIZATION

Complete and submit the following information:

Type of Organization

{ } Sole Proprietorship { } Partnership

{ } Joint Venture { } Corporation

State of Incorporation:_____

AUTHORIZED SIGNATORIES/NEGOTIATORS

The bidder or proposer represents that the following persons are authorized to sign and/or negotiate contracts and related documents to which the bidder or proposer will be duly bound:

Name Title Telephone Number

_____

_____

_____

IN WITNESS WHEREOF, THE BIDDER HAS HEREUNTO SET HIS SIGNATURE AND AFFIXED HIS SEAL THIS DAY OF_____, A.D. 20__.

BY_____ (SEAL)

TITLE:_____

_____

PRINT NAME AND TITLE

FEDERAL I.D.#_____

CONTRACT

GUAVA STREET PARK
BASEBALL FIELD FENCE UPGRADES

This Contract, made this, the _____ day of _____, 20_____, by and between _____ hereinafter called "Owner" and _____ doing business as a _____ located in _____, hereinafter called the "Contractor".
(Corporation, Partnership, or Individual)

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES in strict accordance with the Contract Documents and the Contract Drawings.

2. The Contractor will commence the work required by the Contract Documents within 10 calendar days after the date of the Notice To Proceed and will attain Final Completion within _____45_____ consecutive calendar days unless the period for completion is extended otherwise by the Contract Documents. The Contractor agrees to pay, as liquidated damages, the sum of $100 for each consecutive calendar day that he shall be in default in attaining Substantial and Final Completion within the time stipulated as provided herein.

   Special Damages: In addition to the amounts provided for liquidated damages, the actual damages, costs, losses and expenses reasonably incurred by Owner shall be paid by Contractor to Owner in the event of such default.

3. The term "Contract Documents" means and includes Advertisement for Bids, Instructions to Bidders, Bidder's Proposal, Bid Bond, Contract, Payment Bond, Performance Bond, General Conditions, Supplementary Conditions, Technical Specifications, Contract Drawings, Notice of Award, Notice to Proceed, Addenda (if any), and all subsequent Change Orders, Supplemental Agreements and/or other modifications as if formally recopied in this Contract.

4. The Contractor agrees to furnish all materials in place and to faithfully complete all of said work contemplated by this Contract in good and workmanlike manner, strictly in accordance with said Contract Documents, Contract Drawings and other requirements of the Owner, and to the complete satisfaction of the Owner, or his authorized representatives, and in accordance with the Laws of the State of Florida and the Ordinances of the Town of Lady Lake, for which the Owner hereby agrees to pay and the Contractor agrees to accept a sum of money in current funds equal to the contract amount of _____ dollars ($_____) plus the amount of any supplemental agreements and force accounts for extra work authorized and duly set forth in a written change order approved and executed by the Owner and set forth in the public minutes of the Owner and in full compensation for furnishing all materials, the doing of all work contemplated under the Contract, as well as all loss or damage, if any, arising out of the nature of the work, or the action of the weather, and any and all other unforeseen obstructions or difficulties that may be encountered in the prosecution of the same, the Contractor assuming all risks of every kind and description in the performance of this Contract.

5. The Contractor shall protect, indemnify and save harmless the Owner from and against any and all damage, loss, claims, judgments or expenses, including but not limited to reasonable attorney's fees, which the Owner may suffer or be subjected to by the performance of the work, including but without limitation, injury to or death of any person whomever and destruction or damage to any property whatsoever.

6. Attached hereto and made a part of this Contract is a Performance Bond, executed by a Surety Company doing business in the State of Florida, in the sum of _____ _____ dollars ($_____).

7. Attached hereto and made a part of this Contract is a Payment Bond, executed by a Surety Company doing business in the State of Florida, in the sum of _____ _____ dollars ($_____).

8. The Contractor agrees to allow the Owner, or any of their duly authorized representatives, access to any books, documents, papers and records of the Contractor which are directly pertinent to the project which is the subject of this Contract, for the purpose of making audits, examinations, excerpts and transcriptions, and Contractor agrees to insert an identical clause in any and all subcontracts.

9. The Owner will pay to the Contractor in the manner and at such times and amounts as set forth in the Contract Documents.

10. This Contract shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

11. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the Owner shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the Contract by the Contractor and the Owner may withhold any payments to the Contractor until such time as the exact amount of damages due the Owner from the Contractor is determined.

IN WITNESS THEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Contract in five counterparts, each of which shall be deemed an original on the date first above written.

_____	_____
Owner	Contractor
BY _____	BY _____
ATTEST _____	ATTEST _____
(Seal)	(Seal)

Attachment A
NON-COLLUSION AFFIDAVIT

The undersigned being first duly sworn as provided by law, deposes and says:

1. This Affidavit is made with the knowledge and intent that it is to be filed with the Town Commission, Lake County, Florida and that it will be relied upon by said County, in any consideration which may give to and any action which it may take with respect to this Proposal.

2. The undersigned is authorized to make this Affidavit on behalf of,

   _____
   (Name of Corporation, Partnership, Individual, etc.)

   A _____, formed under the laws of _____

   of which he is

   _____
   (Sole Owner, partner, president, etc.)

3. Neither the undersigned nor any other person, firm or corporation named in above Paragraph 2, nor anyone else to the knowledge of the undersigned, have themselves solicited or employed anyone else to solicit favorable action for this Proposal by the Town of Lady Lake, also that no head of any department or employee therein, or any officer of Town of Lady lake, Florida is directly interested therein.

4. This Proposal is genuine and not collusive or a sham; the person, firm or corporation named above in Paragraph 2 has not colluded, conspired, connived or agreed directly or indirectly with any bidder or person, firm or corporation, to put in a sham Proposal, or that such other person, firm or corporation, shall refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, firm or corporation, to fix the prices of said proposal or proposals of any other bidder; and all statements contained in the proposal or proposals described above are true; and further, neither the undersigned, nor the person, firm or corporation named above in Paragraph 3, has directly or indirectly submitted said proposal or the contents thereof, or divulged information or data relative thereto, to any association or to any member or agent thereof.

_____
(AFFIANT)

TAKEN, SWORN AND SUBSCRIBED TO BEFORE ME this _____ day of _____, 20__.

_____ (Seal)
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification
_____Type of Identification: _____

Attachment B
REQUIRED DISCLOSURE

The following Disclosure is of all material facts pertaining to any felony or civil conviction or any pending felony or civil charges in the last three (3) years in this State or any other State of the United States against 1) Bidder, 2) any business entity related to or affiliated with bidder, or 3) any present or former executive employee, officer, director, stockholder, partner or owner of bidder or of any such related or affiliated entity. This Disclosure shall not apply to any person or entity which is only a stockholder, which person or entity owns twenty percent (20) or less of the outstanding shares of a bidder whose stock is publicly owned and traded.

_____
_____
_____
_____
_____
_____

Attachment E

REFERENCES: List at least four similar projects successfully completed within the last five years

1. Project Name _____

   Owner _____

   Contact _____

   Address _____

   _____

   Telephone Number _____

   Original Contract $_____

   Change Orders $_____

   Final Contract $_____

   Completed on Schedule? _____ Date: _____

   Project Description _____

   _____

2. Project Name _____

   Owner _____

   Contact _____

   Address _____

   _____

   Telephone Number _____

   Original Contract $_____

   Change Orders $_____

   Final Contract $_____

   Completed on Schedule? _____ Date: _____

   Project Description _____

   _____

3. Project Name _____

Owner _____

Contact _____

Address _____

_____

Telephone Number _____

Original Contract $_____

Change Orders $_____

Final Contract $_____

Completed on Schedule? _____ Date:_____

Project Description _____

_____

4. Project Name _____

Owner _____

Contact _____

Address _____

_____

Telephone Number _____

Original Contract $_____

Change Orders $_____

Final Contract $_____

Completed on Schedule? _____ Date:_____

Project Description _____

_____

ATTACHMENT F

GENERAL CONDITIONS

ARTICLE 1- THE CONTRACT

The Contract Documents are identified in the Contract, Part F, Titles, Subtitles, Headings, Running Headlines, Table of Contents, and Indexes are printed in the Contract Documents merely for convenience.

ARTICLE 2- DEFIN1TIONS

The words and expressions (or pronouns used in their stead) defined in this Article shall, wherever they appear in the Contract Documents, be construed as follows unless a different meaning is clear from the context.

"Addenda" shall mean any additional Contract provisions issued in writing by the Town prior to receipt of Bid.

"Bid Proposal" shall mean the offer or proposal of the Bidder submitted on the Official Bid Form and Attachments setting forth the prices for the Work to be performed.

"Bidder" shall mean any person, firm or corporation submitting a Bid for the Work.

"Board of Town Commissioners" shall mean the Board of Town Commissioners, Town of Lady Lake, Florida, or their duly authorized representative(s).

"Change Order" shall mean a written order to the Contractor, signed by the Town , authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Amount or the Contract Time issued after execution of the Contract.

"Contract" shall mean the written agreement between the Town and the Contractor covering the Work to be performed: the Contract will be attached to and made a part of the Contract Documents.

"Contractor" shall mean successful bidder (and vice versa), whether a corporation, firm, individual or any combination thereof, and its (or their) successors, personal representatives, executors, administrators and assigns.

"Contract Amount" shall mean the total monies payable to the Contractor under the Contract Documents. The term 'Contract Price" where used in the Contract Documents refers to the Contract Amount.

"Contract Time" will mean the number of calendar days stated in the Agreement for the completion of the Work.

"Town" shall mean the Board of Town Commissioners, Town of Lady Lake, Florida, or their duly authorized representative(s), for whom the Work is being performed.

"Day" shall mean one calendar day when used in the Contract Documents.

"Defective Work" shall mean (a) Work that is unsatisfactory, deficient or damaged, does not conform to the Contract Documents, or does not meet the requirements of any inspection, test or approval, or (b) Work associated with punch list items that the Contractor fails to complete within a reasonable time after issuance of the punch list by the Project Manager.

"Drawings" shall mean only those drawings specifically referred to as such in these documents or in any Addenda. Drawings issued after the execution of the Contract to explain further, to illustrate, or to show changes in the Work will be known as "Supplementary Drawings' and shall be binding upon the Contractor with the same force as the Drawings.

"Engineer or Professional" shall mean the authorized professional or firm that has prepared the construction document for the Work or Project.

"Final Acceptance" shall mean acceptance of the Work by the Town upon the expiration of the correction period required by the Contract Documents.

"Final Completion" shall mean acceptance of the Work by the Town as evidenced by its signature upon Final Certificate of Completion and approval thereof by the Board of Town Commissioners. The Final Certificate of Completion shall be signed only after the Town has assured itself by tests, inspection or otherwise that all of the provisions of the Contract have been carried out to its satisfaction.

"Notice" shall mean written Notice. Notice shall be served upon the Contractor either personally or by leaving the said Notice at his residence or with his Agency in charge of the Work, or addressed to the Contractor at the residence or place of business given in the Bid and deposited in a postpaid wrapper in any post box regularly maintained by the United States Post Office.

"Notice of Award" shall mean the written notice of award of the Contract given by the Town to the apparent successful Bidder.

"Notice to Proceed" shall mean the written notice given by the Town to Contractor fixing the date the Contract Times will commence to run.

"Professional" shall mean the professional independent Architectural/Engineering firm designated to assist the Town in the work by a prior agreement entered into by the Town and the said firm. The terms "Engineer" and "Architect", where used in the Contract Documents, refer to the Professional.

"Project" shall mean the entire improvement of which this Contract forms a part.

"Project Manager" shall be the duly authorized representative of the Town during the construction period.

"Shop Drawings" shall mean all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, a manufacturer, supplier or distributor and which illustrate the equipment, material and/or some portion of the Work.

"Site" shall mean the area upon or in which the Contractor's operations are carried on and such other areas adjacent thereto as may be designated as such by the Project Manager.

"Specifications" shall mean parts of the Contract Documents identified as "Specifications" and organized into Divisions. The specifications include general requirements and technical descriptions of materials, equipment, construction systems, standards and workmanship. The term "Technical Provisions" where used in the Contract Documents refers to the Specifications.

"Subcontractor" shall mean any person, firm or corporation other than employees of the Contractor who or which contracts with the Contractor to furnish, or actually furnishes labor, materials and/or equipment for the Work.

"Substantial Completion" shall mean the completion of the Work by the Contractor to the point where the Town may make beneficial use of the Work.

