



AGENDA
Regular City Council Meeting
Monday, April 1, 2024, 6:00 PM
Council Chambers, 116 First Street, Neptune Beach, Florida

1. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE
2. AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS
 - A. Water Conservation Month Proclamation p. 3
3. APPROVAL OF MINUTES
 - A. **March 4, 2024, Regular City Council Meeting**
March 18, 2024, Workshop City Council Meeting p. 4
4. COMMENTS FROM THE PUBLIC
5. CITY MANAGER REPORT
6. CONSENT AGENDA / NONE
7. VARIANCES / SPECIAL EXCEPTIONS / DEVELOPMENT ORDERS / NONE
8. ORDINANCES
 - A. ORDINANCE NO. 2024-03, FIRST READ AND PUBLIC HEARING, An Ordinance of the City of Neptune Beach, Florida, Amending Chapter 2, Article VI, Section 2-378, Written Request To Council; Approval; Bid Invitations; Providing for Severability; and Providing an Effective Date PH p. 19
9. OLD BUSINESS / NONE
10. NEW BUSINESS
 - A. RESOLUTION NO. 2024-02, A Resolution of the City of Neptune Beach, Florida, Establishing Certain Charges or Fees for Solid Waste Collection and Disposal Services p. 22
 - B. Consideration of Approval of Lighty Lane Pump Station Wastewater Force Main Replacement p. 25
11. COUNCIL COMMENTS
12. ADJOURN



Make sure you are parked in a North Beaches public parking space – we can't validate valet parking or parking in private lots.

- **To use a kiosk:** Using a nearby kiosk, press the Start button and then select 2 to enter your plate and the validation code.
- **To use the Flowbird app:** Tap the nearest yellow balloon and tap "Park here." From the payment screen, select "Redeem a code" at the top. Confirm your information and tap "Purchase" – the price will show "Free."



PROCLAMATION

City of Neptune Beach

WHEREAS, water is a basic and essential need of every living creature; and

WHEREAS, The State of Florida, Water Management Districts and the City of Neptune Beach are working together to increase awareness about the importance of water conservation; and

WHEREAS, the City of Neptune Beach and the State of Florida has designated April, typically a dry month when water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources; and

WHEREAS, the City of Neptune Beach has always encouraged and supported water conservation, through various educational programs and special events; and

WHEREAS, every business, industry, school and citizen can make a difference when it comes to conserving water; and

WHEREAS, every business, industry, school and citizen can help by saving water and thus promote a healthy economy and community; and

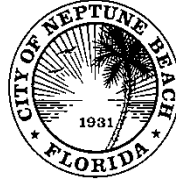
WHEREAS, outdoor irrigation comprises a large portion of water use, Neptune Beach will encourage citizens and businesses to focus on improving outdoor irrigation efficiency;

NOW, THEREFORE, be it resolved that by virtue of the authority vested in me as Mayor of the City of Neptune Beach and the City Council, do hereby proclaim the month of April as

Water Conservation Month

Neptune Beach, Florida is calling upon each citizen and business to help protect our precious resource by practicing water saving measures and becoming more aware of the need to save water. For this, the 26th year of Water Conservation Month, there will be a special focus on improving outdoor irrigation efficiency.

Elaine Brown
Mayor



MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, MARCH 4, 2024, 6:00 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Regular City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, March 4, 2024, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266

Attendance:	ATTENDANCE: Mayor Elaine Brown Vice Mayor Kerry Chin Councilor Lauren Key Councilor Nia Livingston Councilor Josh Messinger (<i>via CMT</i>)	STAFF: City Manager Richard Pike City Attorney Zachary Roth Chief of Police Michael Key Community Development Director Heather Whitmore Public Works Director Deryle Calhoun Parks and Sustainability Director Colin Moore City Clerk Catherine Ponson
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Call to Order/Roll Call/Pledge	Mayor Brown called the meeting to order at 6:00 p.m. and Councilor Key led the Pledge of Allegiance.
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APPROVAL OF MINUTES

Minutes	Made by Chin, seconded by Key.
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MOTION: TO APPROVE THE FOLLOWING, AS AMENDED:

February 5, 2024, Regular City Council Meeting
February 20, 2024, Special City Council Meeting
February 20, 2024, Workshop City Council Meeting

Roll Call Vote:

Ayes: 5-Key, Livingston, Messinger, Chin, and Brown

Noes: 0

MOTION CARRIED

PUBLIC COMMENT

Public Comment	Mayor Brown reminded everyone to include their name and address as requested on the Speaker Request Form. It is by ordinance that a speaker shall give their name and address before speaking.
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Donald Rogers, 1400 Neptune Grove Drive W., Neptune Beach, stated he had emailed members of the Council with his concerns about the Penman Road project. He added an email he sent on February 20th, 2024, listed changes that could be made without a

roundabout or medians being added, including lane changes, smart lights, and lengthening turn lanes.

David Wicker, 427 South Street, Neptune Beach, commented there was a significant problem with speeding on his street. He expressed his gratitude to City Manager Richard Pike and Public Works Director Deryle Calhoun for being responsive and reactive. He added everyone is relieved to have people that are actually doing something to help the residents. He also expressed that they need help with the drainage on his street.

Chuck McCue, 1908 3rd Street, Neptune Beach, spoke in opposition of Ordinance No. 2024-01, Automated Traffic Enforcement. He requested Council vote against it. He stated that from his research there is no evidence that this camera system will deter personal death or injury, property damage, and speeding. He commented that on Ordinance No. 2024-02, Park Hours and Loitering, there should be one set of rules and hours for all.

Brian Masonbrink, 1842 Twelve Oaks Lane, Neptune Beach, commented he lives near the five-way intersection. He suggested using the police to enforce the speed limit on Penman Road. He said that traffic on Penman Road is only bad for one hour a day. He added that the citizens would rather nothing be done than blow it up with medians and traffic circles. He suggested putting wide sidewalks on both sides of the road and add hawker crosswalks at the five-way intersection.

CITY MANAGER REPORT

Overview of City Projects

Mr. Pike announced that the Beaches Green Market request to return to Jarboe Park has been placed on hold until further notice by that organization. DIG Local had presented a proposal to Council at the February 20th, 2024, Council Workshop.

Mr. Calhoun gave an update on public works projects. His report included that 100% design documents for Well #5 have been received, the lead service line inventory will complete field work in July, 2024 with no lead found in over 1,200 service pipes, Plant 2 should be on-line by the weekend of March 9, 2024, the stormwater model for Hopkins Street is complete and there will be a project kick-off meeting with COJ, beach accesses at South Street and Lora Street have been completed, the water tower renovation should be complete the first week in April and the contract for the City Hall refresh is being prepared.

Parks and Sustainability Director Colin Moore reported that one of the City Manager's initiatives has been to spruce up the main thoroughfares in the City. In doing that, Public Works crews identified a stormwater inlet at 3rd Street and Seagate Avenue that had exposed rebar. FDOT will be in the area later this month to do some concrete repairs throughout Atlantic Boulevard and 3rd Street, including sidewalk repairs. He also stated that the crosswalk on Florida Boulevard at Jarboe Park would be reinstalled and refreshed on March 20, 2024. The beach renourishment project would begin April 28, 2024, in south Jacksonville Beach, and would be in Neptune Beach from June 2, 2024, through June 22, 2024.

Vice Mayor Chin pointed out Mr. Moore's monthly report indicated that FDOT did think that additional crosswalks would be useful for 3rd Street, namely Davis Street and Myra Street, and asked if there was a potential timeline for that project.

Mr. Moore stated that a meeting with the FDOT safety office regarding the next steps had been scheduled. The meeting was postponed by FDOT and he advised that he hoped to have an update by the next Council Workshop.

ORDINANCES

Ord. No. 2024-01, Ordinance No. 2024-01, Second Read and Public Hearing. An Ordinance of the City of Neptune Beach, Florida, Creating Chapter 22, Article VI, Sections 22-101 through 22-105, Automated Traffic Enforcement; Providing for Severability; and Providing an Effective Date.

Public Hearing Mayor Brown opened the public hearing.

Donald Rogers, 1400 Neptune Grove Drive W., Neptune Beach, stated that he had a bad feeling from putting cameras up to catch speeders. He added that if there were flashing yellow lights during school hours and better signage, most of the speeders would slow down.

Brent Rogers, 1932 Strickland Road, Neptune Beach, stated improving safety for the kids arriving or departing from school is a worthy cause. However, outsourcing portions of our policing to private corporations with a profit motive to issue fines to our residents and visitors is a significant change that shouldn't be taken lightly. He suggested flashing yellow lights and giving crossing guards inexpensive cars with conspicuous police markings to park while on duty to deter speeding. He is sure we can find the money to do those things for our kids before bringing in out-of-state mercenaries.

There being no further comments from the public, the public hearing was closed.

Council Discussion/ Questions Mayor Brown requested Chief of Police Michael Key clarify some issues that had been brought up.

Chief Key explained, to clear up any confusion, that part of the endeavor here is not to trick anyone. There is clear signage in these areas and throughout all of our roadways. It is incumbent upon the driver to pay attention to the signage and to heed the warnings that are clearly posted.

He confirmed that part of implementation would be to ensure that all school speed zones that have automated traffic enforcement systems would have flashing lights and clear signage. He expressed it is not about ticket revenue. This is about protecting our students. We are already spending a massive amount of time, energy, and effort to secure our children from active shooter assailants and everything else, once they are at school. He is just trying to get them there safely. He added it is a holistic approach to ensuring the safety of our community.

Chief Key reiterated that ticket revenue will feed back into license plate readers that have already proven themselves to be a massive public safety force multiplier to find missing persons, etc.

Chief Key clarified that if school is in session, the devices would be activated. He also reported that statutes provide a ticket would be issued if the speed is "in excess of 10 miles per hour." For instance, if the speed limit is 15 m.p.h., a citation would not be issued until 26 m.p.h. However, if an officer right now catches someone going six m.p.h. over the speed limit in person, that citation is going to be \$304. A citation at 26 m.p.h. using the devices would be \$100.

He also expressed if he had the funds and more police officers, he would place officers at every school. He has two to three officers working a day watch who are constantly getting calls for service. He advised that since 2016, there is a standing order that if an officer is not on a call for service, the officer is assigned to a school zone.

Vice Mayor Chin stated that there have been comments about this being outsourcing of our police. He added that from his reading what was presented last time, one of our officers would have to review the violation and then approve whether the violation had occurred. So, in fact, our own police would be part of the process and be officially issuing the citation.

Chief Key commented that this is leveraging technology used to ensure public safety. This is one of the new innovations to keep our community safe. An automated speed camera is not just where someone speeds through a school zone and automatically gets a citation. Every time a violation occurs, a Neptune Beach Police Officer will view that violation and ensure that the violation occurred, that it's not a mistake, and issue the citation. If someone feels the citation was issued in error, there is an option to contest it and the officer will show up for the court date.

Councilor Key stated one of her previous questions was why tickets would be issued throughout the school day. She stated that the point was made that there are kids coming and going to school all day long. Why would we limit it to just the period before and after school hours? She added that this working in other cities and when it comes to the safety of children, if we can implement another layer to protect them, she supports it.

Chief Key confirmed Councilor Livingston's inquiry that the devices would be activated during school hours.

Councilor Livingston stated that she lives in a school zone and speeding is an issue. Anything we can do to help with that is important. There will be a Neptune Beach Police Officer double-checking the citation. Her only concern is the devices being installed in someone's yard.

Chief Key remarked that implementation is further down the process. He expressed that cameras would never be on someone's private property. They would only be on the right-of-way.

Councilor Livingston requested working with the neighbors during the implementation process. She wants the cameras to be noticeable to drivers but as least intrusive on people's property.

Councilor Messinger commented that there is a lot of misinformation being spread. He stated the Council is voting on an ordinance. They are not voting on a vendor or a specific design. This is an ordinance that would then allow the Police Chief and staff to explore all the different vendors available. This is a piece of technology that we would contract with that our police would utilize to cut down speeding in our school zones while children are coming and going to school. This is only an ordinance allowing the technology to be used.