"Surety" shall mean any corporation that executes, as Surety, the Contractors Bid Bond, Payment Bond and Performance Bonds securing the performance of this Contract.

"Work" shall mean any and all obligations, duties and responsibilities necessary to the successful completion of the construction assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all labor, materials, equipment, and other incidentals.

ARTICLE 3- NO ASSIGNMENT OF CONTRACT

The Contractor may not make any assignment of the contractual agreement between the parties, in whole or in part, without prior written authorization as may be given by the Town, at its sole discretion.

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

ARTICLE 4-QUALIFICATIONS OF SUBCONTRACTORS AND SUPPLIERS

The Project Manager will notify the Contractor in writing if the Project Manager, after due investigation, has reasonable objection to any Subcontractor or Supplier on the Subcontractor or Supplier Page. If the Project Manager has reasonable objection to any Subcontractor or Supplier, the Contractor shall submit another acceptable to the Town. No increase in Contract Amount or Contract Time will be allowed under this article, unless Contractor can prove substantial increase due to the change, in which case Contractor may request an equitable adjustment to the Contract Amount or Contract Time. If Contractor requests an equitable adjustment as a result of a requested change, Contractor shall make available to the Town all documents necessary, as requested by the Town, to substantiate such adjustment.

The failure of the Project Manager to make objections to any Subcontractor or Supplier on the list shall not constitute a waiver of any right of the Town to reject defective Work, material or equipment; or work, material or equipment not in conformance with the requirements of the Contract Documents. Should the Contractor desire to add, change or delete a Subcontractor or Supplier previously listed, the Contractor shall submit written justification for said change to the Project Manager for approval prior to the new Subcontractor or Supplier performing any Work on the Project.

ARTICLE 5- STARTING THE WORK

The Contractor will start the Work within **ten (10)** calendar days of the official "Notice to Proceed" date. The Contract Time shall commence on the effective date of the "Notice to Proceed."

Preconstruction Conference: Within 20 days after the effective date of the Contract, but before Contractor starts the Work at the site, a conference attended by Contractor, Project Manager, Professional and others as appropriate will be held to discuss such topics as may include, but not limited to; schedules, procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, maintenance of traffic, initiation of coordination with affected utilities, agreement upon the Notice to Proceed date, and to establish a working understanding among the parties as to the Work.

ARTICLE 6- INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the Specifications and Drawings to describe the complete Work to be constructed in accordance with the Contract Documents. However, the Town makes no representation or warranty of any nature whatsoever to the Contractor concerning such documents. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, he will call it to the Project Manager's attention in writing before proceeding with the Work affected thereby. Any work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well known technical or trade meaning shall be deemed to refer to such recognized standards. In

case of conflict, the more stringent requirements shall take precedence and govern.

Written clarifications or interpretations (which shall be consistent with or reasonably inferable from the Contract Documents) will be issued in response to a Contractor Request for Interpretation (RFI) or as the Project Manager or Professional may otherwise determine necessary. If the Contractor believes a written clarification or interpretation justifies an increase in Contract Amount or Contract Time, the Contractor shall make a claim for such increase in accordance with Articles 13 and 14 of the General Conditions, If the Contractor is authorized by the Town to proceed with the Work involved before full agreement is reached on (a) whether any increases are due at all, or (b) the extent of any such increases (if any are determined to be due), the Contractor shall furnish daily to the Project Manager, or Professional, actual cost records.

ARTICLE 7-REFERENCE POINTS

Availability of Lands: The Town will furnish, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, rights-of-way for access thereto and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained by the Town unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the Town's furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Article 14. The Contractor will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. The Project Manager will, upon request, furnish to the Contractor copies of all available boundary surveys and subsurface test.

Unforeseen Subsurface Conditions: The Contractor will promptly notify the Project Manager in writing of any subsurface or latent physical conditions at the site which may differ materially from those indicated in the Contract Documents. The Project Manager will promptly investigate those conditions and advise the Contractor in writing if further surveys or subsurface tests are necessary. Promptly thereafter, if needed, the Project Manager will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the Project Manager finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract Documents, a Change Order shall be issued incorporating the necessary revisions, in accordance with Article 12.

Reference Points: The Contractor shall be responsible for all field survey work coincidental with completion of this Work as specified herein. All survey work shall be done under the supervision of a Registered Professional Land Surveyor.

All **Section Corners** and **Quarter Section** corners falling within the limits of this Work shall be perpetuated by a Florida Registered Land Surveyor.

A. All such corners falling within or on the boundaries of this project shall have reference ties made, certified to and submitted to the Town Surveyor. Town of

Lady Lake, Florida, prior to the commencing of construction.

B. Upon completion of construction and prior to Final Completion, certified corner records shall be submitted to the Department of Natural Resources in compliance with Florida Statutes, Chapter 177.507 and a copy of said certified corner record shall also be submitted to the Town of Lady Lake Surveyor. Said corner records shall reflect the corner as perpetuated and which shall meet these minimum standards.

1. If the corner falls in asphalt or concrete construction, the corner shall be a 2 1/4" brass disc marked according to standard government practices and set in concrete no less than 18" in depth and shall be encased in an adjustable *5* 1/4" diameter or larger valve box raised to the finished surface of construction.

2. If the corner falls at any other location, it shall be a 4" x 4" concrete monument no less than 23" long with a 2 1/4' brass disc marked according to standard government practices. The top of said monument shall be set flush with the ground *(±0.5'* depending on conditions).

C. Any U.S.C. and G.S. monument within limits of construction are to be protected. If monuments are in danger of damage, the Contractor shall contact the Project Manager and the Town of Lady Lake Surveyor prior to the commencing of construction.

D. Payment for all necessary survey work shall be included in the bid as part of other items of work.

ARTICLE 8- BONDS AND INSURANCE

Payment Bond and Performance Bond: The Contractor will execute the Payment Bond and, when required, the Performance Bond (see Part C. 2-h) included herein as security for the faithful performance and payment of all his obligations under the Contract Documents. These Bonds shall be in amounts at least equal to the Contract Amount and in such form and with such sureties as are acceptable to the Town. Prior to execution of the Contract Documents, the Town may require the Contractor to furnish such other Bonds, in such form and with such sureties as it may require. If such Bonds are required by written instructions given prior to opening of Bids, the premiums shall be paid by the Contractor. If the Contract is increased by Change Order, it shall be the Contractor's responsibility to insure that the Performance Bond and Payment Bond be amended accordingly and a copy of the amendment is forwarded to the Town.

If the Surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any State where any part of the Work is located or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the Town.

Insurance Requirements:

A. Contractor shall procure and maintain for the duration of this Contract, insurance of the types and limits specified in items C.I through C.4 inclusive below.

Insurance carriers furnishing these coverages must be authorized to do business in the State of Florida, and **must possess a minimum, current rating of B+ Class VIII in the most recent edition of "Best's Key Rating Guide"**.

Before execution of the contract by the Town and start of the Work, and during the duration of the Contract, the Contractor shall file with the Town current certificates of all required insurance on forms acceptable to the Town, which shall include the following provisions:

1. Thirty (30) days prior written notice of cancellation or reduction in coverage, except ten (10) days prior written notice is allowed for cancellation due to non-payment of premium.

2. The Town and Engineer shall be specifically included as additional insureds on the general liability policy.

3. Contract number and project title.

All such insurance required of the Contractor shall be primary insurance as respects the Town and the Professional. Any insurance or self-insurance maintained by the Town and the Professional shall be in excess of the Contractor's insurance and shall not contribute to it.

Failure of the Town to demand certificates or other evidence of all compliance with these insurance requirements or failure of the Town to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such insurance.

Any exceptions to the insurance requirements in this section must be approved in writing by the Town.

B. It shall be the responsibility of the Contractor to ensure that all its subcontractors maintain adequate insurance until the completion of the work under that Contract, The Contractor shall obtain certificates evidencing such insurance from its subcontractors, and shall promptly furnish copies of certificates of insurance evidencing coverage for each subcontractor when requested by the Town. Failure of the Contractor to maintain adequate insurance coverage for itself or for any other persons or entities for which it is responsible, or to ensure that its subcontractors maintain adequate coverage, shall not relieve the Contractor of any

contractual responsibility or obligation or liability.

C. Coverages: The minimum types and amounts of insurance (inclusive of any amount provided by an umbrella or excess policy) shall be as follows:

1. **Workers' Compensation** - The Contractor shall provide coverage for its employees, with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits, Paragraph D, following, for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the Town and their agents, employees and officials.

2. **Commercial General Liability** - The Contractor shall provide coverage for all operations including, but not limited to Contractual, Products and Completed Operations and Personal Injury. The limits shall be not less than the limits indicated in the Schedule of Limits, Paragraph D, following, per occurrence, Combined Single Limits (CSL) or its equivalent. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit.

3. **Business Automobile Liability** - The Contractor shall provide coverage for all owned, non-owned and hired vehicles for limits of not less than the limits indicated in the Schedule of Limits, Paragraph D, following, per occurrence, Combined Single Limits (CSL) or its equivalent.

4. **Builders' Risk** — If this Contract includes: (1) construction of a new above-ground structure or structures, or (2) any addition(s), improvement(s), alteration(s), or repair(s), to an existing above-ground structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall provide, in a policy acceptable to Town, "all risk" (i.e. Special Form) property insurance on any such construction, additions, machinery or equipment. The amount of the insurance shall be no less than the estimated replacement value at the time of Town's final acceptance of such new structures, addition(s), improvement(s), alteration(s), repair(s), machinery or equipment. The coverage shall not be subject to any restriction with respect to occupancy or use by the Town and, subject to thirty (30) days' prior written notice to the Town shall remain in full effect until final acceptance by the Town. In addition, the Town, the Professional, and the Contractor's subcontractors of any tier, shall be additional insureds on this policy. The insurance shall include a deductible no greater than one percent (1%) of the Contract amount, or $25,000, whichever is smaller, for which the Contractor shall be responsible. The risk of loss whether insured or not shall remain with the Contractor until final acceptance. Upon request, Contractor shall furnish to Town complete copies of the insurance policy.

D. Schedule of Limits

Contract Award	Workers' Compensation	General Liability	Automobile Liability
Up to $10 million	$500,000	$1,000,000	$1,000,000
$10 -$20 million	$1,000,000	$5,000,000	$5,000,000
Over $20 million	>(TBD)	>(TBD)	>(FBD)
(Refer to Risk Management Department)			

Notwithstanding the foregoing, the Town reserves the right, but not the responsibility, to periodically review any and all policies of insurance and to reasonably adjust the limits and/or types of coverage required hereunder, from time to time throughout the term of this Contract. In such event, Town shall provide the Contractor written notice of such adjustments and the Contractor shall comply within 30 days of receipt thereof

E. **Indemnification** - Subject to the limitations in the third paragraph under this heading, the Contractor will defend, indemnify and hold harmless the Town', the Professional, their agents and employees from and against all liabilities, claims, damages, losses and expenses including attorney's fees, arising out of or resulting from the performance of the work, provided that any such liability, claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder, The Contractor hereby acknowledges receipt of One Hundred Dollars ($100) and other good and valuable consideration from the Town as consideration for the indemnification provisions in this Contract.

In any and all claims against the Town, its agents or employees; the Professional; employees of the Contractor and Subcontractor; all persons directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the previous paragraph shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.

The indemnification obligations of the Contractor under this section shall not extend to the liability of the Professional, and its agents or employees arising out of (a) the preparation or approval of maps, drawing, opinions, reports, surveys, Change Orders, designs or specifications or (b) the giving of or the failure to give

requested interpretations by the Professional and their agents or employees, provided such giving or failure to give is the primary cause of injury or damage.

The Contractor will defend, indemnify and hold harmless the Town and anyone directly or indirectly employed by it from and against all claims, damages, losses and expenses (including attorneys fees) arising out of any infringement of patent rights or copyrights held by others during or after completion of the work, and shall defend all such claims in connection with any alleged infringement of such rights.

Provided, however, if this Contract is deemed, by a court of competent jurisdiction, to be a construction Contract for the purposes of Section 725.06, Florida Statues, any obligation of the Contractor to defend, indemnify or hold harmless the Town, the Professional, and their officers and employees, shall be limited to an obligation to indemnify and hold harmless the Town, the Professional and their officers and employees from liability, damages, losses, and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.

The indemnification provisions contained herein shall survive the termination of this Contract.

ARTICLE 9- CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence - The Contractor will supervise and direct the work efficiently and with his best skill and attention. He will be solely responsible for the means, methods, techniques, sequences and procedure of construction, unless otherwise specified. The Contractor will be responsible to see that the finished Work complies accurately with the Contract Documents.

The Contractor will keep on the site at all times during its progress a competent, resident superintendent who shall not be replaced without written notice to the Project Manager. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

The Project Manager may require in writing that the Contractor remove from the Work any of Contractor's personnel that the Project Manager determines to be incompetent, careless or otherwise objectionable. No claims for an increase in Contract Amount or Contract Time based on the Project Manager's use of this provision will be valid. Contractor shall indemnify and hold the Town harmless from and against any claim by Contractor's personnel on account of the use of this provision.

Labor, Materials and Equipment - The Contractor will provide competent, suitable, qualified

personnel to lay out the Work and perform construction as required by the Contract Documents. He will at all times maintain good discipline and order at the site.

The Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.

All materials and equipment will be new except as otherwise provided in the Contract Documents. If required by the Project Manager, the Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment furnished.

All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors except as otherwise provided in the Contract Documents.

Substitute Material or Equipment - If it is indicated in the Specifications that the Contractor may furnish or use a substitute that is equal to any material or equipment specified, and if the Contractor wishes to furnish or use a proposed substitute, he will within five (5) days after the award of the Contract make written application to the Project Manager for acceptance of such a substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing in an efficient and economic manner as that specified. The application will include sufficient information to allow the Project Manager to evaluate the substitutions. The application will state the extent, if any, to which the review, acceptance, furnishing and installation of the proposed substitute will prejudice Contractor's completion of the Work within the Contract Time(s). If the cost of the review of the substitution is greater than that of the originally specified item, the Contractor will reimburse the Town for all costs. Town may require Contractor to furnish at Contractor's expense a special performance guarantee or other Surety with respect to any substitute. The benefit of lower cost items shall be shared between the Town and Contractor as specified in the Instructions to Bidders. No substitute shall be ordered or installed without the written acceptance of the Project Manager who shall be the sole judge of acceptability.

Concerning Subcontractors - The Contractor will not employ any Subcontractor, other person or organization of the types referred to in Article 4 (whether initially or as a substitute) against whom the Town or the Project Manager may have reasonable objections, nor will the Contractor be required to employ any Subcontractor against whom he has reasonable objection. The Contractor will not make any substitution for any Subcontractor who has been accepted by the Project Manager, unless the Town and the Project Manager determine that there is good cause for doing so.

The Contractor will be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that they are employed by him. Nothing contained in the Contract Documents shall create, nor be interpreted to create, privity or any other contractual relationship

whatsoever between the Town and any Subcontractor or any person except the Contractor, or any obligation on the part of the Town to payor to see to the payment of any monies due any Subcontractor, except as may otherwise be required by law. The Town may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work done.

The divisions and sections of the Specifications and the identifications of any Drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

The Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the Town.

All Work performed for the Contractor by Subcontractors shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance held by the Town as trustee. The Contractor will pay each Subcontractor a share of any insurance monies received by the Contractor under this insurance.

Patent Fees And Royalties - The Contractor will pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others.

Permits - The Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of his Bid except those as may be identified in of the Specifications. The Contractor will also pay all public utility charges except as provided for in the Contract Documents.

Laws and Regulations - The Contractor will give all notices and comply with all laws, ordinances, rules and regulations applicable to the work. If the Contractor observes that the Specifications or Drawings are at variance therewith, he will give the Project Manager prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Change Order. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the Project Manager, he will bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

Use Of Premises - The Contractor will confine his equipment, the storage of materials and equipment, and the operations of his workers to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.

The Contractor shall confine the operation of workmen and equipment, and the storage of materials and equipment to the Town's property or to other non-Town property or in public

right-of-way areas indicated on the Contract Drawings as including work to be done pursuant to the Contract documents. In the event the Contractor desires to have access to the project site, or perform work or operations pertaining to the Contract on, over or from non-Town property adjacent to the project site, the Contractor shall obtain written authorization to do so from the respective adjacent property owner(s) prior to using such property. Such written authorization shall include a provision whereby the property owner agrees to hold the Town harmless, and to defend the Town, in the event of any liability, loss, injury, or claim incurred as a result of the Contractors work or operations involving the use of the adjacent non-Town property. The Town shall be provided with a notarized, certified copy of such written authorization(s) before the Contractor commences work or operations or use of such property in connection with work or operations pursuant to this Contract. **It is the Contractors responsibility to keep the work area in a safe condition provide security for stored materials. The Town is not responsible for theft of materials and equipment.**

Record Drawings - The Contractor will keep one record copy of all Specifications. Drawings, Addenda, Change Orders and Shop Drawings at the site in good order, and annotated and/or marked on a current basis to indicate the progress of the work done and to show all changes made during the construction process or conditions varying from the Bid Documents. These shall be available to the Project Manager for inspection throughout construction and shall be delivered to the Project Manager upon completion of the Work, but prior to final payment.

Safety And Protection - The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to:

A. All employees on the Project and other persons who may be affected thereby:

B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site: and

C. Other property at the site or adjacent thereto including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body or public or private utility service organization having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He will erect and maintain, as required by the conditions and the progress of the Work, all necessary safeguards for safety and protection and, in addition, he will comply with all applicable recommendations of the Manual of Accident Prevention in Construction of the Associated General Contractors of America, Inc., and the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and subsequent revisions and addenda as published by the U.S. Department of Transportation, Federal Highway Administration and adopted by the Florida Department of Transportation. He will notify owners of adjacent utilities when prosecution of the Work may affect them. All damage, injury or loss to any property or all damage, disruption, discontinuance

or other loss to any utility system or roadways referred to in Paragraph B. and C. caused directly or indirectly, in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, will be remedied by the Contractor, except damage or loss attributable to the fault of the Drawings or the Specifications or to the acts or omissions of the Town, and not attributable, directly or indirectly, in whole or in part, to the fault of negligence of the Contractor.

The Contractor will designate a responsible member of his organization whose duty shall be the prevention of accidents at the site. **This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Project Manager.**

Emergencies - In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Project Manager, is obligated to act at his discretion to prevent threatened damage, injury or loss. He will give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional Work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Amount or an extension of the Contract Time, he may make a claim therefore as provided in Articles 13 and 14.

Shop Drawing and Samples - After checking and verifying all field measurements, the Contractor will submit to the Project Manager for review, in accordance with the accepted schedule of Shop Drawing submission, five copies (or at the Project Manager's option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the Contractor and identified as the Project Manager may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the project manager to review the information as required.

The Contractor will also submit to the Project Manager for review with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples shall be checked by and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

At the time of each submission, the Contractor will in writing call to the Project Manager's attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract documents.

The Project Manager will review with reasonable promptness and take appropriate action with regard to Shop Drawings and samples, but its review shall be only for general conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The acceptance of a separate item as such will not indicate approval of the assembly in which the item functions.

The Contractor will make any corrections required by the Project Manager and will return the required number of corrected copies of Shop Drawings and re-submit new samples until accepted.

The Contractor's stamp of approval on any Shop Drawing or sample shall constitute a representation to the Project Manager that the Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and Contract Documents.

No Work requiring a Shop Drawing or sample submission shall be commenced until the submission has been accepted by the Project Manager. A copy of each accepted Shop Drawing and each accepted sample shall be kept in good order by the Contractor at the site and shall be available to the Project Manager.

The Project Manager's acceptance of Shop Drawings or samples shall not relieve the Contractor from his responsibility for any deviations from the requirements of the Contract Documents, unless the Contractor has in writing called the Project Manager's attention to such deviation at the time of submission and the Town and the Project Manager have given written acceptance to the specific deviation; nor shall any acceptance by the Project Manager relieve the Contractor from responsibility for errors or omissions in the Shop Drawing.

Each Shop Drawing or sample submittal or substitution request by the Contractor shall contain a reference identifying the applicable, specific Section of the Specifications to which it pertains. Submittals failing to comply with this provision shall be rejected and returned to the Contractor without review.

Each Shop Drawing or sample submittal or substitution request shall include the following stamped certification by the Contractor:

"The General Contractor has reviewed the Shop Drawing, sample or substitution submitted herewith and has determined and hereby certifies that in all respects this submittal is in full compliance and conformance with the Contract specifications, drawings and all other Contract requirements pertaining thereto".

Failure of the Contractor to include the above stated specification reference number or certification of compliance shall result in the rejection of the submittal.

The Contractor will also submit <u>within five (5) days of Contract Award</u> to the Project Manager for acceptance all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

In the event that the Contractor, or anyone working for or on behalf of the Contractor on this project, should commence or do any work requiring submission of a Shop Drawing or sample, or involving a substitution or an "or-equal" request without having such submittal accepted by the

Town in writing, then the Contractor is advised that any and all such work will be done at its risk and is subject to rejection and/or removal at the Contractor's expense and at no additional cost to the Town if applicable Shop Drawing, sample, substitution, "or-equal" or other submittal is not accepted.

Further, the Contractor will not receive "progress" or "final" payment for any and all work commenced or done which requires, but has not received acceptance of Shop Drawings, samples, substitution requests, or "or-equal" requests or any other required submittal, nor will the Contractor receive "progress" or "Final" payment for any and all work that has been determined by the Professional or the Town's Project Manager not to be in compliance or conformance with the established Contract requirements, Contract change orders, written directives, written clarifications provided to the Contractor, or accepted Shop Drawings, accepted samples, accepted substitutions, or accepted "or-equals".

Cleaning Up - The Contractor will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the Town. The Contractor will restore to their original condition those portions of the Site not designated for alteration by the Contract Documents. If at any time during construction of this project, the Contractor falls to clean up on a daily basis, the Town may do so. All costs associated with the Town's cleanup activities on behalf of the Contractor shall be deducted from amounts due to the Contractor.

ARTICLE 10- WORK BY OTHERS

The Town may perform additional work related to the Project by itself, or it may let other direct Contracts which shall contain General Conditions similar to these. The Contractor will afford the other Contractors who are parties to such direct Contracts (or the Town, if it is performing the additional Work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work, and shall properly connect and coordinate his work with theirs. Should the Contract entail relocation of facilities not a part of this Contract, the Contractor will coordinate and cooperate with the applicable entity responsible for this portion of the work.

Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenance within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners at their expense, unless otherwise provided in the Contract.

It is understood and agreed that the Contractor has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the plans and that no additional compensation will be allowed for any delays, inconvenience or damage sustained by him due to any interference from the said utility appurtenances or the operation of moving them.

If any part of the Contractor's work depends (for proper execution of results) upon work of any such other Contractor (or the Town), the Contractor will inspect and promptly report to the Project Manager in writing any defects, deficiencies or delays in such work that render it unsuitable for such proper execution and results.

His failure to report shall constitute an acceptance of the other work, except as to defects, deficiencies and delays which may appear in the other work after the execution of the Work.

The Contractor will do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly, and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating or otherwise altering such other work and will only cut or alter such other work with the written consent of the Project Manager.

If the performance of additional work by other Contractors or the Town is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the Town or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in article 13 and 14.

ARTICLE 11- PROJECT MANAGER'S STATUS DURING CONSTRUCTION

Town's Representatives - The Project Manager shall be the Parks and Rec Director or designated representative during the construction period.

ARTICLE 12- CHANGES IN THE WORK

Without invalidating the Contract, the Town may, at any time or from time to time, order additions, deletions or revisions in the Work authorized by written Change Orders or directive. Upon receipt of a Change Order, the Contractor will proceed with the work involved. All such work shall be executed under the applicable conditions of the Contract documents. If any Change Order causes an increase or decrease in the Contract Amount or any extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 13 or Article 14.

Additional Work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Contract Amount or any extension of the Contract Time, except in the case of an emergency as provided in Article 9.

It is the Contractor's responsibility to notify his Surety of any changes affecting the general scope of the Work or change of the Contract Amount and the amount of the applicable bonds shall be adjusted accordingly, and an amended bond document furnished to the Town.

In the event the Town directs the Contractor to make a change in the Work, and if the Town and the Contractor do not arrive at a mutually acceptable increase or decrease in the Contract Amount, the Contractor shall not use any such lack of mutual acceptance as a basis or cause to

stop or otherwise delay the progress or the execution and completion of any of the work ordered, directed or required pursuant to the Contract Documents.