Chief Key remarked that technology exists around us. It is going on in every community and state. It is continuing to advance. We should be looking at, as a law enforcement agency, technology and how we can leverage it to keep our community safe. He has found no data that he can find that it increases traffic crashes for school speed cameras. This is not a red-light camera. We are looking to implement school speed cameras during school hours to keep our kids safe.

Made by Chin, seconded by Livingston,

MOTION: **TO ADOPT ORDINANCE NO. 2024-01, CREATING CHAPTER 22, ARTICLE VI, SECTIONS 22-101 THROUGH 22-105, AUTOMATED TRAFFIC ENFORCEMENT AT SECOND READ**

Roll Call Vote:

Ayes: 5-Livingston, Messinger, Key, Chin, and Brown

Noes: 0

MOTION CARRIED

Ord. No. 2024-02, Ordinance No. 2024-02, Second Read and Public Hearing. An Ordinance of the City of Neptune Beach, Florida, Creating Chapter 14, Sections 14-12, Park Hours, and 14-13, Loitering, Soliciting, Begging, Etc., in Public Offices or Buildings Open to the Public; Providing for Severability; and Providing an Effective Date.

Public Hearing Mayor Brown opened the public hearing.

Lynda Padrta, 1113 1st Street, Neptune Beach, spoke in favor of the ordinance. She supports having park hours and having some strength for the police to handle people who are in places that they shouldn't.

There being no further comments from the public, the public hearing was closed

Council Discussion/ Questions Councilor Livingston stated that there may have been some confusion that we need park hours. This ordinance sets the park hours as 5:00 a.m. to 10:00 p.m.

Vice Mayor Chin commented that the scope of this encompasses people that may constitute a threat to public safety. Someone actually has to show that they are a threat to public safety or breaching the peace.

Chief Key explained that the City is continuing to have problems with security in the park, including the bathrooms. He stated that he and staff had looked at COJ municipal ordinances. He advised he would continue to bring municipal ordinances that he feels would enhance public safety.

City Attorney Zachary Roth commented that the City also looked at the language of the COJ ordinance. This has the benefit of being supported if someone were to challenge it.

Councilor Key remarked she had received a phone call about concerns that the loitering aspects of the ordinance were an attack on the homeless population. She responded to them was that all kinds of people can loiter. She added that anyone who has been following the progress of how we got here would know that the City has had many park complaints. This is another step to enforce a problem that has been going on for quite some time.

Made by Livingston, seconded by Key.

MOTION: **TO ADOPT ORDINANCE NO. 2024-02 CREATING CHAPTER 14, SECTIONS 14-12, PARK HOURS, AND 14-13, LOITERING, SOLICITING, AND BEGGING, ETC. IN PUBLIC OFFICES OR BUILDINGS AT SECOND READ**

Roll Call Vote:

Ayes: 5-Messinger, Key, Livingston, Chin, and Brown

Noes: 0

MOTION CARRIED

NEW BUSINESS**Sand and Grit
Removal**

Sand and Grit Removal. Mr. Calhoun explained sand and grit accumulation in process tanks reduces the tank capacity available for the biological treatment process. In addition, the fine bubble diffusers recently approved by Council will be installed in the tank proposed for cleaning; removing accumulated sand and grit will permit the diffuser system to install on the tank floor.

In April 2023, a scan of the subject tank utilizing acoustic technology was performed. It is estimated that 10% of tank capacity has been lost to sand and grit. As noted in the cleaning proposal, there is an estimated 33 tons of material to be removed. Additional quantities of materials will be removed and charged at the rates noted in the proposal. U.S. Submergent Technologies has provided a piggyback contract from the City of Orlando.

Vice Mayor Chin commented that there was a line item in the budget for Sewer Services, Repair and Maintenance. That is where this request is being paid from. This is not a new addition to the budget.

Made by Messinger, seconded by Key.

MOTION: **TO AWARD TO U.S. SUBMERGENT TECHNOLOGIES IN THE AMOUNT OF \$39,815.00 FOR THE SAND AND GRIT REMOVAL**

Roll Call Vote:

Ayes: 5-Messinger, Key, Livingston, Chin, and Brown

Noes: 0

MOTION CARRIED**Stormwater
Design Services**

Stormwater Design Services. Mr. Calhoun noted that the stormwater strategic plan approved by Council contains a number of projects throughout the City totaling about \$55 million of high-level work. The plan includes the 400 and 500 blocks of South Street, Myra Street and Margaret Street. Staff worked in the 400 block of South Street to direct flow to existing catch basins by reestablishing a swale and reforming asphalt as needed. The subject of this proposal is the 500 block of South Street at 5th Street, in addition to Myra Street and Margaret Street.

Jones Edmunds has provided a proposal of \$41,278.00 to provide engineering design services (lump sum \$32,478.00), subsurface utility exploration in support of design as needed and construction administration (time and materials \$8,800.00). Jones Edmunds has a current continuing services contract with the City.

Made by Messinger, seconded by Key.

MOTION: **TO AWARD TO JONES EDMUNDS IN THE AMOUNT OF \$41,278.00 DRAINAGE IMPROVEMENT DESIGN SERVICES FOR SOUTH STREET, MYRA STREET AND MARGARET STREET**

Roll Call Vote:

Ayes: 5- Livingston, Messinger, Key, Chin, and Brown

Noes: 0

MOTION CARRIED

Davis Creek
Erosion Control
Pilot Program

Davis Creek Erosion Control Pilot Program. Mr. Calhoun explained this is a pilot project that would include installing 100 feet of a Sox system, which is a permeable mesh system, which is UV resistant. This would be installed on the west bank of Davis Creek at Florida Boulevard. The project goals are to reduce or eliminate erosion, identify plantings that reduce maintenance and beautify drainage corridors. He reported that Bluewater Environmental of Florida, Inc., who would be performing the pilot project, is researching various plant options that are salt-tolerant including Peanut Grass and Muhly Grass.

Councilor Messinger requested information regarding the lifespan of the material and any warranty that comes with it.

Adjournment

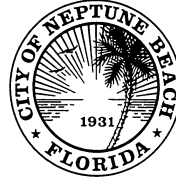
There being no further business, the meeting adjourned at 7:13 p.m.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC
City Clerk

Approved: _____



MINUTES
WORKSHOP CITY COUNCIL MEETING
MONDAY, MARCH 18, 2024, 6:00P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Workshop City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, March 18, 2024, at 6:00 p.m., in Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida, 32266

Attendance**IN ATTENDANCE:**

Mayor Elaine Brown
 Vice Mayor Kerry Chin
 Councilor Lauren Key(*absent*)
 Councilor Nia Livingston
 Councilor Josh Messinger(*absent*)

STAFF:

City Manager Richard Pike
 City Attorney Zachary Roth
 Police Commander Liam Toal
 Public Works Director Deryle Calhoun
 Parks and Sustainability Director Colin Moore
 Chief Financial Officer Jaime Hernandez
 City Clerk Catherine Ponson

**Call to
Order/Roll Call**

Mayor Brown called the workshop meeting to order at 6:00 p.m. and Councilor Livingston led the Pledge of Allegiance.

PUBLIC COMMENTS**Public
Comments**

Dreanna Bane, daughter of Renée Faure who lives at 600 2nd Street, Neptune Beach, stated there was an ongoing concern regarding the water pooling on Myrtle Street between 2nd Street and 3rd Street. She has been told the issue would be resolved shortly.

Pat Hazouri, 207 Florida Boulevard, Neptune Beach, stated she was concerned with code enforcement around construction jobs. She also stated her concern with the prospect of JEA coming in and taking over water and sewer to assist with the 500 Atlantic development.

Wanda Sauls, 126 Cedar Street, Neptune Beach, spoke regarding recent changes in the garbage service. She stated she had spoken with a driver who informed her that garbage and recycling would not be picked up separately. There is a smaller truck in that area. She added that there was no notification of any changes.

Vice Mayor Chin commented that there had been no change in the service and the City Manager would look into what was going on.

Britt Lowry, 1912 4th Street, Neptune Beach, stated his neighbor had clear cut their lot. The house is abandoned. There are cars in the driveway, and no one is living there. He added that when the clear cutting was done, they crossed over into his property line. He was told to come to this meeting to have this addressed.

ISSUE DEVELOPMENT**FY 24 Budget
Update**

Chief Financial Officer Jaime Hernandez gave an update of the budget from October 1, 2023, through February 29, 2024. His report provided a budget to actual comparison summary of year-to-date revenues and expenditures for the General Fund, Special Revenue Funds, and Enterprise Funds for the City of Neptune Beach.

Mr. Hernandez advised that the City collects about 85% of the property taxes in the first quarter (October-December) of the fiscal year. As of February 29, 2024, the City has collected \$3,789,637 of the forecasted revenue of \$4,232,307.

Vice Mayor Chin commented that the report states that the City has collected 34.86% of the franchise fee. He questioned if we are projected to receive the rest by the end of the fiscal year. He also questioned the Intergovernmental Revenues from the state that have been in arrears mentioned in the report.

Mr. Hernandez stated that when the contract for solid waste collection was negotiated, the franchise fee went away. There are only two months of franchise fees in this fiscal year. He also stated that the shared revenues from the state are received after they close the quarter.

Councilor Livingston remarked that the City has received 89.54% of the property taxes and we are at 50% in some of the other revenue categories. She questioned if the City is optimistic for the rest of the year?

Mr. Hernandez replied that revenues can fluctuate according to the period. Once we reach the middle of the year around the end of March, revenue streams become steady.

PUBLIC COMMENTS**Public Comment**

Pat Hazouri, 207 Florida Boulevard, Neptune Beach, commented on her treatment by a Councilmember. She stated that there is decorum for public speakers and questioned the decorum of Councilmembers.

COUNCIL COMMENTS**Council
Comments**

Vice Mayor Chin informed everyone that Neptune Beach resident Doodle Cinotti is safe in Haiti. She is waiting for the rest of her team so she can return home.

Mayor Brown shared that a group of woman professionals from Armenia had attended City Hall earlier that day. Mayor Brown and City of Jacksonville Beach Mayor Christine Hoffman answered questions from the group on women in leadership. The delegation is from the Open World Leadership Foundation and hosted by Rotary International.

Adjournment

There being no further business, the workshop meeting adjourned at 6:29 p.m.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC
City Clerk

Approved: _____

City Manager's Report

Departmental Recaps-03/26/2024

Police Department-Chief Michael Key (See March 2024 Report)

Community Development-Heather Whitmore

1. Fire Marshal update: We have temporarily secured Fire Marshal services for two weeks; we need to put a long-term solution in place.
2. Code Enforcement Officer update: We have over 40 applications for this position, beginning interviews next week (April 1st)
3. Community Development Board April 10th, 2024
 - a. Subcommittee meetings:
 - i. Historic Preservation
 - ii. Code
4. City Council: Community Development Board members plan to present ideas for historic preservation-related code updates.
5. 1401 Atlantic Red Roof Inn seeking cosmetic building improvement permit and life safety plan under review.

IT Department-Ricardo Pizarro

- Preparing and developing a plan for GIS implementation now that applications are available for provisioning.
- Preparing for camera installation at City Hall and Public Works.
- Preparing for fiber work, which will be completed in the first week of April to finalize security implementation.
- Working with CAD implementation teams for Police.
- Working with Vendors for a VoIP solution.

Parks & Sustainability-Colin Moore

- The \$500,000 State funding request for culvert replacements at Bay St and Davis St was included in the budget passed by the Legislature—the budget is now awaiting the Governor's signature.
- \$32.4 million US Army Corps of Engineers Duval County Shore Protection Project scheduled to begin 4/28 in Jax Beach - project timeline shows work in Neptune Beach from 6/2 to 6/22
- Meeting with FDOT Safety Office concerning additional crosswalk locations on Third St scheduled for 4/1
- The new pump for filling the ponds at Jarboe Park is now operational.
- On 3/16, Neptune Beach hosted a cleanup site for the St. Johns River Celebration. Twelve volunteers participated in the cleanup.