ARTICLE 13- CHANGE OF CONTRACT AMOUNT

The Contract Amount constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at his expense without change in the Contract Amount.

The Contract Amount may only be changed by written Change Order issued by the Town. Any claim for an increase in the Contract Amount shall be in writing and delivered to the Project Manager within fifteen (15) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Contract Amount shall be determined by the Project Manager. However, no claim for an adjustment to the Contract Amount will be considered for unforeseeable causes that were beyond the fault or negligence of the Contractor or his Subcontractors or supplier such as acts of God, floods, riots, etc. This restriction does not restrict submission of claims for additional Contract Time due to events of this nature. Any change in the Contract Amount shall be incorporated in a Change Order.

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Amount shall be determined in one of the following ways:

A. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved. If the quantities originally contemplated are so changed in a proposed Change Order, that application of the Unit Prices to the quantities proposed will cause substantial inequity to the Town or the Contractor, the applicable unit price(s) shall be equitably adjusted by mutual agreement.

B. By mutual acceptance of a lump sum.

C. By cost and mutually acceptable fixed amount for overhead and profit.

D. If the value of work covered by a Change Order cannot be established or mutually agreed to utilizing any of the above three methods, the value shall be determined by the Town on the basis of an estimate of the out-of-pocket cost and percentages that are acceptable to the Town for overhead and profit. The out-of-pocket cost shall only include those direct costs which are needed to perform the work such as labor (including payroll taxes, fringe benefits, labor burden and workers' insurance), materials, equipment, and other incidental out-of-pocket construction costs directly involved in the work, including but not limited to small tools, expendables and material costs but shall not include project management or project supervisory costs unless the Change Order includes an increase in the Contract time.

In such case, the Contractor will submit in the form prescribed by the Town an

itemized cost breakdown together with supporting data. The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease in cost, will be the amount of the actual net decrease as determined by the Town. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net decrease, if any.

Cash Allowances - It is understood that the Contractor has included in the Contract Amount any allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Suppliers or Subcontractors and for such sums within the limit of the allowances as the Town may accept. Upon final payment, the Contract Amount shall be adjusted as required and an appropriate Change Order issued. The Contractor agrees that the original Contract amount includes such sums as he deems proper for cost and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be allowed.

ARTICLE 14- CHANGE OF CONTRACT TIME

The Contract Time may only be changed by written Change Order. Any claim for an extension in the Contract Time shall be in writing and include an analysis of the Progress Schedule as further described in the Specifications, and shall be delivered to the Project Manager within fifteen (15) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Contract Time shall be determined by the Project Manager. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

The Contract Time may be extended for an amount equal to time lost due to unforeseeable causes beyond the control of the Contractor (and his Subcontractors and Suppliers) if he makes a claim therefore. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by the Town; fires; floods; labor disputes epidemics or acts of God.

All time limits stated in the Contract Documents are of the essence to the Contract. The stated time limits are agreed to be adequate to complete the work, including the procurement, manufacture and delivery of all material and equipment required, and account for any and all potential impact, delays, disruptions and costs that may be expected due to seasonal weather conditions.

ARTICLE 15-CONDITION OF MATERIALS AND PACKAGING:

In instances where the Specifications, (Part H) make this subject applicable (and unless otherwise indicated), all goods and items offered for sale and/or shipped by the Contractor pursuant to the requirements imposed upon said Contractor by this bid package, will be new and in first class condition; all related containers being new and suitable for storage and shipment: all prices including the cost of standard commercial packaging. Contractors will be solely responsible for making any and all claims against carriers as concerns missing or damaged items.

ARTICLE 16-ASBESTOS FREE MATERIALS:

Project is to be constructed with asbestos free materials. A written, notarized statement on company letterhead is to be submitted with the final payment request. Final payment shall be withheld until such statement is submitted.

Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of it's Subcontractors or agents and were not specified in the design or required by the Contract document, Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the Town.

ARTICLE 17 - WARRANTY AND GUARANTEE, ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee - The Contractor warrants and guarantees to the Town that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects and in accordance with the requirements of the Contract Documents including any required inspections, tests or approvals. All unsatisfactory Work, all faulty Work, and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective.

Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article,

All warranty and guarantee coverage periods shall commence from the date the project is determined by the Project Manager to be Substantially Complete. The coverage commencement date of warranties and guarantees shall, in accordance with the provisions stated above, be entered on each warranty or guarantee document. However, in the event the coverage commencement date entered on the warranty or guarantee document is not in accordance with the provisions stated above, the coverage commencement date shall nonetheless be the date determined by applying the provisions stated above.

Tests and Inspections - If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor will give the Project Manager timely notice of readiness therefore. The Contractor will furnish the Project Manager with the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing Materials or such other applicable organizations as may be required by law or the Contract Documents. If any such Work required to be inspected, tested or approved is covered without written approval of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided. Neither observations by the Contractor nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

Access To The Work - The Project Manager and his representative and other representatives of the Town and the Professional will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

Uncovering Work - If any Work is covered contrary to the request of the Project Manager it must, if requested by the Project Manager be uncovered for observation and replaced at the Contractor's expense. If any Work has been covered which the Project Manager has not specifically requested to observe prior to its being covered, or if the Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Project Manager's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor will bear all the expense of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract amount or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and re-construction, if he makes a claim therefore as provided in Article 13 and 14.

Notice to Cure - If the Town determines the Work is defective or deficient; if the Contractor fails to supply sufficient skilled workers or suitable materials or equipment; if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment; if the work is not progressing in a safe, orderly or well coordinated manner; or if the general progress and/or quality of the work is not adequate to ensure continuation or completion of the work in accordance with the Contract completion time requirements, then the Town shall issue a notice to cure, giving the Contractor a specific period of time (I) in which to submit to the Project Manager a written Plan of Action including a schedule setting forth a plan by which the deficiencies will be corrected, and (2) a specific period of time in which to correct the deficiencies. If the Contractor does not submit a Plan of Action to indicate how and when the deficiencies indicated in the notice to cure will be cured within the specified time frame that is acceptable to the Project Manager, and if those deficiencies are not corrected within that time frame, then the Town shall take further action, up to and including Contract termination. The Contractor shall not be entitled to any delay claims as a result of the Town's issuance of the notice to cure.

Correction or Removal of Defective Work - If required by the Project Manager prior to approval of final payment, the Contractor will, promptly, without cost to the Town and as specified by the Project Manager, either correct any defective Work whether or not fabricated, installed or completed or, if the Work has been rejected by the Project Manager, remove it from the Site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected work within a reasonable time, or as specified in a written notice from the Project Manager, the Town may have the deficiency corrected or the rejected work removed and replaced. All direct and indirect costs of such correction or removal and replacement shall be paid by the Contractor. The Contractor will also bear the expense of making good all work of others destroyed or damaged by this correction, removal or replacement

of his defective Work.

One (1) Year Correction Period - The Contractor shall be responsible for the timely correction of any deficiencies in the work for a period of one (1) year after final acceptance or such longer period of time as may be prescribed by law or by any other terms required by the Contract. The Contractor will promptly without cost to the Town and in accordance with the Project Manager's written instructions either correct such defective Work or, if it has been rejected by the Project Manager, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the Project Manager may have the defective Work corrected or the rejected Work removed and replaced. All direct and indirect costs of such removal and replacement will be paid by the Contractor.

Acceptance Of Defective Work - If, instead of requiring correction or removal and replacement of defective Work, the Project Manager prefers to accept it, then he may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract amount. If the acceptance occurs after approval of final payment, the appropriate amount shall be paid by the Contractor to the Town.

Neglected Work By Contractor - If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the Town may, after reasonable written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revision in the Contract Documents including an appropriate reduction in the Contract Amount. If the payments then or therefore due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the Town.

ARTICLE 18- LIQUIDATED DAMAGES

Provisions for liquidated damages, should Contractor fail to substantially and/or finally complete the Work within the Contract Times are included in the Contract.

ARTICLE 19- PAYMENT AND COMPLETION

Progress Schedule - For lump sum Contracts, or when required by the Project Manager, the Contractor shall submit a progress schedule and a schedule of values of the Work including quantities and unit prices totaling the Contract amount no later than twenty (20) days after receipt of Notice to Proceed, and prior to commencing work on the Project. These schedules shall be satisfactory in form and substance to the Town. The schedule of values shall subdivide the Work into sufficient detail to serve as the basis for progress payments during construction. Upon acceptance of the schedule of values by the Project Manager, it shall be incorporated into the form of application for payment prescribed by the Town.

The Contractor shall not imbalance its schedule of values nor artificially inflate any element

thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract.

Application For Progress Payment - On a date established at the Project Pre-Construction Conference, the Contractor may submit to the Project Manager for review the Town's standard application for payment form filled out and signed by the Contractor covering the Work completed as of the date of the Application and supported by such data as the Project Manager may reasonably require. Also, if payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such supporting data, satisfactory to the Project Manager, as will establish the Town's title to the material and equipment and protect its interest therein, including applicable insurance, partial Consent of Surety, and detailed inventory listing of stored material. Each such request shall include the submittal by the Contractor of (l) a detailed, itemized inventory listing the material stored at the site for which payment is requested, (2) documentation to indicate and substantiate the cost or value attributed to the items included in the stored material inventory list, and (3) the Town's 'Responsibility And Liability For Materials And Equipment Not Included In The Work" form executed by the Contractor. Failure to provide proper supporting documentation may subject the Progress Payment application to rejection. **There will be no progress payments. The Town will pay one lump sum price after final completion of the project.**

"The undersigned Contractor certifies that the work covered by this application for payment has been done, or completed in accordance with the Contract documents, that all amounts have been paid by him for work, supplies, material or equipment for which previous Certificates for Payment were issued and that the current payment shown herein is now due".

Contractor's Warranty Of Title - The Contractor warrants and guarantees that title to all work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will have passed to the Town prior to the making of the application for payment, free and clear of all liens, claims, security interests and encumbrances; and that no work, materials or equipment covered by an application for payment will have been acquired by the Contractor or by any other person performing the work at the site or furnishing materials and equipment for the Project subject to an agreement under which as interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

Approval of Payments - The Project Manager will, within fifteen (15) days after receipt of the application for payment, either indicate his approval of payment or return the Application to the Contractor indicating in writing the reason for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and re-submit the Application. The Town will pay the Contractor the amount approved within the time frame set forth in the Florida Prompt Payment Act.

In the event the Contractor and the Project Manager do not achieve mutual agreement on the basis or amount of the payment, and should the Contractor be unwilling to make the necessary corrections or modifications, and re-submit the Application, then the Town, to avoid delay in

paying the Contractor the amount the Town has determined the Contractor is entitled to receive, shall approve and process the Application by making such adjustments thereto as the Town deems appropriate so that the Contractor receives, without delay payment of the amount the Town has determined to have been earned and owing to the Contractor.

The Project Manager's approval of any payment requested in an application for payment shall constitute a representation by him to the Town, based on the Project Manager's on-site observations of the Work in progress and on his review of the application for payment and the supporting data, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion. to the results of any subsequent tests called for in his approval); and that the Contractor is entitled to payment of the amount approved. However, by approving any such payment, the Project Manager shall not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, that he has reviewed the means, methods, techniques, sequences and procedures of construction nor that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys paid or to be paid to him on account of the Contract Amount.

The Project Manager's approval of final payment shall constitute an additional representation by him to the Town that the conditions precedent to the Contractor's belief being entitled to final payment as set forth in this Article have been fulfilled.

The Project Manager may refuse to approve the whole or any part of any payment if in his opinion he is unable to make such representations to the Town. He may then refuse to approve any such payment because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect the Town from loss because:

A. The Work is defective:

B. Claims have been filed or there is reasonable evidence indicating the probable filing thereof;

C. The Contract Amount has been reduced because of Change Order(s);

D. The Town has been required to correct defective Work or complete the Work in accordance with Article 17; or

F. Of unsatisfactory prosecution of the Work, including failure to clean up as required by Article 9.

Substantial Completion - Prior to final payment, the Contractor shall certify in writing to the Project Manager that the entire Work is Substantially Complete and request that the Project Manager issue a certificate of Substantial Completion. Within a reasonable time thereafter, the

Project Manager and Contractor will make an inspection of the Work to determine the status of completion. If the Project Manager does not consider the Work Substantially Complete, the Contractor will be notified in writing giving the reasons therefore. If the Project Manager considers the Work Substantially complete, a tentative certificate of Substantial Completion will be issued. This Certificate shall fix the date of Substantial Completion and the responsibilities between the Town and the Contractor for maintenance, heat and utilities. There shall be attached to the Certificate a punch list of items to be completed or corrected, said time to be within the Contract Time.

The Town shall have the right to exclude the Contractor from the Work after achievement of Substantial Completion, but the Town will allow the Contractor reasonable access to complete items on the punch List.

Partial Utilization - Prior to Substantial Completion, the Project Manager may request the Contractor to permit the use of a specified part of the Work which it believes it may use without significant interference with construction of other parts of the Work. If the Contractor agrees, he will certify to the Project Manager that said part of the Work is Substantially Complete and request the Project Manager issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time thereafter, the Project Manager and Contractor will make an inspection of that part of the Work to determine its status of completion. If the Town and the Project Manager consider that part of the Work to be Substantially Complete, the Project Manager will deliver to the Contractor a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, attaching thereto a punch list of items to be completed or corrected before final payment and fixing the responsibility between the Town and Contractor for maintenance, heat and utilities as to that part of the Work.

The Town shall have the right to exclude the Contractor from any part of the Work which is so certified to be Substantially Complete but the Town will allow the Contractor reasonable access to complete or correct items on the punch list.

Final Inspection - Upon written notice from the Contractor that the Work is complete, including the "punch" listed deficiencies, the Project Manager will make a final inspection with the Contractor and will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is defective. The Contractor shall immediately make such corrections as are necessary to remedy such defects and to complete all the required work.

Final Inspection For Payment - After the Contractor has completed any such corrections to the satisfaction of the Project Manager and delivered all maintenance and operating instructions, schedules, guarantees, bonds, Certificates of Inspection and other documents as required by the Contract Documents, he may make application for final payment following the procedure for progress payments. The final application for payment shall be accompanied by legally effective final releases or waivers of liens from the Contractor and all Subcontractors which performed services for the Contractor and all suppliers of material and/or equipment to the Contractor, pursuant to the Contract Documents, an affidavit that all of the Contractor's obligations to Subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Work, have been paid or otherwise satisfied, and the consent of Surety to final payment.

The Final Release of Lien, Form E-9, must be utilized in all Final Pay Applications.

Approval Of Final Payment - If, on the basis of its observations and review of the Work during construction, its final inspection and its review of the final application for payment (all as required by the Contract Documents), the Project Manager is satisfied that the Work has been completed and the Contractor has fulfilled all of his obligations under the Contract Documents, it will, within fifteen (I5) days after receipt of the final application for payment, indicate in writing its approval of payment. Otherwise, it will return the Application to the Contractor, indicating in writing its reason for refusing to approve final payment, in which case the Contractor will make the necessary corrections and re-submit the Application. The Town will, in accordance with the Florida Prompt Payment Act, pay the Contractor the amount approved by the Town and issue a Certificate of Final Completion.

If after Substantial Completion of the Work, Final Completion is materially delayed through no fault of the Contractor, and the Project Manager so confirms, the Town shall, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Project Manager prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims,

Contractor's Continuing Obligation - The Contractor's obligation to perform the Work and complete the Work in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the Town, the issuance of Certificate of Completion, any payment by the Town to the Contractor under the Contract Documents, any use or occupancy of the Work or any part thereof by the Town, any act of acceptance by the Town, any failure to do so, nor any correction of defective Work by the Town shall constitute an acceptance of Work not in accordance with the Contract Documents.

Waiver Of Claims - The making and acceptance of final payment shall constitute:

A. A waiver of all claims by the Town against the Contractor other than those arising from unsettled liens, from defective Work appearing after final payment or from failure to comply with the requirements of the Contract Documents, or from the terms of any special guarantees specified therein, and,

B. A waiver of all claims by the Contractor against the Town other than those previously made in writing and still unsettled.

ARTICLE 20- SUSPENSION OF WORK AND TERMINATION

Town May Suspend Work - The Town may at any time and without cause suspend the Work or

any portion thereof by notice in writing **or email** to the Contractor. The Project Manager shall fix the date on which Work shall be resumed and the Contractor will resume the Work on the date so fixed. For unreasonable delays, the Contractor will be allowed an increase m the Contract Amount, an extension of the Contract Time or both, if directly attributable to any suspension and if he makes a claim therefore provided in Articles 13 and 14. However, no profits will be allowed on claims for suspended work. Also, during any period of suspension, the Contractor shall take all available measures to mitigate costs such as taking on new work, reassigning resources to other Contracts, etc.

Town May Terminate for Cause - If the Contractor is adjudged bankrupt or insolvent; if he makes a general assignment for the benefit of his creditors without Town approval; if a trustee or receiver is appointed for the Contractor or for any of his property; if he files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if he fails to prosecute and complete the Work in accordance with the established Project schedule or within the Contract Time allowed; if he repeatedly falls to supply sufficient skilled workers or suitable materials or equipment; if he repeatedly fails to make prompt payment to Subcontractors for labor, materials or equipment: if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction: if he disregards the authority of the Project Manager; or if he otherwise substantially violates any provisions of the Contract Documents, then the Town may, without prejudice to any other right or remedy and after giving the Contractor and his Surety seven (7) days written notice, terminate the services of the Contractor and take possession of the Work and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and assign the completion of the Work to the Surety, or finish the Work by whatever method it may deem expedient, In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Amount exceeds the direct and indirect cost of completing the Work, including compensation for additional professional services, such excess shall be paid to the Contractor, If such cost exceeds such unpaid balance, the Contractor will pay the difference to the Town. Such cost incurred by the Town will be determined by the Town and incorporated in a Change Order.

Where the Contractor's services have been so terminated by the Town, said termination shall not affect any rights of the Town against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Town due the Contractor will not release the Contractor from liability.

Upon Termination for Cause, the Contractor shall not be entitled to payment for any anticipated supplemental costs, administrative expenses and/or profit for uncompleted Work.

If after notice of termination of the services of the Contractor for cause, it is determined that the Contractor was not in default, the termination shall be deemed to have been for the convenience of the Town. In such event the Contractor may recover from the Town' payment for Work completed and reasonable termination costs as provided in the following paragraph.

Termination for Convenience: Upon seven (7) days written notice to the Contractor and the

Surety, or sooner if reasonable under the circumstances, the Town may, without cause and without prejudice to any other right or remedy, elect to terminate any part of the Work, or the Contract in whole or in part, as the Town may deem appropriate. In any termination for convenience, the Contractor shall be paid for Work completed, inspected and accepted by the Contractor and Subcontractors at the time of termination provided, however, that the payment to the Contractor will exclude any and all anticipated supplemental costs, administrative expenses and profit for uncompleted Work. Upon termination for convenience, the Town shall have full power and authority to take possession of the Work, assume any sub-agreements with Subcontractors and suppliers that the Town selects, and prosecute the Work to completion by Contract or as the Town may deem expedient.

Authority to Terminate: The authority to terminate this Contract including all notices thereto is the sole responsibility of the Town.

ARTICLE 21- MAINTENANCE OF RECORDS

The Contractor will keep adequate records and supporting documents applicable to this Contract. Said records and documentation will be retained by the Contractor for a minimum of five (5) years from the date of final payment on this Contract. The Town and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the Town deems necessary during the period of this Contract and a period of five (5) years after completion of Contract performance; provided however, such activity shall be conducted only during normal business hours, The Town during the period of time defined by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Contractor as concerns the aforesaid records and documentation.

ARTICLE 22- FEDERAL REQUIREMENTS

In the event this Contract is paid in whole or in part from any federal government agency or source, the specific terms, regulations and requirements governing the disbursement of these funds shall be specified herein and become a part of this clause.

All Contracts in excess of one hundred thousand dollars ($100,000) shall comply with all the requirements of Section 114 of the Clean Air Act (42 USC 7401 et seq.) as amended and Section 308 of the Federal Water Pollution Control Act (33 USC 1251 et seq.) as amended.

ARTICLE 23- VERBAL ORDERS

The Project Manager under the following conditions may issue verbal change orders to the contract:

A. To address bona fide emergency requirements. Emergency requirements are described as those requiring immediate action due to (1) an imminent or existing threat to the health, safety or welfare of persons or property and (2) conditions which poses serious economic damage to the Town.

B. To ensure the continuity of critical elements of contract performance.

Any such verbal direction shall be confirmed in writing or email by the Project Manager to the Contractor within five (5) calendar days after issuance. Concurrently, a copy of the written direction shall be provided to the Town Manager with documentation in the form of an emergency justification to support the action taken. A formal change order and associated contract amendment, if applicable, will be negotiated in conjunction with the Town and shall succeed the written confirmation not later than thirty (30) calendar days after issuance of the verbal direction.

Board approval, as applicable, shall be obtained.

ARTICLE 24- MISCELLANEOUS

Whenever any provision of the Contract Documents requires the giving of written notice, it shall be deemed to have been validly given it' delivered in person to the individual, to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail (postage prepaid) to the last business address known to the Town.

All Specifications. Drawings and copies thereof furnished by the Town shall remain its property. They shall not be used on another Project and, with the exception of those sets which have been signed in connection with the execution of the Contract, shall be returned to the Town upon completion of the Work.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon the Contractor and the rights and remedies available to the Town thereunder shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.

Should the Town or the Contractor suffer injury or damage to its person or property because of any error, omission or act of the other or of any of his employees, agents or others for whose acts he is legally liable, claim should be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will beheld in the Town of Lady Lake, Florida.

The obligations of Town of Lady Lake under this award are subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the Board of Town Commissioners, or other specified funding source for this contract.

BID BOND

BOND NUMBER _____

STATE OF FLORIDA)
COUNTY OF LAKE)

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as Principal, and _____, as Surety, are held firmly bound unto Town of Lady Lake, Florida, in the penal sum of:_____ (Total Sum Written in Words) Dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bound ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the attached Bid, dated the _____ day of _____, 20__, for a Contract entitled: **GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES.**

NOW THEREFORE, if the Principal shall withdraw said Bid prior to the date of opening the same, or shall within ten (10) days after the prescribed forms are presented to him for signature, enter in a written Contract with Town of Lady Lake, Florida, in accordance with the Bid as accepted, and give a Performance Bond and a Payment Bond with good and sufficient Surety or sureties as may be required, for the faithful performance and proper fulfillment of such Contract and for prompt payment of all persons furnishing labor or materials in connection therewith, or in the event of the failure to enter into such Contract and give such Bonds within the time specified, if the Principal shall pay the Town of Lady Lake the difference between the amount specified in said Bid and the amount for which the Town of Lady Lake may procure the required work and/or supplies, provided the latter amount to be in excess of the former, then the above obligations shall be void and of no effect; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above written parties have executed this instrument under their several seals this the _____ day of _____, 20___, the name and corporate seal of each corporate party being affixed and these presents duly signed by its undersigned, pursuant to authority of its governing body. Bid Bond is effective for a period of ninety (90) days.

CONTRACTOR-PRINCIPAL:	**SURETY:**
_____	_____
NAME OF BUSINESS ENTITY	**NAME OF SURETY**
_____	_____
SIGNATURE	**SIGNATURE: SURETY AGENT**
(SEAL)	**(SEAL)**
_____	_____
TYPE NAME AND TITLE	**TYPE NAME AND TITLE**
_____	_____
_____	_____
BUSINESS ADDRESS	**BUSINESS ADDRESS**
_____	_____
TELEPHONE	**TELEPHONE**

Licensed Florida Resident Agent? Yes_____ **No**_____

If Yes, License Number:_____

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Bid Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification: _____

If No, Countersignature Required Below:

Countersigned by:_____
Signature

_____
Type Name and Title

_____
Business Address

_____
License Number

_____
Telephone Number (Include Area Code)

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Bid Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification: _____

PERFORMANCE BOND

BOND NUMBER_____

KNOW ALL MEN BY THESE PRESENTS that _____, hereinafter referred to as the CONTRACTOR, as Principal, and _____, hereinafter called SURETY, as SURETY, are held and firmly bound unto Town of Lady Lake, a Political Subdivision of the State of Florida as Obligee, hereinafter referred to as Owner, in the full and just sum of $_____, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the CONTRACTOR and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors and assigns, jointly and severely, firmly by these presents.