- Working with Beaches Town Center Agency on additional public parking areas to accommodate Town Center employees.
- Executed \$19,907.50 Florida DEP Reimbursable Funding Agreement for Wastewater Treatment Facility Sand and Grit Removal on 3/25

Human Resources-Jillian McCann

1. Advertising for open positions:
 - a) Beaches Parking Ambassador
 - b) Code Enforcement Officer
 - c) Community Development Administrative Assistant.
2. Working with Heather to develop a job description for a Code Enforcement Assistant.
3. We recently filled an open Police Officer position – Officer Kellin Ronquille.
4. We also filled an open position in the Emergency Communications division – Madelyn Dinkins.
5. We have developed a committee consisting of myself, Mike Key, and Deryle Calhoun to identify policies within the Employee Handbook that need updating or revising.
6. Department Heads have completed FMLA training and are now working on ADA training.
7. Supervisors at the PD and City Yard will start their training in the upcoming weeks.
8. Working with Jaime to provide salary and benefits information for the upcoming budget.
9. Coordinating a Fraud and Prevention workshop for employees on April 4, 2024.
10. Coordinating our next Employee Meeting for April 17, 2024.
11. Working with JSO to provide FY25 911 budget information.
12. Researching different LMS systems that better suit the City regarding safety and compliance training.
13. Working with Ronnie, Local630 Business Manager, to clarify PERC designations within the City.

City Clerk-Catherine Ponson

- Submitted Assignment for Clerk Certificate Program based on assigned reading due (March 17) Grade-100
- Attend and interact in required two-hour Zoom class for Clerk Certificate (March 20) Grade 100
- Fulfill ongoing public records requests and answered questions
- Update 2024 Election information
- Prepare March minutes and Council agenda packets

Finance-Jaime Hernandez

- Continuing working on the FY2021-22 Audit
- Budget for FY2024-2025:

- Discussions on the Capital Improvement Plan process continue. Our goal is to develop (at least) a five-year plan, determine funding needs, and determine borrowing options. Capital Improvement Projects Included Under the following classifications (Equal or greater than \$5K that extend the life of the asset a year or greater):
 1. Infrastructure (other than buildings):
 - Roads, sewers, storm sewers, sidewalks, bridges, curbs, gutter, streetlights, and other utilities the City owns and operates.
 2. Buildings category:
 - Administration buildings, libraries, museums, treatment plants, civic centers, and public swimming pools.
 3. Equipment Acquisition:
 - Fire trucks, police cruisers, generators, and IT equipment.
 4. Land:
 - Parks, gardens, tree nurseries, waterfronts, and industrial park land.
- Started budget discussion for FY 2024-25 with Department Heads.
- Working on a Budget Workshop

Public Works-Deryle Calhoun

(Updates in **bold**)

Potable Water System

- Well, 5 - 100% of design documents have been received.
- Consultant continues to gather data for Consumptive Use Permit application additional information.
- Lead service lines inventory – EPA’s Lead and Copper Rule
 - Will complete field work in July; report to FDEP due October 2024.
 - Over 1,600 customer and CONB service pipes have been inspected, and no lead has been found. About 3,700 total. Approximately 100 each of CONB and customer services are galvanized.

Wastewater System

- Plant 2 has been returned to service and is providing excellent treatment. The combined effluent from both plants is showing much improvement. **Discussions will begin in April with engineers and FDEP regarding treatment plant permitted capacity during the permit renewal process.**
- Redundant 3rd Street Crossing - plans essentially complete, working through FDOT approval. FDOT will require a traffic count; the design engineer will solicit a company to provide one.
- Florida Blvd force main extension to plant – Surveyor has requested existing utility data from staff.

- Kick-off meeting with engineer for stormwater Inflow and Infiltration (I&I) reduction effort.

Stormwater System

- Stormwater model – Hopkins Creek is complete; the rest of the city will complete this FY.
- Project kick-off meeting with COJ and engineer for Hopkins crossing of Florida and Forest.
- 5-year CIP discussion and program to address Strategic Plan.
- Design for various small projects was approved by the Council.

Beach Access

- South Street and Lora Street renovations have been completed.
- Budgeting others in FY25.

Water Tower Repairs and Maintenance

- First week in April for completion (weather and subcontractor delays).
- ROW permits have been received for work to close Florida Blvd while moving cellular equipment back to the water tower.

City Hall Refresh

- **Purchase Order is in process; contract documents completed.**
- **Coating sample tinted to council-approved colors have been applied on a wall for review.**
- **Lighting and landscape plan is ready for installation after exterior work is complete.**

Streets Paving

- **Working to finalize a plan for milling and paving Midway and parts of Myrtle and Kings.**

Senior Center-Leslie Lyne

- Event Stats Fiscal YTD- 3824 Total Attendees to Events
- Total Event Occurrences Current FY- 1813 Events
- Services Delivered thru FEB. 26, 2024- 477 Unduplicated Individuals documented; 50 guests
- Day Trips- March, Tina Turner Broadway; April, St. Augustine Spanish Ship replica; May, Monet Exhibit
- Total 78 New Participants thru 2/26/2024
- Fundraisers- YTD \$19,147.00
- Grant Application to JBWC \$5,000 ask- Submitting by March 15; award anticipated in June 2024
- April 13, 2024, Health & Wellness Event- Anticipate 80-100 participants in cooperation with New Age Hippy and Jacksonville Beach Woman's Club

- Laurie Latham with the Eckstein Foundation will be visiting the facility at a date TBD.
- Friday, 4/5/24, CDBG facility visit at 10:30 am.



Agenda Item # 8A
Ord. No. 2024-03
Spending Threshold

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEM:	8A -Ordinance No. 2024-03, Spending Threshold
SUBMITTED BY:	City Attorney Zachary Roth
DATE:	March 27, 2024
BACKGROUND:	On September 5, 2023, Council adopted Ordinance No. 2023-06, which increased the threshold for City Council approval to \$25,000. This was reflected in Section 2-377 of the Code. Section 2-378 also refers to the spending threshold and needs to be amended.
RECOMMENDATION:	Consider Ordinance No. 2024-03
ATTACHMENT:	Ordinance No. 2024-03

INTRODUCED BY:
MAYOR BROWN



ORDINANCE NO. 2024-03

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2-378, WRITTEN REQUEST TO COUNCIL; APPROVAL; BID INVITATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Neptune Beach desires to protect its citizens by diligently updating the Code of Ordinances of the City of Neptune Beach, and

WHEREAS, in 2016, the threshold for requiring City Council approval for expenditures was reduced from \$25,000 to \$9,999.00,

WHEREAS, since 2016, there have been significant increases in prices occasioned by numerous factors, including COVID-19, inflation, supply chain issues, and other matters;

WHEREAS, the City Council previously adopted Ordinance 2023-06, whereby the rate was adjusted in Section 2-377, but Section 2-378 was inadvertently omitted;

WHEREAS, the City Council has observed that the current threshold makes administration of the City's business unwieldy, requires matters to be delayed, and otherwise impairs the City's ability to perform its functions, and determines that reestablishing the prior threshold is appropriate.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Amending Chapter II, Article VI, Section 2-378 of the City of Neptune Beach Code of Ordinances. Section 2-378 of the Code of Ordinances of the City of Neptune Beach, Florida, is hereby amended as follows:

Section 2-378. Written request to Council; approval; bid invitations.

Before any purchase or contract involving more than twenty-five thousand dollars (\$25,000), ~~nine thousand, nine hundred and ninety-nine dollars (\$9,999.00)~~ excluding automobiles, shall be considered, it shall be necessary for the City Manager to submit a written request for such purchase or contract to the Council. Upon receipt of such request the Council shall determine the needs of the City with reference thereto and if such request is deemed to be in the best interest of the City, the Council shall authorize and direct the City Clerk to prepare bid invitations therefor. Such bid invitations shall be full and explicit in regard to the subject of the contract and shall contain such information as is necessary to sufficiently describe and set forth the specifications so as to be clear, certain, definite and unambiguous.

Section 2. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void,

such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. **Effective Date.** This Ordinance shall become immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown
Vice Mayor Kerry Chin
Councilor Nia Livingston
Councilor Josh Messinger
Councilor Lauren Key

Passed on First Reading this _____ day of _____, 2024.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown
Vice Mayor Kerry Chin
Councilor Nia Livingston
Councilor Josh Messinger
Councilor Lauren Key

Passed on Second and Final Reading this _____ day of _____, 2024.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC, City Clerk

Approved as to form and correctness:

Zachary Roth, City Attorney



**Agenda Item #10A
Resolution No. 2024-02
Solid Waste Fees**

**CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT**

AGENDA ITEM:	10A-Resolution No. 2024-02, Establishing Certain Charges or Fees for Solid Waste Collection and Disposal Services
SUBMITTED BY:	City Manager Richard Pike Chief Financial Officer Jaime Hernandez
DATE:	March 27, 2024
BACKGROUND:	The City of Neptune Beach, Florida, previously entered into a solid waste collection, removal, and disposal contract with Waste Pro. This contract was amended on July 11, 2023, including to revise rates charged by Waste Pro. Ordinance 2001-05 authorizes the City Council to establish by Resolution certain charges or fees for solid waste collection and disposal services.
RECOMMENDATION:	Consider Resolution No. 2024-02
ATTACHMENT:	Resolution No. 2024-02 Schedule of Fees



RESOLUTION NO. 2024-02

A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FL., ESTABLISHING CERTAIN CHARGES OR FEES FOR SOLID WASTE COLLECTION AND DISPOSAL SERVICES

WHEREAS, the City of Neptune Beach, Florida, previously entered into a solid waste collection, removal, and disposal contract with Waste Pro and;

WHEREAS, this contract was amended on July 11, 2023, including to revise rates charged by Waste Pro, and;

WHEREAS, the City Council has adopted Ordinance No. 2001-05 on June 4, 2001, and;

WHEREAS, Ordinance 2001-05 authorizes the City Council to establish by Resolution certain charges or fees for solid waste collection and disposal services and;

WHEREAS, it is the desire of City Council to establish such fees to become effective immediately.

NOW THEREFORE BE IT RESOLVED THAT, the following schedule of fees is established:

<u>SERVICE TYPE</u>	<u>SERVICE LEVEL</u>	<u>RATE</u>
Residential Solid Waste	2 times per week	\$38.08
Recycling	1 time per week	
Yard Waste	1 time per week	
Bulk	1 time per week	
Sludge	As Needed	\$1,047.70
Commercial	As Needed	\$13.56
Roll-off	As Needed	\$1,047.70

ADOPTED by the City Council of the City of Neptune Beach, Florida, on this ____ day of _____, 2024.

Elaine E. Brown, Mayor

ATTEST:

Catherine Ponson, City Clerk

Current Charges

SERVICE TYPE	SERVICE LEVEL	RATE	Cost
Residential Solid Waste	2 times per week	\$22.05	\$15.80
Recycling	1 time per week		
Yard Waste	1 time per week		
Bulk	1 time per week		
Sludge	As needed	\$480.00 Per Haul + Disposal + Fuel Recovery	\$200.00 Per Haul + Disposal Fuel Recovery
Commercial	As needed	7.21 Per Cubic Yard	5.28 Per Cubic Yard
Roll-off	As needed	\$480.00 Per Haul + Disposal + Fuel Recovery	\$200.00 Per Haul + Disposal Fuel Recovery

Proposed Charges

Break Even

SERVICE TYPE	SERVICE LEVEL	RATE	Cost
Residential Solid Waste	2 times per week	\$38.08	32.60 + 5.48 Indirect = \$38.08
Recycling	1 time per week		
Yard Waste	1 time per week		
Bulk	1 time per week		
Sludge	As needed	\$1,047.70 Per Haul & Disposal	\$859.00 Per Haul + \$38.00 Disposal Fee + \$150.70 Indirect Cost = (1,047.70)PCY
Commercial	As needed	\$13.56	\$9.50 + \$.78342 Fee + \$3.28 Indirect= \$13.56 PCY
Roll-off	As needed	\$1,047.70 Per Haul & Disposal	\$859.00 Per Haul + \$38.00 Disposal Fee + 150.70 = (1,047.70)PCY



Agenda Item #10B Force Main Replacement

CITY OF NEPTUNE BEACH CITY COUNCIL MEETING STAFF REPORT

AGENDA ITEM:	10B -Lightly Lane Pump Station Wastewater Force Main Replacement
SUBMITTED BY:	Deryle Calhoun, P.E. Public Works Director
DATE:	March 26, 2024
BACKGROUND:	The Lightly Lane Pump Station wastewater force main experienced a failure thereby causing a sanitary sewer overflow (SSO). CONB crews patched the pipe, returned it to service and mitigated the SSO. The existing 4" diameter pipe is extremely old, brittle and crosses under Penman Road. An existing St. Johns County contract with T.B. Landmark has been reviewed and approved by CONB's city attorney for use as a piggyback. T.B. Landmark has provided a quote of \$34,500.00 for replacement of approximately 200 feet of pipe.
BUDGET:	Budget report on 3/26/24 indicates an FY24 budget for Sewer Services, Improvements – Not Buildings (401-4335-535-60-63) of \$785,521.00 with a Budget Available of \$530,867.69.
RECOMMENDATION:	Award to T.B. Landmark in the amount of \$34,500.00.
ATTACHMENT:	• Quote from T.B. Landmark • T.B. Landmark piggyback contract with St. Johns County



Proposal
Date
3/27/2024

To: Contractors
Attn: Estimating
Tele:
Fax:

Project: Lighty Lane FM Replacement
Neptune Beach, FL

Item	Description	Qty	Unit	Unit Price	Amount
	Mobilize	1	LS	\$1,000.00	\$1,000.00
	FM 4" Fusion and HDD +/-200'	200	LF	\$42.00	\$8,400.00
	Wet Tap	1	LS	\$21,500.00	\$21,500.00
	Sod	1	LS	\$3,600.00	\$3,600.00
					\$34,500.00

Conditions:

TB Landmark to supply: Labor, Material, Testing, Equipment and Fusion of pipe and adapters, Bore Profiles, and drilling spoils removal. Other exclusions include any permits and/or notifications of regulatory agencies which may be required must be obtained by others prior to commencement of work.

Exclusions:

Surveys, soil testing, , asphalt removal & or concrete removal or any possible soft digs in payment. Price does not include layout and as-builts.

NOTE: Work shall commence upon receipt of completed project information documents. And if a Bond is Required then 1.5% will be added to the Total.

This proposal is valid for Thirty (30) days from date of issue. Thank you for the opportunity to bid this project and should you have any questions, please do not hesitate to contact me.

T B Landmark Construction, Inc.

Accepted:

Joshua Bennett
Project Manager
Office (904) 503-5711
Fax: (904) 751-4125
jbennett@tbleadmark.com

Company Name

Name/Title

Date



MASTER CONSTRUCTION AGREEMENT
BETWEEN
ST. JOHNS COUNTY AND CONTRACTOR

Master Construction Agreement No: 23-MCA-TBL-17941

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19th April

This Master Construction Agreement ("Contract") is made this 19th day of April, 2023 (the "Effective Date") by and between **ST. JOHNS COUNTY** ("County"), a political subdivision of the State of Florida, whose principal offices are located at 500 San Sebastian View, St. Augustine, FL 32084; and **T B LANDMARK CONSTRUCTION, INC.** ("Contractor"), a company authorized to do business in the State of Florida, with its principal offices located at: 11220 New Berlin Rd, Jacksonville, FL 3226, Phone: (904) 591-5801, and E-mail: madams@tblandmark.com, for **RFQ: 23-21; UTILITY REHABILITATION/CONSTRUCTION SERVICES** hereinafter referred to as the "Project". When referenced together, the County and Contractor shall collectively be referred to as the Parties.

In consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE I CONTRACT DOCUMENTS

1.1 The Contract Documents

1.1.1 The Contract Documents are the collective documents which form the Contract, are hereby incorporated herein, and shall govern completion of the Work. The Contract Documents hereby include the following:

- a) Fully Executed Amendments to this Agreement;
- b) Fully Executed Task Orders;
 - a. Notice to Proceed;
 - b. Public Construction Bond, as applicable;
 - c. Field Orders signed by County's Project Manager;
- c) This Master Construction Agreement and all Exhibits and/or Attachments hereto:
 - i. Exhibit A – APPENDIX II TO PART 200, TITLE 2 DATED 3/29/2023
- d) Insurance furnished by the Contractor
- e) RFQ Documents and Bid Forms with all addenda thereto for RFQ No. 23-21

1.1.2 Documents not enumerated above are not Contract Documents and do not form part of this Contract. No terms, conditions, limitations or exclusions in Contractor's submitted Bid or invoices shall be binding upon County or become part of the Contract Documents. In the event of discrepancies, the Contract Documents shall be interpreted in the order of precedence, as listed above in Section 1.1.1. Additionally, Specifications shall govern over Drawings, electronic documents shall govern over hard-copy documents, numerical dimensions shall govern over dimensions acquired by scaling, and fully executed documents shall govern over unsigned drafts.

1.1.3 Shop Drawings, Product Data, Samples and similar submittals (hereafter "Submittals") are not Contract Documents. The County will review and take action upon Contractor's submitted Submittals but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities, nor for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of Contractor.

1.1.4 All Submittals (whether in hard or soft copy) prepared by or on behalf of Contractor in the course of the Work shall be the exclusive property of the County. Ownership of any proprietary information or intellectual property contained in such Submittals shall remain with Contractor. Contractor grants the County a perpetual, royalty-free, license to use, copy and allow third parties to use such Submittals and all proprietary information contained in them as may be required for the County's internal business purposes including without limitation tendering, installing, operating, repairing, maintaining, modifying, reconstructing, replacing and/or upgrading the Work. Such license shall be capable of transfer and/or sub-licensing in whole or part without notice to or further consent of Contractor. Contractor shall not be held liable for reuse of Contractor's Submittals by the County for purposes other than originally intended as stated in the Contract Documents.

1.1.5 Contractor is solely responsible for requesting instructions, interpretations, or clarifications to the Contract Documents and is solely liable for any costs and/or expenses arising from its failure to do so. Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Submittals and shall give immediate written notice to the Project Manager and the County of any inconsistency, ambiguity, error or omission which Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the

express or implied approval by the County or the Project Manager of the Contract Documents or Submittals shall not relieve any such approval by evidence of Contractor's compliance with the Contract. The County has requested the Project Manager to provide to Contractor documents for the Project, including the Drawings and Specifications for the Project, which are accurate, adequate, consistent, coordinated, and sufficient for construction. HOWEVER, THE COUNTY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO CONTRACTOR CONCERNING SUCH DOCUMENTS. By the execution hereof, Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that Contractor has not, does not, and shall not rely upon any representation or warranties by the County concerning such documents as no such representation or warranties have been or are hereby made.

1.1.6 Any dispute relating to the Contract Documents, shall be resolved through good faith efforts upon the part of the Contractor and the County. Should Contractor have any questions concerning interpretation or clarification of the Contract Documents, Contractor shall submit to the County's Project Manager, in writing, a request for clarification that clearly and concisely sets forth the issues for which such request is sought. Such request shall be submitted to the Project Manager by the Contractor within three (3) business days of receipt of the Contract Documents, or the direction, interpretation, or clarification thereof provided by the County. The County's Project Manager shall render a determination concerning such interpretation or clarification, which shall be considered final and conclusive unless Contractor files a written protest within fourteen (14) calendar days of receipt thereof. Contractor's protest shall be submitted to the Assistant Director of Purchasing & Contracts, and shall state clearly and in detail the basis thereof. Failure by the Contractor to protest the County Project Manager's rendered determination within the timeframe above, shall constitute a waiver by the Contractor of all its rights to further protest, judicial, or otherwise. The Assistant Director of Purchasing & Contracts shall consider the Contractor's protest and shall render a decision thereon, in writing, within ten (10) calendar days. If Contractor does not agree with the determination of the Assistant Director of Purchasing & Contracts, the Contractor shall deliver written notice to that effect to the County within three (3) business days of receipt of the determination by the Assistant Director of Purchasing & Contracts.

1.1.7 Unless otherwise directed in writing, Contractor shall at all times carry on with the Work and maintain its progress schedule in accordance with the requirements of the Contract and the determination of the County, pending resolution of any Contract Document dispute. In no event will a dispute, the filing of a protest, claim or appeal, or the resolution or litigation thereof, relieve Contractor from its obligation to timely perform the Work required by the Contract and to maintain the progress schedule in accordance with the Contract.

1.1.8 Any and all Contract Documents shall remain the property of the County. Contractor is granted a limited license to use and reproduce applicable portions of the Contract Documents issued by the County appropriate to, and for use in, execution of the Work. Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Work; provided, however, that in no event shall Contractor and/or its subcontractors use, or permit to be used, any or all of such Contract Documents on other projects without the specific written consent of the County.

1.2 Definitions

Terms used within this Agreement shall have the meaning as set forth in the St. Johns County Purchasing Policy, or as provided herein. Terms defined herein for specific application to this Contract shall govern over definition of terms provided in the St. Johns County Purchasing Policy.

1.2.1 Acceptance of the Work: Written acceptance of the Work by the County and the County's Project Manager.

1.2.2 Applicable Laws: All local, state, and federal laws, statutes, codes, ordinances, rules and regulations in effect at the time Work and Warranty Work is performed under this Contract.

1.2.3 Claim: Any claim, liability, loss, demand, demand for arbitration, damage, lien, cause of action of any kind, obligation, responsibility, cost, expense, royalty, fee, assessment, penalty, fine, judgment, interest or award, pending or threatened, whether arising by law, contract, tort, voluntary settlement or otherwise.

1.2.4 Contract Price: The sum set forth in Article IV of this Contract shall constitute as the cost ceiling for all authorized Task Orders, as may be amended by Contract Amendment. Unless otherwise approved by the County in writing, the Contract Price includes all taxes, including without limitation, income and withholding tax of any kind and sales tax imposed

by the state or by the County and paid by Contractor or any Subcontractors with respect to sales of goods purchased for the performance of the Work.

1.2.5 Contract Time: The number of calendar days between commencement and completion of the Work, established in each Task Order executed by the County, as may be amended by Change Order.

1.2.6 Design: Those design services related to the Project prepared by the County or the County's consultants or other representatives, which shall, as may be required, be included in Contractor's Work.

1.2.7 Drawings: The graphic and pictorial portions of the Contract Documents, illustrating the design, location and dimensions of the Work, generally including but not limited to, plans, elevations, sections, details, general notes, schedules and diagrams.

1.2.8 Final Completion: Completion of all Work in compliance with a Task Order and the Contract Documents, as determined by the County, and issuance of a Final Certificate for Payment.

1.2.9 Force Majeure Events: Those events that are not reasonably foreseeable and are beyond the control of both the Contractor and the County, including acts of war, terrorist attacks, labor strikes, floods, earthquakes, epidemics, pandemics, riots, adverse weather conditions, and other acts of God.

1.2.10 Jobsite: Any physical location or other place on, under, in, at or through which any aspect of the Work is performed.

1.2.11 Lump Sum: Compensation method of payment where the County agrees to pay the Contractor a fixed price for the scope of work.

1.2.12 Notice to Proceed: A written notice given by the County to Contractor fixing the date on which the Contract Time will commence to run and identifying the corresponding Substantial Completion and Final Completion dates.

1.2.13 Not-to-Exceed: Compensation method of payment where the County agrees to pay the Contractor for the actual hours worked to perform the scope of work, up to a maximum amount.

1.2.14 Product Data: Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by Contractor to illustrate materials or equipment for some portion of the Work.

1.2.15 Project: The total undertaking to be accomplished for County by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

1.2.16 Project Manager: The County's representative assigned to the Project, or any part thereof, to observe the Work and perform certain other obligations of the County as defined in Article VI below.