WHEREAS, the CONTRACTOR has entered into **Contract** with the "TOWN", also referred to herein as the OWNER, for the project entitled: **GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES** with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

NOW, THEREFORE, the condition of this obligation is such that if CONTRACTOR shall fully, promptly and faithfully perform said Contract and all obligations there under, including all obligations imposed by the Contract documents (which includes the Notice to Bidders, Instruction to Bidders, Proposal and Bid Form, General and Supplementary Conditions, Detail Specifications, Form(s) of Contract Bond(s), Plans and Specifications and such alterations thereof as may be made as provided for therein), then this obligation shall be void; otherwise it shall remain in full force and effect.

1. The undersigned shall indemnify and save harmless said Owner against and from all costs, expenses and damages, including litigation costs and attorney's fees arising out of, or in connection with the neglect, default or want of care or skill, including patent infringement on the part of said CONTRACTOR, his agents, servants or employees in the execution or performance of said Contract.

2. Whenever CONTRACTOR shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations hereunder, the Surety may promptly remedy the default or shall promptly:

   A. Complete the Contract in accordance with its terms and conditions; or

   B. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a Contract between such bidder and the Owner. Surety shall make available as the work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this Paragraph) sufficient funds to pay the costs of completion, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

3. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond. Any increase in the total Contract amount as authorized by the Owner shall accordingly increase the Surety's obligation by the same dollar amount of said increase. The Principal shall be responsible for notification to Surety of all such changes.

4. The undersigned expressly acknowledges its obligations and liabilities for liquidated damages suffered by the Owner under the provisions of the Contract Documents.

5. The undersigned, covenant and agree that no change, extension of time, Contract amount changes, alterations or additions to the terms of the Contract or the work to be performed there under, or the specifications accompanying the same shall in any way affect their obligation on this bond, and the SURETY does hereby expressly waive notice of any such change, extension of time, Contract amount change, alteration or addition.

6. The CONTRACTOR shall save the Owner harmless from any and all damages, expenses and costs which may arise by virtue of any defects in said work or materials within a period of one (1) year from the date of Final Completion of the Project.

See subsection 2 of Section 255.05, Florida Statutes, as amended, for the notice and time limitations for claimants.

Signed and sealed this the _____ day of _____, 20__.

CONTRACTOR, AS PRINCIPAL

WITNESS:

_____
Firm Name

_____ By: _____
Signature

_____
Type Name and Title

_____ _____
SURETY AGENT FOR SURETY

_____
Signature

BY: _____ AGENCY ADDRESS: _____

SURETY ADDRESS: _____ _____

_____ PHONE _____

Licensed Resident Florida Agent? Yes_____ No_____

If Yes, License Number:_____

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification: _____

If No, Countersignature Required Below:

Countersigned by: _____
Signature

_____
Type Name and Title

_____
Business Address

_____
License Number

_____
Telephone Number (Include Area Code)

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification: _____

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PAYMENT BOND

BOND NUMBER _____

KNOW ALL MEN BY THESE PRESENTS that _____, hereinafter called CONTRACTOR, as Principal, and _____ hereinafter called SURET , as SURETY, are held and firmly bound unto Town of Lady Lake, a Political Subdivision of the State of Florida as Obligee, in the full and just sum of $_____, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the CONTRACTOR and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the CONTRACTOR has entered into **Contract** with the "TOWN", also referred to herein as the OWNER, for the project entitled **GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES**, with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS such that if CONTRACTOR shall promptly make payments to all claimants for any and all labor and material used or reasonably required for use or furnished in connection with the performance of said Contract, and shall perform all other covenants and obligations of this bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

1. The undersigned shall promptly make payment to all persons supplying services, labor, material or supplies used directly or indirectly by said CONTRACTOR, or any subcontractor(s) or sub-subcontractor(s), in the prosecution of the work provided for in said Contract.

2. Subject to the Owner's priority, claimants covered by Section 713.01 of the Florida Statutes shall have a direct right of action against the Principal and SURETY under this obligation, after written notice of the performance of labor or delivery of materials or supplies, and non-payment therefore. Any claimant who seeks to recover against the Principal or SURETY under this obligation must also satisfy the notice requirement and time limitations of Section 255.05 of the Florida Statutes, as amended.

Signed and sealed this the _____ day of _____, 20__.

CONTRACTOR, AS PRINCIPAL:

WITNESS:

_____
Firm Name

_____
Signature

By: _____
Signature

_____
Type Name and Title

_____
SURETY:

_____
AGENT FOR SURETY:

BY: _____
Signature

BY: _____

AGENCY ADDRESS: _____

SURETY ADDRESS: _____

_____

_____

PHONE NO. _____

Licensed Resident Florida Agent? Yes_____ No_____

If Yes, License Number:_____

STATE OF _____)
COUNTY OF _____)
CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Payment Bond on behalf of the Principal (Contractor) named therein favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification (Type) _____

If No, Countersignature Required Below:

Countersigned by:_____
Signature

_____
Type Name and Title

_____
Business Address

_____
License Number

_____
Telephone Number (Include Area Code)

STATE OF _____)
COUNTY OF _____)
CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Payment Bond on behalf of the Principal (Contractor) named therein favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification (Type) _____

(THIS FORM MUST BE UTILIZED IN ALL FINAL PAY APPLICATIONS)

FINAL RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of monies, set out in the accompanying Estimate Statement No. _____, final, which quantity, the receipt of which is hereby acknowledged, is accepted as full and complete compensation for all work done, materials furnished and damages or claims arising under Town of Lady Lake Contract , entitled:

GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES

By:

_____
Contractor

(SEAL)

STATE OF _____

COUNTY OF _____

I, _____, a Notary in and for the Town and State aforesaid do hereby certify that _____ personally appeared before me in my depose and say that _____ of _____
(address)
has completed the Contract awarded to _____
by the Board of Town Commissioners, Town of Lady Lake, Florida, and that said Contractor has paid all wages due and has paid for all materials furnished in and about the construction of said Contract and has paid all damages and claims, whatsoever, including claims by reason of the manner of construction and that there are no unpaid claims whatsoever upon account thereof.

TAKEN, SWORN AND SUBSCRIBED TO BEFORE ME this the _____day of _____, 20____

_____
Notary Public

(SEAL)

_____
(Print, Type or Stamp Commissioned

_____
Name of Notary Public)

Personally Known _____ or Produced Identification _____
Type of Identification: _____

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CONTRACT CHANGE ORDER

OWNER: _____

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____ LOAN NUMBER: _____

CHANGE ORDER NUMBER: _____ CONTRACT NUMBER _____

REASON FOR CHANGE: _____

_____

YOU ARE HEREBY REQUESTED TO COMPLY WITH THE FOLLOWING CHANGES FROM THE CONTRACT PLANS, SPECIFICATIONS AND CONTRACT DOCUMENTS: (USE ADDITIONAL SHEETS IF REQUIRED)

ITEM NO.	DESCRIPTION OF CHANGE(S) (QUANTITIES, ETC.)	UNIT COST	TOTAL COST

TOTAL CONTRACT CHANGE	$
	TOTAL CONTRACT
ORIGINAL CONTRACT AMOUNT:	
CURRENT CONTRACT AMOUNT:	
THIS CONTRACT CHANGE:	
REVISED CONTRACT AMOUNT:	
CURRENT CONTRACT COMPLETION DATE:	
TIME EXTENSION REQUIRED BY CHANGE:	
REVISED CONTRACT COMPLETION DATE:	

THIS DOCUMENT SHALL BE AN AMENDMENT TO THE CONTRACT AND ALL PROVISIONS OF THE CONTRACT WILL APPLY.

RECOMMENDED BY: _____ _____
ENGINEER DATE

ACCEPTED BY: _____ _____
CONTRACTOR DATE

APPROVED BY: _____ _____
OWNER DATE

CONSENT OF SURETY AND INCREASE OF PENALTY

BOND NUMBER _____

1.CONTRACT#	2.MODIFICATION#	3.DATED
4.The Surety consents to the foregoing Contract notification and agrees that its bond or bonds shall apply and extend to the Contract as modified or amended. The principal and Surety further agree that on or after the execution of this consent, the penalty of the performance bond or bonds is increased by_____dollars ($_____) and the penalty of the payment bond or bonds is increased by_____dollars ($_____). However, the increase of the liability of each co-Surety resulting from this consent shall not exceed the sums shown below.		
5.NAME OF SURETY	6.INCREASE IN LIABILITYLIMIT UNDER PERFORMANCE BOND	7.INCREASE IN LIABILITYLIMIT UNDER PAYMENT BOND
a.SURETY ADDRESS	b.SIGNATURE c.TYPED NAME AND TITLE d.DATE THIS CONSENT EXECUTED	

SURETY

BY: _____

SURETY ADDRESS: _____

_____

FLORIDA RESIDENT AGENT FOR SURETY

_____
Signature

AGENCY ADDRESS: _____

_____

PHONE _____

Licensed Florida Agent? Yes_____ No_____

If Yes, License Number: _____

If No, Countersignature Required Below:

Countersigned by: _____
Signature

_____
Type Name and Title

_____
Business Address

_____
License Number

_____
Telephone Number (Include Area Code)

STATE OF _____)

TOWN OF _____)

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

(THIS FORM MUST BE UTILIZED IN ALL FINAL PAY APPLICATIONS)

FINAL RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of monies, set out in the accompanying Estimate Statement No. _____, final, which quantity, the receipt of which is hereby acknowledged, is accepted as full and complete compensation for all work done, materials furnished and damages or claims arising under Town of Lady Lake Contract , entitled:

GUAVA STREET PARK BASEBALL FIELD FENCE UPGRADES

By:

_____
Contractor

(SEAL)

STATE OF _____

COUNTY OF _____

I, _____, a Notary in and for the Town and State aforesaid do hereby certify that _____ personally appeared before me in my depose and say that _____of_____
(address)
has completed the Contract awarded to _____
by the Board of Town Commissioners, Town of Lady Lake, Florida, and that said Contractor has paid all wages due and has paid for all materials furnished in and about the construction of said Contract and has paid all damages and claims, whatsoever, including claims by reason of the manner of construction and that there are no unpaid claims whatsoever upon account thereof.

TAKEN, SWORN AND SUBSCRIBED TO BEFORE ME this the _____day of _____, 20____

_____
Notary Public

(SEAL)

_____
(Print, Type or Stamp Commissioned

_____
Name of Notary Public)

Personally Known _____ or Produced Identification _____
Type of Identification: _____

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CONTRACT CHANGE ORDER

OWNER: _____

CONTRACTOR: _____

PROJECT NAME: _____

DATE: _____ LOAN NUMBER: _____

CHANGE ORDER NUMBER: _____ CONTRACT NUMBER _____

REASON FOR CHANGE: _____

_____

YOU ARE HEREBY REQUESTED TO COMPLY WITH THE FOLLOWING CHANGES FROM THE CONTRACT PLANS, SPECIFICATIONS AND CONTRACT DOCUMENTS: (USE ADDITIONAL SHEETS IF REQUIRED)

ITEM NO.	DESCRIPTION OF CHANGE(S) (QUANTITIES, ETC.)	UNIT COST	TOTAL COST
TOTAL CONTRACT CHANGE			$
			TOTAL CONTRACT
ORIGINAL CONTRACT AMOUNT:			
CURRENT CONTRACT AMOUNT:			
THIS CONTRACT CHANGE:			
REVISED CONTRACT AMOUNT:			
CURRENT CONTRACT COMPLETION DATE:			
TIME EXTENSION REQUIRED BY CHANGE:			
REVISED CONTRACT COMPLETION DATE:			

THIS DOCUMENT SHALL BE AN AMENDMENT TO THE CONTRACT AND ALL PROVISIONS OF THE CONTRACT WILL APPLY.