1.2.17 Shop Drawings: Drawings, diagrams, schedules, and other data specially issued for the Work by Contractor or a Subcontractor, Sub-subcontractor, and material suppliers to illustrate some portion of the Work.

1.2.18 Specifications: That portion of the Contract Documents consisting of the written requirements for materials, standards, equipment, construction systems, and standards of workmanship for the Work, and performance of related services.

1.2.19 Subcontractor: A Subcontractor is an individual, partnership, corporation, association, joint-venture or any combination thereof, which has a direct or indirect contract with Contractor to perform a portion of the Work.

1.2.20 Substantial Completion: The stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract so that the County can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose.

1.2.21 Work: Construction and services required by the Contract Documents, including all labor, materials, equipment

and services as well as other deliverables provided, or to be provided, by Contractor to fulfill Contractor's obligations under this Contract. The Work may constitute the whole or part of the Project.

1.2.22 **Task Order:** A separate written order to Contractor executed by the County, issued after execution of this Contract, authorizing Contractor to commence construction Work. Task Orders shall document the scope of work, price, payment schedule, performance schedule, and deliverables to be completed under the terms of this Contract. The County will compensate Contractor through a lump sum and/or not-to-exceed Task Order.

1.3 Ownership of Contract Documents

Any and all Contract Documents shall remain the property of the County. Contractor is granted a limited license to use and reproduce applicable portions of the Contract Documents issued by the County appropriate to, and for use in, execution of the Work. Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Work; provided, however, that in no event shall Contractor and/or Contractor's subcontractors use, or permit to be used, any or all of such Contract Documents on other projects without the specific written consent of the County.

ARTICLE II THE WORK

2.1 Project Description

The Contractor will perform specified Utility Rehabilitation/Construction Services on an as needed basis. The following is a general description of the work that will be performed within the awarded work categories:

2.1.1 Work Category #2 Water, Wastewater, and Reclaimed Water Pipelines

Project services shall include but are not be limited to furnishing all labor, materials, equipment, rentals, and subcontractors necessary for the installation or relocation of SJCUD water, wastewater, and reclaimed water pressure mains and wastewater collection mains via open cut including valves, air release valves, fittings, manholes, gravity sewer pipe with and without lateral connections, and ancillary equipment such as locate wires and boxes.

2.1.2 Work Category # 4 Horizontal Directional Drilling (HDD) and Connections

Project services shall include but are not limited to furnishing all labor, materials, equipment, rentals, and subcontractors necessary for the fusing and installation of SJCUD water, wastewater, and reclaimed water pressure mains in locations where the open cut method is not possible or is impractical. Contractor is required to manage and dispose of their drill mud in accordance with all applicable local, state and federal environmental laws. Contractor must also install pipe using the open cut method to install valves, air release valves, fittings, restrainers, make connections as needed and identified on drawings, and ancillary equipment such as locate wires and boxes.

The exact nature and magnitude of the services to be performed shall be defined at the time that work is awarded by Task Order. Work shall be authorized on an as-needed basis through executed Task Orders, as determined by the County in accordance with the RFQ.

2.2 Labor and Materials

2.2.1 Contractor shall perform all of the Work required, implied, or reasonably inferable from, the Contract Documents. Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, supervision, materials, supplies, tools, transportation, storage, construction equipment and machinery, utilities (including but not limited to water, heat, fuel, light, and cooling), and all other services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Materials, articles and equipment furnished by Contractor for incorporation into the Work shall be new unless otherwise specified in the Contract Documents.

2.2.2 Contractor shall use only competent and skilled personnel to perform and supervise the Work and shall remove from such Work any person determined to be unfit, unqualified, or acting in violation of any obligation of Contractor under this Contract. In the event a person is removed from the Work, Contractor shall promptly replace such individual with another who is fully competent and skilled to perform the Work at Contractor's sole expense.

2.2.3 Except as otherwise required for the safety or protection of persons or the Work or property at the Jobsite or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Jobsite shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with the County's prior written consent, which will not be unreasonably withheld.

2.2.4 In addition, when the Work requires by Florida Statute, Contractor shall use only licensed, registered and/or certified personnel to perform the Work. Such Statutes may include, but are not limited to, Chapter 489 (Regulation of Professions and Occupations Contracting) and Chapter 633, Part III (Fire Protection and Suppression) of the Florida Statutes.

2.3 Project Sequencing/Arrangement

Contractor shall not be limited in the sequencing or staging of the Work except to the extent that the Contract Documents impose limitations. Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories); nor the organization/arrangement of the Drawings or Design, shall control Contractor in dividing the Work or in establishing the extent or scope of Work to be performed by Subcontractors.

2.4 Payment of Costs

Except as otherwise expressly provided, Contractor shall pay directly all costs and expenses of the Work of any kind or nature whatsoever including but not limited to all costs of permitting, regulatory compliance, obtaining and maintaining required bonds and insurance pursuant to Article 12, payments due to Subcontractors and suppliers, legal, financial, sales, use and similar taxes on materials and equipment, transportation and storage of materials and equipment, preparation of schedules, budgets and reports and all other costs required to achieve Substantial Completion and Final Completion in accordance with the Contract Documents.

2.5 Cleaning the Jobsite

Contractor shall keep the Jobsite neat, secure and orderly during performance of the Work and shall clean up and remove all waste, rubbish and construction debris from the Jobsite as they accumulate. Upon Final Completion of the Work, Contractor shall remove all waste, rubbish and construction debris from and about the Jobsite as well as all tools, appliances, construction equipment, temporary utilities, temporary construction and machinery and surplus materials. Contractor shall restore to original condition all property not designated for alteration by the Contract Documents.

2.6 Reporting Requirements

2.6.1 Daily Record. The Contractor shall keep a daily record of the Work at the Jobsite. At a minimum the Daily Record shall include weather conditions; number of workers (by trade) on the Jobsite, and material/equipment deliveries. Daily Records shall be submitted by close of business the following day.

2.6.2 Monthly Report. The Contractor shall prepare and submit a written monthly report by the tenth day of each calendar month. Monthly reports shall at a minimum describe Work completed in the prior month, planned Work for the current month, detailed explanations of any activity that is behind schedule, corrective actions taken to recover schedule, safety and environmental incidents and corrective actions taken.

2.7 Title and Risk of Loss

Title to the structures, improvements, fixtures, machinery, equipment and materials constituting the Work or the Project shall pass to the County no later than time of payment. Such transferred title shall in each case be good, free and clear of any and all security interests, liens or other encumbrances. Contractor shall, however, bear all risk of loss concerning such structures, improvements, fixtures, machinery, equipment and materials until Substantial Completion, regardless of the extent to which the loss was insured or the availability of insurance proceeds. The transfer of title does not imply acceptance by the County nor does it relieve Contractor from the responsibility for any loss or damage to items.

2.8 Access to Work

The County and the Project Manager, shall at all reasonable times have full access to all parts and locations of the Jobsite(s) from commencement of the Work through Final Completion. Contractor shall take whatever steps necessary to provide such access when requested.

2.9 Utilities

Contractor shall, at its expense, make all arrangements necessary to secure the availability of and maintain all temporary utilities required to construct and operate Contractor's Work as required by the Contract Documents. If the scope of Work requires, Contractor shall arrange for activating permanent power, water, and sanitary service to the Project prior to Substantial Completion. This includes legal sketches and descriptions for easement as well as record drawings requirements required by utility companies. The County will assume permanent utility costs at Substantial Completion.

2.10 Existing Utility Lines

2.10.1 When existing Utility Lines (e.g. conduits, pipelines, transmission mains and utility equipment and appurtenances) shown on the Drawings are to be removed or relocated, Contractor shall notify the Project Manager in ample time (but in no event less than five (5) business days) for taking measures for prevention of the interruption of any required services prior to the beginning of operations. Locations of existing utility lines shown on the Drawings are based on the best information available to the Project Manager, but shall not be considered exact either as to location or number of such lines.

2.10.2 Contractor shall protect Utility Lines constructed under terms of the Contract and those discovered or shown on Drawings to be existing. In the event that Contractor damages any existing Utility Lines, shown or not shown on the Drawings, Contractor shall immediately notify the Project Manager. Damage occurring to existing Utility Lines due to Contractor's failure to exercise reasonable care shall be repaired or replaced at no cost to the County.

2.11 Taxes

2.11.1 Contractor shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any Work under this Contract. The Contract Price and any agreed variations thereof shall include all applicable taxes imposed by law. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds the County harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions. The indemnity provision of this section shall survive the expiration or earlier termination of this Contract. Contractor may not use County's tax-exempt status unless specifically authorized in writing in advance.

2.11.2 Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Contractor is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Contractor shall provide County a copy of Contractor's current Form W-8ECI prior to issuance of any invoice or payment under this Contract. If Contractor fails to timely provide a completed, current Form W-8ECI, County will withhold all backup withholding taxes from the amounts due to the Contractor, remit such sums to the IRS, and pay Contractor only the remainder. County makes no representation regarding the tax treatment of amounts due to Contractor, and Contractor releases and holds the County harmless from any claims or damages in any way relating to or arising from any tax withholding by County pursuant to this section.

2.12 Publicity and Advertising

2.12.1 Contractor shall not make any announcement or release any information or publish any photographs concerning this Contract, the Work or the Project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from the County.

2.12.2 Use of the County Seal or County Logo is strictly prohibited. In accordance with, County Ordinance 92-2 and County Administrative Policy 101.3, Contractor may not manufacture, use, display, or otherwise use any facsimile or reproduction of the County Seal or Logo without express written approval of the Board of County Commissioners of St. Johns County, Florida.

2.13 County Furnished Items

2.13.1 The County shall furnish to Contractor, at the time of executing this Contract, written and tangible material concerning conditions below ground at the Jobsite. Such written and tangible material is furnished to Contractor only in order to make disclosure of such material and for no other purpose. By furnishing such material, the County does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly, or at all, and shall have no liability therefore. The County shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project's Jobsite.

2.13.2 Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the performance of the Work. Excluding such permits, fees and licenses, the County shall obtain all approvals, easements, and the like required for construction.

2.13.3 Subject to Paragraph 1.6 above, the County shall furnish Contractor electronic copies of the Contract Documents for execution of the Work. Hard copies of the Contract Documents shall be the responsibility of Contractor.

ARTICLE III CONTRACT TIME

3.1 Contract Term

3.1.1 Initial Contract Term, unless otherwise terminated, shall continue in full force and effect through December 31, 2028. An additional extension may be granted to allow time for procuring a new solicitation as determined by the County.

3.2 Contract Time

3.2.1 Contractor shall commence the Work and shall substantially and finally complete all Work as described in each individual Task Order. If the Work authorized under an individual Task Order is scheduled to be completed after the expiration of this Agreement, Contractor agrees to continue to complete such Work upon the same terms and conditions as contained in this Agreement until the project is completed. Contractor shall be compensated for such Work in accordance with the individual Task Order.

3.2.2 Contractor, prior to commencing the Work, shall submit to the Project Manager for his/her information, Contractor's schedule for completing the Task Order Work. Contractor's schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing), and relate to the entire Work required to be performed under the applicable Task Order. By way of illustration and not exclusion, Contractor's schedule shall: (1) contain sufficient activities to assure adequate planning for the Work, (2) include approved changes to the Work that impact the schedule, (3) include a clearly defined critical path, and (4) include a unique description for each activity. In the event any schedule revision impacts the completion time as provided in Paragraph 3.2.1 above, Contractor shall submit a request for additional time, in accordance with procedures as provided in Paragraph 9.2 below. Failure by Contractor to strictly comply with the provisions of this Paragraph shall constitute a material breach of this Contract.

3.3 Time is of the Essence

Time is of the essence regarding each and every obligation of Contractor under this Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

3.4 Substantial Completion

3.4.1 When Contractor considers the Work is substantially complete, Contractor shall notify the Project Manager in writing and submit a comprehensive list of incomplete items to be completed or corrected prior to Final Completion. The Project Manager will promptly inspect the Work following receipt of Contractor's notice and attached list of incomplete items. The Project Manager may refuse to inspect the Work if the Work is obviously not substantially complete or when Contractor's list is not complete.

3.4.2 To the extent applicable to Contractor's specific Work scope, the following items shall be completed prior to Contractor's request for a Substantial Completion inspection.

- a) All general construction completed.
- b) Project Jobsite cleared of Contractor's excess equipment, storage shacks, trailers, and/or building supplies.
- c) Project record Drawings and Specifications submitted in accordance with the Contract Documents.
- d) Preliminary as-built drawings submitted.
- e) All applicable permits required for use provided.
- g) All operations and maintenance manuals, training literature, and software for all equipment provided.
- h) Manufacturers' certifications and warranties provided.
- i) All required spare parts and special tools provided.

3.4.3 If Substantial Completion is not obtained at the inspection called by Contractor, for reasons which are the fault of Contractor, the cost of any subsequent inspections requested by Contractor for the purpose of determining Substantial Completion shall be the responsibility of Contractor and shall be assessed against the final payment application.

3.4.4 Once Substantial Completion is achieved and within the time allowed by F.S. 218.70 et seq, the Project Manager will prepare the punch list required by the Local Government Prompt Payment Act. Unless otherwise mutually agreed, the punch list items shall be corrected by Contractor within thirty (30) calendar days and prior to any request for Final Inspection and Acceptance. The failure to include any corrective Work or pending items not yet completed on the list does not alter the responsibility of Contractor to complete the Work pursuant to this Contract.

3.5 Final Inspection

When all the Work under a Task Order is finally complete and Contractor is ready for a final inspection, Contractor shall

provide written notice to the County and the Project Manager. The Project Manager, with Contractor’s cooperation, will conduct such reviews, inspections and tests as may be reasonably required to satisfy the County that the Work, or identified portion of the Work, conforms to all requirements of the Contract Documents. If the Project Manager determines that the Work or any part of the Work is not complete or fails to conform to the Contract Document requirements, Contractor will be notified in writing of deficiencies. After correcting all deficiencies Contractor shall again initiate the procedures for final inspection as set forth above. The Project Manager will issue a Final Certificate for Payment following satisfactory inspection of the Task Order Work provided Contractor has delivered to the Project Manager the final corrected as-built Drawings and the final bill of materials, if any.

3.6 Liquidated Damages

3.6.1 Execution of this Contract by Contractor shall constitute Contractor’s acknowledgment that the County will sustain damages in the amount identified in Paragraph 3.6.2 below for each and every calendar day during which completion of the Work required is delayed beyond Final Completion. Contractor and County agree that such damages shall be presumed to be the damages actually sustained by the County as defined below, and that because of the nature of the Project, it would be impracticable or impossible to determine or extremely difficult to fix the actual damages.

3.6.2 If Contractor fails to achieve Substantial Completion or Final Completion of the Work by the dates identified in the applicable Task Order, the County shall be entitled to withhold from any amounts otherwise due Contractor or to be paid as a debt due, the per day sum set forth in such Task Order (if any), for each and every calendar day of unexcused delay. The parties agree that such Liquidated Damages are not a penalty but rather a genuine pre-estimate of monetary damages sustained by the County for loss of revenue and/or increased project administration expenses related to the Task Order or this Contract because Contractor failed to perform and complete Work within the time fixed for completion or additional time granted pursuant to the provisions hereof. The assessment of Liquidated Damages is without prejudice to the County’s rights of termination and Contractor’s obligation to complete the Work.

Original Task Order Amount	Daily Charge Per Calendar Day
\$50,000 and under.....	\$956
Over \$50,000 but less than \$250,000.....	\$964
\$250,000 but less than \$500,000.....	\$1,241
\$500,000 but less than \$2,500,000.....	\$1,665
\$2,500,000 but less than \$5,000,000.....	\$2,712
\$5,000,000 but less than \$10,000,000.....	\$3,447
\$10,000,000 but less than \$15,000,000.....	\$4,866
\$15,000,000 but less than \$20,000,000.....	\$5,818
\$20,000,000 and over.....	\$9,198 (plus 0.00005 of any amounts over \$20 million (Round to nearest whole dollar))

3.6.3 Should Contractor fall behind the approved Work schedule; the County reserves the right to deduct Liquidated Damages based on an estimated period of late completion. The County need not wait until completion of Work to withhold Liquidated Damages from Contractor’s progress payments.

3.7 Disclaimer of Consequential Damages

The County shall not be liable to Contractor, whether in contract, tort, warranty or under any statute or on any other basis, for any consequential, incidental, indirect, special, punitive or exemplary damages suffered or incurred by Contractor in connection with this Contract, even if the County has been advised of the possibility of such damages. Consequential damages shall include, by way of example and without limitation, opportunity costs, loss of use of facilities or other assets, consequential damage claims of subcontractors, lost profits, lost savings, lost business, lost bonding capacity, lost financing, lost reputation or lost goodwill.

ARTICLE IV CONTRACT PRICE AND PAYMENT

4.1 Contract Price

4.1.1 This is an indefinite-quantity Contract for construction services. The County makes no representations or guarantees as to the quantity or value of the Work to be performed. Performance of construction services shall be made only as authorized by Task Order issued by the County. The maximum amount set forth in each individual Task Order (“Contract Price”) shall not exceed **five hundred thousand dollars and zero cents (\$500,000.00)**, without prior written authorization

by the Board of County Commissioners. Payment shall be made on the basis of the actual amount of Work satisfactorily performed in accordance with each individual Task Order and the terms and conditions of this Contract.

4.1.2 The Cost Ceiling for this contract shall not exceed **one million five hundred thousand dollars and zero cents (\$1,500,000.00)**. Changes to the Cost Ceiling will be addressed on an as needed basis as determined by the County through an amendment.

4.2 Pricing Proposal

4.2.1 Pricing Proposals will be requested on an as needed basis in accordance with the RFQ requirements. Prior to the commencement of Work, Contractor shall submit to the County and to the Project Manager a Pricing Proposal allocating the Contract Price to the various portions of the Work. Contractor's Pricing Proposal shall be prepared in such form, with such detail, and supported by such data as the Project Manager or the County may require to substantiate its accuracy. Contractor shall not imbalance the Pricing Proposal nor artificially inflate any element thereof. The violation of this provision by Contractor shall constitute a material breach of this Contract.

4.2.2 Upon approval by the County the Pricing Proposals shall be used as a basis for Contractor's Application for Payment. The total of all payments in the Pricing Proposal must at all times be equal to the Contract Price. No progress payment shall be made to Contractor until an acceptable Pricing Proposal is submitted.

4.2.3 General conditions costs may be considered as a line item for the following items (break down required) (collectively the following shall be known as the General Conditions Costs):

- a) Contractor's field office personnel (full-time on-site)
- b) Construction office and storage facilities
- c) Utilities required to sustain field office and sanitary facilities
- d) Electrical power and water for construction
- e) Bonds and Insurance

4.2.4 Pricing Proposal shall include at a minimum:

- a) A breakout of the scope of services required to satisfactorily complete the project, as determined by the County;
- b) A breakout of the costs required to complete the project, including any and all materials, equipment rental, labor, permitting fees, all sub-contractors' proposals associated with the project, or other costs associated with performing the work; and
- c) A proposed schedule for completing the required work.
- d) The pricing proposal must be on company letterhead, dated, and signed by an authorized representative of the Contractor. Proposals shall include the following contact information: phone number, physical address and email address for Task Order communication with County staff.

4.2.5 Markup for costs of materials, subcontractors, rentals, and contract performance payment bonds (when applicable) shall not exceed the following limits:

- a) Materials cost shall not exceed actual incurred cost plus maximum 15% markup.
- b) Subcontractors costs shall not exceed actual incurred cost plus maximum 5% markup.
- c) Rental costs shall not exceed actual incurred cost plus maximum 5% markup.
- d) Contract Performance and Payment Bond Cost shall not Exceed 2% of the total project cost. No markup is authorized for Performance and/or Payment Bonds.

4.2.6 Progress payments for general conditions costs will be based on the percentage of Work completed to date, except bonds and insurance which may be requested in full. Separate payments for Shop Drawings and deposits for materials will not be allowed.

4.3 Measurement and Payment

4.3.1 Contractor shall make all surveys necessary for determining all quantities of Work to be paid under this Contract. Copies of field notes, computations and other records made by Contractor for the purpose of determining quantities shall be furnished to the Project Manager upon request. Contractor shall notify the Project Manager prior to the time such surveys are made. The Project Manager may but shall have no obligation to witness and verify such surveys. Measurements and

computations shall be made by such methods as the County may consider appropriate for the class of work measured. The dividing limits, lines or planes between adjacent items or classes of excavation, concrete, or other types of Work where not definitely indicated on the Drawings or in the Specifications shall be as determined by the County.

4.3.2 No payments of invoices (or portions thereof) shall, at any time, constitute approval or acceptance of the Work under this Contract, nor be a waiver by the County of any of the terms contained herein.

4.4 Progress Payments

4.4.1 Prior to Contractor's submittal of the initial Application for Payment, Contractor shall have delivered the following documents. The County will not make any payment to Contractor until Contractor has complied with these requirements.

- a) Pricing Proposal
- b) Project Schedule
- c) Certified copy of recorded bond
- d) Insurance Certificates

4.4.2 On or before the tenth (10th) day of each calendar month, Contractor shall submit an Application for Payment to the Project Manager in such form and manner, and with such supporting data and content, as the Project Manager may require. Such Application for Payment shall be based on the amount of Work done or completed during the payment period which is defined as the first day of the preceding calendar month through the last day of the preceding calendar month. The Project Manager will review the Application for Payment to determine whether the quantity and quality of the Work is as represented in the Application for Payment and thereafter confirm to the County the amount properly owing to Contractor. Upon receipt by the County of the Project Manager's recommendation for payment, payments will be made in accordance with the Local Government Prompt Payment Act (Sections 218.70-218.80 of the Florida Statutes) less such amounts, if any, otherwise owing by Contractor to the County or which the County shall have the right to withhold. Any Application for Payment determined by the County not to be suitable for payment shall be modified and processed in accordance with the County's assessment.

4.4.3 In the event any dispute with respect to any payment or Application for Payment cannot be resolved between Contractor and the County's Project staff, Contractor may demand in writing a meeting with and review by the County's Assistant Director of Purchasing and Contracts. Such meeting and review shall occur within ten (10) business days of receipt by the County of Contractor's written demand. The Assistant Director of Purchasing and Contracts shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the County's final decision for the purpose of the Local Government Prompt Payment Act.

4.4.4 The County may withhold from each progress payment made to Contractor an amount not to exceed five (5%) percent of payment as retainage until final acceptance of all Work in accordance with Section 255.078 of the Florida Statutes. Any interest earned on retainage shall accrue to the benefit of the County. The County shall make prompt payment to Contractor, unless in accordance with Section 255.078(6) of the Florida Statutes, such funds are the subject of a good faith dispute, claim or demand by the County or Contractor.

4.4.5 Contractor warrants and guarantees that title to Work, materials, and equipment covered in any Application for Payment, whether incorporated in the Project or not, shall pass to the County no later than the time of payment and shall be free and clear of liens, claims, security interests or other encumbrances.

4.4.6 Projects with a duration of less than sixty (60) days for completion will be paid upon project completion and acceptance by the County.

4.5 Application for Payment

4.5.1 Contractor may make Application for Payment, at intervals of not more than once a month for Work satisfactorily completed during the Project. Contractor shall submit with each Application for Payment an updated Project schedule acceptable to the Project Manager. Each Application for Payment shall clearly include:

- a) Contract Number;
- b) A unique Application for Payment number;
- c) Contractor's legal name and address;

- d) Taxpayer identification number (Contractor's federal employer identification number);
- e) Brief description of the completed Work, in accordance with Contractor's Pricing Proposal;
- f) Original Contract Price including approved Change Order amounts; and,
- g) Preferred remittance address, if different from the mailing address.