RECOMMENDED BY: _____ _____
ENGINEER DATE

ACCEPTED BY: _____ _____
CONTRACTOR DATE

APPROVED BY: _____ _____
OWNER DATE

CONSENT OF SURETY AND INCREASE OF PENALTY

BOND NUMBER _____

1.CONTRACT#	2.MODIFICATION#	3.DATED
4.The Surety consents to the foregoing Contract notification and agrees that its bond or bonds shall apply and extend to the Contract as modified or amended. The principal and Surety further agree that on or after the execution of this consent, the penalty of the performance bond or bonds is increased by_____dollars ($_____) and the penalty of the payment bond or bonds is increased by_____dollars ($_____). However, the increase of the liability of each co-Surety resulting from this consent shall not exceed the sums shown below.		
5.NAME OF SURETY	**6.INCREASE IN LIABILITYLIMIT UNDER PERFORMANCE BOND**	**7.INCREASE IN LIABILITYLIMIT UNDER PAYMENT BOND**

a.SURETY ADDRESS	b.SIGNATURE c.TYPED NAME AND TITLE d.DATE THIS CONSENT EXECUTED

SURETY

BY: _____

SURETY ADDRESS: _____

_____

FLORIDA RESIDENT AGENT FOR SURETY

_____
Signature

AGENCY ADDRESS: _____

_____

PHONE _____

Licensed Florida Agent? Yes_____ No_____

If Yes, License Number: _____

If No, Countersignature Required Below:

Countersigned by: _____
Signature

_____
Type Name and Title

_____
Business Address

_____
License Number

_____
Telephone Number (Include Area Code)

STATE OF _____)

TOWN OF _____)

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

_____

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

_____

as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the _____ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

K-10

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE: May 19th, 2014

SUBJECT: Discussion/Direction for Staff to Proceed with Procurement of Contractors to Perform the Avenida Central Resurfacing Project for this Fiscal Year.

DEPARTMENT: Public Works – Streets

STAFF RECOMMENDED MOTION: Approve staff to pursue the procurement of a contractor to perform the work associated with the proposed Avenida Central Resurfacing Project.

SUMMARY: Staff had previously proposed the budgeting of funds to perform a major resurfacing project on Avenida Central. In efforts of performing due diligence, staff has received traffic classification count data on the busy corridor which confirmed the high volumes of daily vehicular usage of the street. Staff has also coordinated with the newly contracted Pavement Management Consultant, VHB, for a third party assessment with assistance of the MPO. Town Commission was previously presented a resurfacing method known as CIR or Cold In-place Recycling by the current resurfacing contractor, Asphalt Paving Systems Inc. to demonstrate a possible resurfacing solution on Avenida Central. As seen in the attached memo from the consultant VHB, the proposed resurfacing solution CIR appears to be the best method of treatment. An estimated $760,000 of reserve funds were allocated this FY for this resurfacing project based on previous pricing. Upon approval to proceed, updated costs will be determined during the process of contractor procurement reflecting actual current rates and will be presented in the near future to Town Commission along with a recommended contract to perform the work. Avenida Central was originally constructed in the early 1990's. The last major resurfacing work on Avenida Central was performed and funded by The Villages in the late 1990's.

FISCAL IMPACT: None at this time
Allocated Reserve Funds = $760,000

[ ] **Capital Budget**
[ ] **Operating**
[X] **Other-Reserve Funds**

ATTACHMENTS: [ ] **Ordinance** [ ] **Resolution** [ ] **Budget Resolution**
[ ] **Other**
[X] **Support Documents – Memo from VHB, MPO Classification Count Summary**

DEPARTMENT HEAD	**Submitted**	**Date:** 5/12/2014
HR	**Approved as to Form**	**Date** 5/13/14
FINANCE DEPARTMENT JRM	**Approved as to Budget Requirements**	**Date**
TOWN MANAGER	**Approved Agenda Item for:** 5/19/14	**Date** 5/13/14

COMMISSION ACTION:

[ ] **Approved as Recommended** [ ] **Disapproved** [ ] **Tabled Indefinitely**

[ ] **Continued to Date Certain** [ ] **Approved with Modification**

C.T. Eagle

From: Richmond, Pamela [prichmond@lakesumtermpo.com]
Sent: Tuesday, January 28, 2014 5:47 PM
To: C.T. Eagle
Subject: Avenida Central Traffic Counts
Attachments: Summary of Avenida Central data 1-28-2014.xlsx

C.T., I summarized the data in an Excel spreadsheet in a way that I hope is useful to you.

Cars = the sum total of Classes 1 – 3 (Motorcycles, Cars, and Small Trucks)
Trucks = the sum total of Classes 4 -13 (Box trucks up to tractor trailers)
Golf Carts = Class 14

As I'm sure you suspected, traffic volumes are much higher on the south end of Avenida Central. The car volume on the north end is 2,696 and on the south end 8,358. Truck and golf carts are also proportionately higher too. The eastbound volumes are higher across the count locations except for the location south of Del Mar, where the westbound volume is slightly higher; however that volume is almost identical to the westbound count taken north of Del Mar. North and south of Del Mar, both truck and golf cart counts are consistent. Eastbound tends to peak by noon and Westbound peaks after 2:00, except for the southern count (for cars). Golf carts and trucks generally are distributed between 10:00A and late afternoon with no clear peak. The peak to daily ratio for cars is around .10 which is as it should be. Where a golf cart peak hour can be determined, the peak to daily ration is about .15, which sounds reasonable to me based on golf cart counts we have collected in other locations.

Call me if you would like to discuss.

Pam

Pamela Richmond, AICP
MPO Project Manager

Lake-Sumter MPO
Metropolitan Planning Organization

1616 South 14th Street
Leesburg, Florida 34748
Ph: (352) 315-0170
Fx: (352) 315-0993

www.LakeSumterMPO.com

"Promoting Regional Transportation Partnerships."

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Traffic Count/Classification of Avenida Central 11/2013

COUNT LOCATION	DAILY VOLUME	% OF DAILY VOLUME	HIGHEST PEAK HOUR	HIGHEST PEAK HOUR VOLUME
AVENIDA CENTRAL AT US 27 (SOUTH)				
EASTBOUND				
CARS	4,787	95.61%	1:30P - 2:30P	498
TRUCKS	114	2.28%	NO PEAK	-
GOLF CARTS	106	2.11%	11:00A - 12:00P	15
WESTBOUND				
CARS	3,571	91.71%	1:30P - 2:30P	368
TRUCKS	134	3.44%	NO PEAK	-
GOLF CARTS	189	4.85%	1:30P - 2:30P	29
TOTALS				
CARS	**8,358**			
TRUCKS	**248**			
GOLF CARTS	**295**			
AVENIDA CENTRAL SOUTH OF DEL MAR				
EASTBOUND				
CARS	1,455	98.85%	10:15A - 11:15A *	163
TRUCKS	14	0.95%	NO PEAK	-
GOLF CARTS	3	0.20%	NO PEAK	-
WESTBOUND				
CARS	1,654	97.39%	2:30P -3:30P	186
TRUCKS	37	1.98%	NO PEAK	-
GOLF CARTS	9	0.53%	NO PEAK	-
TOTALS				
CARS	**3,109**			
TRUCKS	**51**			
GOLF CARTS	**12**			
AVENIDA CENTRAL NORTH OF DEL MAR				
EASTBOUND				
CARS	1,803	96.06%	12:15P - 1:15P	187
TRUCKS	21	3.94%	NO PEAK	-
GOLF CARTS	4	0.22%	NO PEAK	-
WESTBOUND				
CARS	1,629	97.90%	2:30P - 3:30P	160
TRUCKS	29	1.74%	NO PEAK	-
GOLF CARTS	6	0.36%	NO PEAK	-

Traffic Count/Classification of Avenida Central 11/2013

TOTALS				
CARS	**3,432**			
TRUCKS	**50**			
GOLF CARTS	**10**			
AVENIDA CENTRAL AT US 27 (NORTH)				
EASTBOUND				
CARS	1,430	93.16%	11:00A - 12:00P	136
TRUCKS	57	3.71%	NO PEAK	-
GOLF CARTS	48	3.13%	NO PEAK	-
WESTBOUND				
CARS	1,266	97.31%	2:15P - 3:15P	117
TRUCKS	31	2.38%	NO PEAK	-
GOLF CARTS	4	0.31%	NO PEAK	-
TOTALS				
CARS	**2,696**			
TRUCKS	**88**			
GOLF CARTS	**52**			

*STEADY VOLUMES UNTIL 3:00P

DATA COLLECTED 10-29-13

Cars = the sum total of Classes 1 – 3 (Motorcycles, Cars, and Small Trucks)

Trucks = the sum total of Classes 4 -13 (Box trucks up to tractor trailers)

Golf Carts = Class 14

Planning | Transportation | Land Development | Environmental

VHB/MillerSellen
225 E. Robinson Street, Suite 300
Landmark Center Two
Orlando, FL 32801
407.839.4006 • Fax 407.839.4008
www.vhb.com

Memorandum

To: Mr. C.T. Eagle, Sr
Town of Lady Lake
Public Works Director
136 Skyline Dr.
Lady Lake, FL 32159

Date: May 7, 2014

Project No.: 61797.03

From: Lance Baden

Re: Avenida Central pavement

Mr. Eagle,

On May 1, 2014, Vanasse Hangen Brustlin, Inc. (VHB) performed a visual inspection of the roadway pavement of Avenida Central in Lady Lake to assist in the determination of the appropriate level of maintenance or rehabilitation for this roadway. In addition, VHB created a digital video-log of both directions of the divided roadway. The roadway begins and ends at Route 27/441. For purposes of this report, the lanes headed from the Southeast Intersection to the Northwest intersection will be referred to as "NW bound lanes", and the other lanes headed from the northwest intersection to the southeast intersection will be referred to as the "SE bound lanes"

The observations and recommendations that follow are at most a professional judgment. Cross-section design and/or formal recommendations would require pavement and subsurface investigation and testing to ensure a level of confidence in the recommendations.

In 2012, Kisinger Campo & Associates performed a MicroPAVER pavement distress evaluation of the roadway. VHB used this information in development of this memo. VHB did not record actual distress extents in its evaluation.

Observations:

Distresses observed on the road include extensive light weathering/raveling, localized edge cracking, localized transverse and longitudinal cracks, a few small potholes, and moderately extensive medium to heavy alligator cracking. Minimal distortion or other shape/crown affecting distresses were noted. Several areas were cut and patched.

The alligator cracking is extensive in some areas, but there are also some considerable stretches (500-1000') with minimal cracking. One goal of this evaluation is to determine is these areas can be saved without major rehabilitation.

A "gut" feel of the road is that the surface has aged to a point where distresses will continue to spread at a considerable rate, and even the areas currently in good condition will soon be in need of structural enhancement.

Additional Considerations:

- This is a fairly high use area, including truck traffic. This points us to two influences. Rideability should be maintained/improved, thus extensive patching (without a global resurfacing) may not be a good option, and pavement structure will be important to support the truck traffic.
- Extensive golf cart usage suggests pavement profile should not be raised as that would increase differential between pavement and gutter affecting vehicle safety

- A review of the town's PAVER database show that across the board, this road had deteriorated significantly between 2009 and 2012. Pavement Condition Index (PCI) reports from both sets of evaluations are attached to this memo. This indicates a global surface replacement is most likely appropriate.

Options considered:

- Patch distressed areas: Patching would be too extensive, negatively impacting rideability, distresses have already been shown to spread from patched areas, the rest of the road would continue to deteriorate
- Patch distressed areas and Asphalt Overlay: A pavement to gutter "lip" has been identified as undesirable. A small lip already exists, and an overlay would exacerbate the issue.
- Patch distressed areas and Microsurface: This could be a potential cost saving option, but the concern is that the already aged current pavement structure would continue to deteriorate and quickly reflect through the microsurfacing. Lip between pavement and gutter would also be increased at least 3/8".
- Mill (Cold plane) and Repave: The alligator cracking goes through the full depth of the pavement, and as such the full depth would need to be milled. Base material issues may be difficult to identify after milling. All milled material must be removed. If base is currently retaining water (as we have been told may be the case) milling down to base materials may be an issue.
- Cold-in-Place Recycling: Blending of ground surface and base materials along with injected stabilizing and rejuvenating agents can improve your pavement base and add uniform structure. Some material will still need to be removed so that surface course will match existing gutter. May be a conservative but appropriate approach.
- Reconstruction: Typically only required when existing base materials are inadequate and/or extensive utility trenching / inconsistent materials exist... Without doing base analysis, assumption is being made that the existing base materials are adequate and the failures are caused by excessive water getting into the base, and surface ageing and weakening.

Summary/Recommendation:

The extent of alligator cracking shows significant structural failure of the pavement surface. The speed at which the distresses have increased between 2009 and 2012 show the pavement is losing its ability to absorb stresses w/out cracking. The extent of weathering and other distresses indicate a global repair is most-likely warranted. Additional factors limit the ability to build on top of existing layers. Thus the remaining alternatives are Mill/overlay, and in-place recycling. In-place recycling may give you the best opportunity to improve/stabilize the base as needed, improve any drainage issues, and grade/level the newly formed base to allow a new top course to meet existing gutter grades.