The County may require any other information from Contractor that the County deems necessary to verify Contractor's Application for Payment. No later than ten (10) days after execution of this Contract or Notice to Proceed has been issued, the County will identify in a separate written notice the submittal requirements for Contractor's payment requests.

4.5.2 Delivered, stored or stockpiled materials may be included in an Application for Payment provided Contractor meets the following conditions:

- a) Materials are suitably and securely stored at the Jobsite or a bonded warehouse (acceptable to the County);
- b) An applicable purchase order or supplier's invoice is provided listing the materials in detail, cost of materials and identifying this specific Project by name; and
- c) The material is insured against loss or damage (from whatever source) or disappearance prior to incorporation into the Work.

Payments for such materials shall be at the sole discretion of the Project Manager, shall be based only upon the actual cost of the materials to Contractor, and shall not include any overhead or profit to Contractor.

4.5.3 Each Application for Payment shall be signed by Contractor and shall constitute Contractor's representation that the Work has progressed to the level for which payment is requested, that the Work has been properly installed or performed in full accordance with this Contract, and that Contractor knows of no reason why payment should not be made as requested. Contractor's final Application for Payment shall also be accompanied by a full and complete release and/or waiver of all liens complying with Section 713.20 of the Florida Statutes.

4.5.4 Contractor must remit undisputed payment due for labor, services, or materials furnished by Subcontractors and suppliers hired by Contractor, within ten (10) days after receipt of each progress payment from the County pursuant to Section 218.735 of the Florida Statutes. If necessary for the protection of the County, the County shall have the right, at its sole option, to make payment by joint check or by direct check to Contractor's Subcontractors or suppliers without advance notice to or consent of Contractor. If joint checks are issued following claims by Contractor's Subcontractors or suppliers, the County shall be entitled to an administrative fee of \$50.00 per check for the expense of processing each joint check. Any amounts paid directly to a Subcontractor or supplier will be deducted from payments made to, or amounts due or that may become due to, Contractor. The issuance of a joint check shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the County to repeat the procedure in the future.

4.5.5 No progress payment, nor any use or occupancy of the Project by the County, shall be interpreted to constitute approval or acceptance of any Work under this Contract, nor be considered a waiver by Contractor of any of the terms of this Contract.

4.5.6 The County's performance and obligation to pay under this Contract is contingent upon an appropriation of lawfully available funds by the Board of County Commissioners. The County shall promptly notify Contractor if the necessary appropriation is not made.

4.6 Withheld Payment

4.6.1 The County may decline to make payment, may withhold funds otherwise payable and, if necessary, may demand the return of some or all of the amounts previously paid to Contractor, if:

- a) Any Claims are made against Contractor by the County or third parties, including Claims for liquidated damages or if reasonable evidence indicates the probability of the making of any such Claim;
- b) Any Claims are made against the County, the County's property or any other party indemnified hereunder which is or might be covered by Contractor's Indemnification obligations under Section 11.2 below;
- c) Contractor fails to pay Subcontractors or others in full and on-time;
- d) Contractor fails to submit schedules, reports, or other information required under the Contract;

- e) Contractor fails to diligently prosecute the Work and maintain progress to assure completion within the Contract Time;
- f) Contractor persistently fails to fully and timely perform the Work in accordance with the Contract Documents;
- g) Defective or nonconforming Work is not remedied; or
- h) Contractor is in default of any other representation, warranty, covenant or performance obligation of this Contract.

4.6.2 If Claims or liens filed against Contractor or property of the County connected with performance under this Contract are not promptly removed by Contractor after receipt of written notice from the County to do so, the County may remove such Claims or liens and all costs in connection with such removal shall be deducted from withheld payments or other monies due, or which may become due, to Contractor. If the amount of such withheld payments or other monies due Contractor under the Contract is insufficient to meet such cost, or if any Claim or lien against Contractor is discharged by the County after final payment is made, Contractor and its surety or sureties shall promptly pay the County all costs (including attorney's fees) incurred thereby regardless of when such Claim or lien arose.

4.7 Final Payment

4.7.1 Upon Contractor's receipt of the Final Certificate for Payment, Contractor may submit a final invoice provided the following has been completed or submitted with such final invoice:

- a) Complete all items applicable to the Work identified in Paragraph 3.4.2;
- b) Complete all Work listed on the punch list prepared in accordance with Paragraph 3.4.4;
- c) Consent of Surety for final payment and/or retainage;
- d) Final Waiver and Release of Claim signed by Contractor;
- e) Submittal of final corrected as-built (record) Drawings;
- f) Settlement of Liquidated Damages, as applicable; and
- g) Settlement of liens and Claims, if any.

4.7.2 Acceptance of Final Payment shall constitute a waiver of all Claims against the County by Contractor except for those Claims previously made in writing against the County by Contractor, pending at the time of Final Payment, and identified in writing by Contractor as unsettled at the time of its request for Final Payment.

4.7.3 In the event Contractor fails to make a Request for Final Payment, or to resubmit a final Application for Payment within ninety (90) days after being requested to do so, the County may deem any and all retained funds to be abandoned property and shall give notice of abandonment to Contractor. The County may set off against the final payment any amounts due to County from Contractor arising out of or under this or any other Contract or Contract between them.

ARTICLE V CONTRACTOR RESPONSIBILITIES

5.1 Performance

5.1.1 Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Contractor's ability to satisfy its contractual obligations hereunder.

5.1.2 Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or samples for such portion of the Work. If Contractor performs any portion of the Work where Contractor knows or should know such Work involves a recognized error, inconsistency or omission in the Contract Documents without notice to the Project Manager and the County, Contractor shall bear responsibility for such performance and shall bear the cost of correction.

5.1.3 Contractor shall perform the Work strictly in accordance with this Contract.

5.1.4 Contractor shall confine its operations to the Jobsite or such other land and areas identified in and permitted by the Contract Documents. Contractor shall assume full responsibility for any damage to any such land or area, to the County or occupant thereof, or of any adjacent land or areas, resulting from the performance of the Work. Should any Claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the Claim by other dispute resolution proceeding or at law. Contractor shall, to the fullest

extent permitted by Applicable Law, indemnify and hold harmless the County, and its officers, directors, agents and employees and anyone directly or indirectly employed by them from and against Claims, costs, losses, and damages arising out of or resulting from any Claim or action, legal or equitable, brought by any such owner or occupant against the County or any other party indemnified hereunder to the extent caused by or based upon Contractor's or a Subcontractor's performance of the Work.

5.1.5 Contractor is solely and exclusively responsible for supervising all workers at the Jobsite. Contractor shall supervise and direct the Work using Contractor's best skill, effort and attention. Contractor shall be responsible to the County for any and all acts or omissions of Contractor, its employees and others engaged in the Work on behalf of Contractor.

5.1.6 Contractor and the Work must comply with all Applicable Law and the requirements of any applicable grant agreements.

5.2 Authorized Representative

5.2.1 Prior to commencing Work, Contractor shall designate in writing a competent, authorized representative(s) acceptable to the County to represent and act for Contractor ("Authorized Representative"). Absent such written designation, Contractor's Jobsite superintendent shall be deemed Contractor's Authorized Representative and s/he shall be authorized to receive and accept any and all communications from the County or the County's Project Manager. All communications given to the Authorized Representative shall be binding upon Contractor. An Authorized Representative may be added, removed or changed upon prior written notice given pursuant to Section 13.18 titled "Written Notice".

5.2.2 At all times while performing the Work and Warranty Work, Contractor shall have one or more Authorized Representatives present on the Jobsite. Such Authorized Representative shall be capable to effectively communicate with the County or the County's Project Manager, execute and enforce applicable Contract Documents and address Jobsite safety and environmental requirements.

5.3 Environmental, Safety and Health

5.3.1 Safety and Protection. Contractor shall be solely and exclusively responsible for conducting operations under this Contract to avoid risk of harm to the health and safety of persons and property and for inspecting, supervising and monitoring all equipment, materials (whether in storage on or off the Jobsite), work practices and safety precautions (including but not limited to adequate maintenance of traffic) used in the Work to ensure compliance with its obligations under this Contract. Contractor shall provide or cause to be provided necessary training and furnish all safety construction equipment/tools, including OSHA compliant and ANSI certified personal protective equipment as appropriate and necessary for the performance of the Work, to its subcontractors of every tier and enforce the use of such training and safety construction equipment/tools.

5.3.2 Compliance. Contractor shall comply with all Applicable Laws bearing on the safety of persons or property, or their protection from damage, injury or loss including compliance with applicable permits, Project plans and approvals. To the extent allowed by law, Contractor shall assume all responsibility and liability with respect to all matters regarding the safety and health of its employees and the employees of Contractor's subcontractors and suppliers of any tier, with respect to the Work.

5.3.3 Stop Work Authority. Notwithstanding the foregoing, the County reserves the right to direct Contractor to stop Work and correct an unsafe condition at any time that any person present at the Jobsite identifies any unsafe condition or action. For this purpose only, any person at the Jobsite is authorized to act on behalf of the County.

5.3.4 Safety Representative. Prior to commencing Work, Contractor shall designate in writing a member(s) of its Jobsite construction team as its Safety Representative. Such Safety Representative shall be acceptable to the County and shall have responsibility for implementing all safety procedures, including OSHA, responsibility for the prevention of accidents, authority for monitoring safety of the Work, authority to correct unsafe conditions or acts by its employees or Subcontractors, the ability to oversee compliance with and address environmental requirements, and coordinate with other on-site contractors and subcontractors on safety and environmental matters required for the Work. In the absence of the required written designation, this person shall be Contractor's Superintendent.

5.3.5 Safety Reporting Requirements. Contractor shall maintain accident and injury records as required by Applicable Law. Such records will be made available to the County upon request. Contractor shall immediately report to the County any death, injury or damage to property incurred or caused by Contractor's employees and employees of Contractor's

subcontractors and suppliers of any tier.

5.3.6 Drug Free Workplace. By signing this Contract, Contractor agrees to maintain a healthy and productive workforce and safe working conditions thru compliance with the Drug-Free Workplace Act (Chapter 112, Florida State Statutes). Contractor's personnel shall not possess, use, manufacture, distribute or be under the influence of while on the Jobsite (or any other location where the provisions of this Contract applies) alcoholic beverages and/or illegal drugs or any other "Drug" as such term is defined in the Drug-Free Workplace Act.

5.3.7 Occupational Safety and Health Act (OSHA). Contractor warrants that all materials, equipment, services, etc., delivered or provided to the County shall conform in all respects to the standards set forth in the Occupational Safety and Health Act (OSHA) of 1970 as amended and the failure to comply will be considered a breach of this Contract. Contractor further certifies that if material, equipment, service, etc., delivered or provided to the County is subsequently found to be deficient in any OSHA requirement in effect on date of delivery or service fulfillment date, all costs necessary to bring the material, equipment, service, etc., into compliance with the aforementioned requirements shall be borne by Contractor.

5.3.8 Toxic Substances/Federal Hazard Communication "Right to Know and Understand" Regulations
The Federal "Right to Know and Understand" Regulation (also known as the Hazard Communication / Globally Harmonized System of Classification and Labeling of Chemicals (GHS) implemented by OSHA requires employers to inform their employees of any toxic substances to which they may be exposed in the workplace, and to provide training in safe chemical storage, labeling, handling practices and emergency procedures.

Accordingly, Contractor is required to provide completed Safety Data Sheets (SDS) for each hazardous substance provided to the County under this Contract. This includes hazardous substances that are not directly included in the Contract Documents, but are included in the goods or services provided by Contractor to the County. The SDS for each substance must be sent to the County's Project Manager and must also be sent to:

St. Johns County, a political subdivision of the State of Florida
500 San Sebastian View
St. Augustine, FL 32084
Attn: Risk Management

In the event that hazardous material is improperly handled or stored by Contractor, its subcontractors, any sub-subcontractors, or any employee or agent of any of the aforementioned which results in contamination of the Jobsite, Contractor shall immediately notify the County and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at Contractor's sole cost and expense. Further, Contractor shall indemnify and hold harmless the County from any and all cost, expense, action, or liability whatsoever resulting from such contamination and/or remedial activities. The indemnity provisions of this section shall survive the expiration or earlier termination of this Contract.