It may be recommended to have a third party review prior coring data and/or perform analysis of the pavement base to confirm the feasibility and expected performance of an in-place recycling operation. In addition, analysis should be performed to determine adequate asphalt mix selection and layer thickness to ensure adequate structure is provided to support current and expected truck traffic.

Addenda:

1. Video-log screen captures at select locations
2. PCI reports from 2009 and 2012

The following snapshots occur at intermittent intervals of SE Bound lanes of Avenida Central.

SE Bound

SE Bound

SE Bound

SE Bound

SE Bound

SE Bound

The following snapshots occur at intermittent intervals of NW bound lanes of Avenida Central.

NW Bound

NW Bound

NW Bound

NW Bound

NW **Bound**

NW Bound

NW Bound

NW Bound

Date: 5 /7/2014

Section Condition Report

Pavement Database: Lady Lake *NetworkID: ROADS*

Branch ID	Section ID	Last Const. Date	Surface	Use	Rank	Lanes	True Area (SqFt)	Last Inspection Date	Age At Inspection	PCI
AVENID CTL (AVENIDA CENTRAL)	25616	06/01/2006	AAC	ROADWAY	E	4	80,832.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25617	06/01/2006	AAC	ROADWAY	E	4	18,144.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25618	06/01/2006	AAC	ROADWAY	E	4	14,544.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25619	06/01/2006	AAC	ROADWAY	E	4	14,016.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25620	06/01/2006	AAC	ROADWAY	E	4	53,232.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25621	06/01/2006	AAC	ROADWAY	E	4	77,616.00	04/30/2009	3	83.00
AVENID CTL (AVENIDA CENTRAL)	25622	06/01/2006	AAC	ROADWAY	E	4	61,152.00	04/30/2009	3	63.00
AVENID CTL (AVENIDA CENTRAL)	25623	06/01/2006	AAC	ROADWAY	E	4	34,752.00	04/30/2009	3	80.00

Section Condition Report

Pavement Database: Lady Lake

Age Category	Average Age At Inspection	Total Area (SqFt)	Number of Sections	Arithmetic Average PCI	PCI Standard Deviation	Weighted Average PCI
03-05	3.00	354,288.00	8	80.13	7.00	79.25
All	3.00	354,288.00	8	80.13	7.00	79.25

Date: 5 /7/2014

Section Condition Report

Pavement Database: LADYLAKE *NetworkID: ROADS*

Branch ID	Section ID	Last Const. Date	Surface	Use	Rank	Lanes	True Area (SqFt)	Last Inspection Date	Age At Inspection	PCI
AVENID CTL (AVENIDA CENTRAL)	25616	06/01/2006	AAC	ROADWAY	E	4	80,832.00	03/27/2012	6	47.00
AVENID CTL (AVENIDA CENTRAL)	25617	06/01/2006	AAC	ROADWAY	E	4	18,144.00	03/27/2012	6	84.00
AVENID CTL (AVENIDA CENTRAL)	25618	06/01/2006	AAC	ROADWAY	E	4	14,544.00	03/27/2012	6	79.00
AVENID CTL (AVENIDA CENTRAL)	25619	06/01/2006	AAC	ROADWAY	E	4	14,016.00	03/27/2012	6	85.00
AVENID CTL (AVENIDA CENTRAL)	25620	06/01/2006	AAC	ROADWAY	E	4	53,232.00	03/27/2012	6	53.00
AVENID CTL (AVENIDA CENTRAL)	25621	06/01/2006	AAC	ROADWAY	E	4	77,616.00	03/27/2012	6	50.00
AVENID CTL (AVENIDA CENTRAL)	25622	06/01/2006	AAC	ROADWAY	E	4	61,152.00	03/27/2012	6	47.00
AVENID CTL (AVENIDA CENTRAL)	25623	06/01/2006	AAC	ROADWAY	E	4	34,752.00	03/27/2012	6	50.00

Section Condition Report

Pavement Database: LADYLAKE

Age Category	Average Age At Inspection	Total Area (SqFt)	Number of Sections	Arithmetic Average PCI	PCI Standard Deviation	Weighted Average PCI
06-10	6.00	354,288.00	8	61.88	17.41	53.56
All	6.00	354,288.00	8	61.88	17.41	53.56

K-11

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE: May 19th, 2014

SUBJECT: Update on Offer from Habitat for Humanity to Perform Potential Improvement Projects for Town of Lady Lake Facilities.

DEPARTMENT: Public Works

STAFF RECOMMENDED MOTION: N/A – Update and Discussion

SUMMARY: As seen in the attached email, Habitat for Humanity has offered to potentially perform community enhancement projects on Town Facilities as a part of their outreach program. There will be no direct cost to the Town of Lady Lake with the exception of staff coordination time. The projects would be managed, staffed, and funded by Habitat for Humanity. Currently no projected date is available for the potential work to be performed. Habitat for Humanity would be responsible for any insurance coverage necessary regarding the volunteers or workers on the projects. Insurance coverage would be verified by Town staff prior to any work proceeding.

FISCAL IMPACT: N/A

[ ] Capital Budget
[ ] Operating
[ ] Other- Contingency Funds

ATTACHMENTS: [ ] Ordinance [ ] Resolution [ ] Budget Resolution
[X] Other – *Summary staff email to Town Manager.*
[ ] Support Documents

DEPARTMENT HEAD	**Submitted**	**Date: 5/12/2014**
HR	**Approved as to Form**	**Date**
FINANCE DEPARTMENT	**Approved as to Budget Requirements**	**Date**
TOWN MANAGER	**Approved Agenda Item for:** 5/19/14	**Date** 5/12/14

COMMISSION ACTION:

[ ] Approved as Recommended **[ ] Disapproved** **[ ] Tabled Indefinitely**

[ ] Continued to Date Certain **[ ] Approved with Modification**

Kris Kollgaard

From: C.T. Eagle [cteagle@LadyLakePW.org]
Sent: Thursday, May 01, 2014 8:39 AM
To: Kris Kollgaard
Cc: Aubrey Cash; Peggy Smith; Ted Williams; Mike Burske
Subject: Habitat for Humanity Potential Projects

Kris,

As you know, we were originally contacted by representatives of Habitat for Humanity regarding the possibility of their organization performing some projects for the Town of Lady Lake, at their expense, as a part of their public outreach program a few months ago. They perform many public service type of projects around the country to gain some involvement in the communities in which they build homes.

Since that time, staff has met and discussed various projects that could be beneficial for the Town. The top projects on the list were as follows:

1. Repainting the Train Cars and Historical Society- this would be a highly visible project as well as saving the Town a significant amount of time and money on this project.
2. Repainting the racket ball courts on Guava Street – again it would be highly visible to the public and also save Town funds.
3. Repainting the Town Hall and Police Department – this would be a large project and have the same benefits as the above projects.
4. Repainting of the Public Works Complex – the largest of the projects and with the same benefits as the projects above.

These projects would also included some pressure washing and minor repair work along the way, as any painting projects of these size would.

Mike Burske and I took Terry Chance and Rick Worsham from Habitat on site visits last week to show them our potential projects. As you can see below, there are no set dates to report at the moment but will follow up once they have something more solid to pass along.

Please let me know if you have any questions or concerns.

Thanks,

C. T. Eagle, Sr
Town of Lady Lake
Public Works Director
136 Skyline Dr.
Lady Lake, Fl 32159

Phone: 352-751-1526
Fax: 352-751-1595

cteagle@ladylakepw.org

ATTENTION: The new operating hours for the Public Works Department are Monday- Thursday, 7:00AM - 6:00PM. Offices will be closed on Friday's.

Please note: Under Florida law (Fla.Stat. 668.6076 - effect. 07-01-06), e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Terry [mailto:construction1@habitatls.org]
Sent: Tuesday, April 29, 2014 9:07 AM
To: C.T. Eagle
Cc: Rick Worsham; Tesa
Subject: RE: Lady Lake

C. T. Eagle,

Thanks for the inquiry. We are currently in the process of completing 10 houses with families waiting so that has become the priority. The NCCC group staying with us has completed their time and are leaving tomorrow but we have applied for another team in the summer months. The projects are noted but I don't have a specific time frame that we can commit to at this time. As we complete the houses under construction and our future schedule becomes clear we can discuss the projects in more detail.

Thanks Again,

Terry Chance
1806 South Bay Street
P.O. Box 186
Eustis, Florida 32726
352-483-0434, ext. 116 (Phone)
386-943-8001 (Cell)
352-483-0786 (Fax)
terry@habitatls.org
www.habitatls.org

1989 - 2014
BUILDING ON A FOUNDATION OF FAITH
25 YEARS
Habitat for Humanity®
Lake-Sumter FL

From: C.T. Eagle [mailto:cteagle@LadyLakePW.org]
Sent: Monday, April 28, 2014 11:01 AM
To: Terry
Subject: RE: Lady Lake

Hey Terry, we were looking to possibly report something to our Town Commission next weekend regarding potential projects. Is there anything that I can pass along to them now or just wait to hear back from you all once you have made a decision? Thanks again,

C. T. Eagle, Sr
Town of Lady Lake

L-12

TOWN COMMISSION AGENDA ITEM

REQUESTED COMMISSION MEETING DATE: May 19, 2014

SUBJECT: Declaration of Qualifying Dates for the Office of Town Commissioner for Wards Two and Four for the November 4, 2014 General Election, and authorization to request that the Lake County Supervisor of Elections conduct the election.

DEPARTMENT: Town Clerk

STAFF RECOMMENDED MOTIONS:

1. Approval of Resolution No. 2014-107 declaring the qualifying dates for the November 4, 2014 General Election.

2. Authorization for the Town Clerk to request that the Lake County Supervisor of Elections conduct the general election for the Town.

SUMMARY:

A request is being made by the Town Clerk to adopt Resolution No. 2014-107 which announces the qualifying dates for Town Commissioner candidates for the general election, to be held on November 4, 2014. The qualifying period will begin June 16, 2014 at 12:00 noon and end on June 20, 2014 at 12:00 noon.

In addition, a request is being made to authorize the Town Clerk to request that Emogene Stegall, Supervisor of Elections for Lake County, conduct the November 4, 2014 general election for the Town of Lady Lake.

FISCAL IMPACT: **To Be Determined**

[ ] **Capital Budget**
[ ] **Operating**
[ ] **Other**

ATTACHMENTS: [ ] **Ordinance** [X] **Resolution** [ ] **Budget Resolution**
[ ] **Other**
[ ] **Support Documents/Contracts**

DEPARTMENT HEAD	**Submitted** 5/13/14	**Date**
FINANCE DEPARTMENT	**Approved as to Budget Requirements**	**Date**
HR	**Approved as to Form**	**Date**
TOWN ATTORNEY	**Approved as to Form and Legality**	**Date**
TOWN MANAGER	**Approved Agenda Item for:** 5/19/14	**Date** 5/13/14

COMMISSION ACTION:

[ ] **Approved as Recommended** [ ] **Disapproved** [ ] **Tabled Indefinitely**

[ ] **Continued to Date Certain** [ ] **Approved with Modification**

RESOLUTION NO. 2014-107

A RESOLUTION DECLARING QUALIFYING DATES FOR THE OFFICE OF TOWN COMMISSIONER FOR WARDS TWO AND FOUR OF THE TOWN OF LADY LAKE, FLORIDA; SPECIFYING QUALIFICATIONS FOR CANDIDATES; PROVIDING FOR POSTING NOTICE OF QUALIFICATION DATES; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, FLORIDA:

SECTION 1. There is hereby declared a general election for the offices of Town Commissioner for Wards Two and Four, which election shall be held on November 4, 2014, in Lady Lake, Florida.

SECTION 2. Candidates for the office of Town Commissioner for Wards Two and Four of the Town of Lady Lake, Florida, must qualify for office by filing a written petition pursuant to Section 10.02 of the Town of Lady Lake Charter with the Town Clerk, to be submitted beginning June 16, 2014 at 12:00 noon through June 20, 2014 at 12:00 noon. Candidate petitions may be obtained from the Town Clerk during regular business hours.

SECTION 3. The Mayor shall announce the election and foregoing qualification dates at each regular meeting prior to June 20, 2014, and shall cause a copy of this Resolution to be posted in a conspicuous place at Town Hall.

PASSED AND RESOLVED this 19th day of May, 2014, by the Town Commission of the Town of Lady Lake, Florida.

_____
Ruth Kussard, Mayor

_____
Kristen Kollgaard, Town Clerk

_____
Approved as to form:
Derek Schroth, Town Attorney