ARTICLE VI PROJECT MANAGER

6.1 Project Manager Responsibilities

6.1.1 The County shall designate as its representative a Project Manager who shall be fully acquainted with the Project. The Project Manager shall be the County's representative from the Effective Date of this Contract until final payment has been made. The Project Manager shall be authorized to act on behalf of the County only to the extent provided in this Article VI.

6.1.2 The County and Contractor shall communicate with each other in the first instance through the Project Manager.

6.1.3 The Project Manager shall be the initial interpreter of the requirements of the Drawings and Specifications and the judge of the performance there under by Contractor. The Project Manager shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of Contractor.

6.1.4 The Project Manager shall review Contractor's Applications for Payment and shall confirm to the County for payment to Contractor, those amounts then due to Contractor as provided in this Contract.

6.1.5 The Project Manager shall have authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Project Manager deems it necessary or advisable, the Project Manager shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements at Contractor's expense.

6.1.6 The Project Manager shall review and accept, or take other appropriate action as necessary, concerning Contractor's submittals including but not limited to Shop Drawings, Product Data and Samples. Such review, acceptance or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

6.1.7 The Project Manager may authorize minor changes in the Work by field order as provided elsewhere herein. The Project Manager does not have authority to approve adjustments to the Contract Price or Contract Time. If at any time Contractor believes that acts or omissions of the County constitute a change to the Work, Contractor shall submit a written notice in accordance with the requirements of Article VIII.

6.1.8 The Project Manager shall, upon written request from Contractor, conduct inspections to determine the date of Substantial Completion and the date of Final Completion, shall receive and forward to the County for the County's review and records, written warranties and related documents required by this Contract and shall issue a Final Certificate for Payment upon compliance with the requirements of this Contract.

6.1.9 The Project Manager's decision in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

6.2 Field Orders

The Project Manager shall have authority to order minor changes in the Work not involving a change in the Contract Price or Contract Time and not inconsistent with the intent of this Contract. Such changes shall be affected by written field order and shall be binding upon Contractor. Contractor shall carry out such field orders promptly.

ARTICLE VII SUBCONTRACTORS

7.1 Award of Subcontracts

7.1.1 Contractor shall be responsible for all Work performed under the Contract Documents. All persons engaged in the Work of the Project are the responsibility and under the control of Contractor. Contractor shall furnish the Project Manager, in writing, the names of persons or entities proposed by Contractor to act as a Subcontractor on the Project. The Project Manager shall promptly reply to Contractor, in writing, stating any objections the Project Manager may have to such proposed Subcontractor. Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the Project Manager has made a timely objection.

7.1.2 Contractor shall give personal attention to fulfillment of the Contract and shall keep the Work under Contractor's control. When any Subcontractor fails to execute a portion of the Work in a manner satisfactory to the County, Contractor shall remove such Subcontractor immediately upon written request from the County, and the Subcontractor shall not again be employed on the Project. The County will not entertain requests to arbitrate disputes among Subcontractors or between Contractor and Subcontractor(s) concerning responsibility for performing any part of the Work.

ARTICLE VIII CONTRACT DISPUTES/CLAIMS

8.1 Contract Claims

8.1.1 If any dispute between the County and Contractor arises under this Contract and such dispute cannot be resolved by good faith negotiations at the field level between the Project Managers of the Contractor and County, such dispute shall be promptly escalated to the Senior Representatives of the Parties, upon request of either party, who shall meet as soon as conveniently possible, but in no case later than fourteen (14) calendar days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) calendar days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving the dispute or disagreement.

8.1.1.1 The Senior Representative for the County shall be the Director, or designee, of the County's Public Works Department.

8.1.1.2 The Senior Representative for the Contractor shall be the supervisor of the Project Manager, or a principal of the Contractor.

8.1.2 If after meeting, the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the Contractor shall submit a Contract Claim as provided herein.

8.1.3 Prior to filing a Contract Claim, Contractor shall first exhaust all remedies set forth in the Contract Documents. Claims arising from this Contract shall be filed with the Assistant Director of Purchasing & Contracts within five (5) business days of exhausting all remedies set forth above. Pending final resolution of a dispute or claim, unless otherwise agreed in writing by both parties, the Contractor is required to proceed with performance of the Work and maintain effective progress to complete the Work within the Contract Time set forth herein. The Contract Claim shall include, at a minimum, the following:

- a) The name and address of the Contractor and any legal counsel; and
- b) The Contractor's address to which the County's rendered decisions shall be sent; and
- c) Identification, and a copy, of the final adverse decision or document that is the subject of the Contract Claim and any exhibits, evidence or documents which the Contractor deems applicable to the issues raised in the Claim; and
- d) Identification of the administrative remedies provided for in the Contract that were pursued prior to the Claim and the outcome; and
- e) A statement of the grounds for each issue raised in the Contract Claim to be reviewed and the applicable provisions of the Contract, as well as any applicable Laws, or other legal authorities which the Contractor deems applicable to the Claim.

8.1.4 During the Assistant Director of Purchasing & Contracts' review of the Contract Claim, the Assistant Director of Purchasing & Contracts may request additional information from the project team of both parties. The parties must provide the requested information within the time period set forth in the request. Failure of either party to timely comply may result in resolution of the Claim without consideration of the requested information.

8.1.5 The Assistant Director of Purchasing & Contracts shall render a decision on the Contract Claim within twenty-one (21) calendar days of the deadline for receipt of all requested information. The written decision of the Assistant Director of Purchasing & Contracts shall be sent to the Contractor at the address provided in the Contract Claim, or as otherwise agreed to by the parties.

8.1.6 The decision for any Contract Claim by the Assistant Director of Purchasing & Contracts may be appealed by the Contractor to the County Administrator. Contractor must submit their appeal to the County Administrator, including any and all information, documentation, backup data, or other supplemental facts or figures within five (5) business days of receipt of the Assistant Director of Purchasing & Contracts' decision. Failure by the Contractor to submit an appeal within the prescribed timeframe shall be a waiver of a right to appeal the rendered decision. The appeal shall include any and all information, documentation, and data relative to the Contract Claim and subsequent appeal. The County Administrator shall render a decision within thirty (30) calendar days of receipt of all information. The County Administrator's decision shall be considered final, unless Contractor takes legal action in Circuit Court.

ARTICLE IX CHANGES IN THE WORK

9.1 General

9.1.1 The County may, at any time, without invalidating this Contract and without notice to sureties, direct changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, by Change Order or by field order. Contractor agrees to promptly comply with such orders and proceed with the Work, which shall be performed under the applicable requirements of the Contract Documents. Contract Time and Contract Price will be adjusted, in accordance with Sections 8.2 and 8.3 below, by written Change Order for changes which materially increase or decrease the cost of or time for performance of the Work.

9.1.2 If at any time Contractor believes that acts or omissions of the County constitute a change to the Work, Contractor shall submit a written notice to the Project Manager explaining in detail the basis for the change request. Contractor's written notice must be furnished within five (5) days of the commencement of the event giving rise to the claim or Contractor's knowledge of the claim, and the notice shall state the general nature and cause of the claim. Thereafter, within twenty (20)

days after the termination of the event giving rise to the claim or Contractor's knowledge of the claim, Contractor shall submit written notice of the extent of the claim with supporting information and documentation to the Project Manager and County. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.** Pending final resolution of any such claim request, Contractor shall diligently proceed with performance of this Contract regardless of any dispute concerning performance of the Work or the amount Contractor is to be paid for such Work.

9.2 Changes in the Contract Time

9.2.1 The Contract Time will be extended by Change Order in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Contractor if a claim for an extension is submitted in accordance with Section 8.1.2 above.

9.2.2 If Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as a direct result of unusually adverse weather conditions not reasonably anticipated, or any other causes beyond Contractor's reasonable control and not attributable to Contractor or Contractor's Subcontractor's actions or failure to act, then the date for achieving Substantial Completion of the Work may be extended for such reasonable time as the Project Manager may determine. An extension of Contract Time shall be Contractor's sole and exclusive remedy for delay unless the delay is solely caused by fraud, bad faith or active interference on the part of the County or its representatives. In no event shall Contractor be compensated for interim delays that do not extend the Contract Time.

9.2.3 Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for a change in the Contract Time pursuant to paragraph 8.1.2 above. Time extensions are justified only when rain, other inclement weather conditions, or related adverse soil conditions result in Contractor's inability to work at least fifty percent (50%) of the normal workday on controlling items of Work identified on the accepted schedule or updates to that schedule.

9.2.4 Contractor shall, at no cost to the County, take all precautions necessary to secure the Project Jobsite from any damage that may be caused by all threatened storm events, regardless of whether the County has given notice of same. Compliance with any specific storm event precautions will not constitute additional work. Suspension of the Work caused by a threatened or actual storm event, regardless of whether the County has directed such suspension, will entitle Contractor to additional Contract Time only and shall not give rise to a claim for a change in the Contract Price.

9.3 Changes in the Contract Price

9.3.1 In connection with any claim by Contractor against the County for compensation in excess of the Contract Price, any liability of the County for Contractor's costs shall be strictly limited to direct costs incurred by Contractor and shall in no event include indirect costs or consequential damages of Contractor.

9.3.2 Any change in the Contract Price resulting from a Change Order shall be determined as follows:

- a) By mutual acceptance of a lump sum or not-to-exceed increase or decrease in costs. Upon the Project Manager's request, Contractor shall furnish a detailed estimate of increased or decreased costs, together with cost breakdowns and other support data as the Project Manager may reasonably request.
- b) By Unit Prices stated in the Contract Documents, or subsequently agreed upon payment.
- c) By a manner or method mutually agreed by the County and Contractor.

9.3.3 If no mutual agreement occurs between the County and Contractor, then the change in the Contract Price, if any, shall then be determined by the Project Manager on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, Contractor shall present, in such form and with such content as the County or the Project Manager requires, an itemized accounting of such expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, unemployment insurance, fringe benefits required by a pre-existing Contract or by custom, and workers' compensation insurance, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes paid by Contractor that are directly attributable to the changed Work. In no event shall any expenditure or savings associated with Contractor's home office or other non-Jobsite overhead expenses be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the County, payments

shall be made to Contractor based on the Project Manager's recommendation for payment.

9.3.4 Costs which will not be allowed or paid in Change Orders or other claims under this Contract include, but are not limited to, the costs of preparing or reviewing change request/claims or proposed Change Orders, change request/claim consulting costs; lost revenues; lost profits; lost income or earnings; interest cost of any type other than those mandated by statute; rescheduling costs; lost earnings; loss of other business; or the costs of Contractor representatives visiting the Jobsite or participating in meetings with the County. The County shall not be liable to Contractor for claims of third parties, including Subcontractors, unless and until liability of Contractor has been established therefore in a court of competent jurisdiction.

9.4 Acceptance of Change Orders

Contractor's written acceptance of a Change Order shall constitute a final and binding Contract to the provisions thereof and a waiver of all claims in connection therewith, whether direct, indirect, or consequential in nature.

9.5 Notice to Sureties

Contractor shall notify and obtain the timely consent and approval of Contractor's surety with reference to all Change Orders if such notice, consent or approval is required by Contractor's surety or by law. Contractor represents and warrants to County that Contractor is solely liable and responsible to so notify and obtain any such consent or approval. The Contractor is to provide certification from the surety that the amount of a change order has been incorporated into the bond to cover the additional scope of work and/or cost associated with the Change Order.

9.6 Differing Site Conditions

If during the course of the Work, Contractor encounters (1) subsurface or concealed conditions at the Project's Jobsite that differ materially from those shown in the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract; or (2) unknown physical conditions of the Project's Jobsite, of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract, then Contractor, without disturbing the conditions and before performing any Work affected by such conditions, shall, within twenty-four (24) hours of their discovery, notify the Project Manager in writing of the existence of the aforesaid conditions. The Project Manager shall, within two (2) business days after receipt of Contractor's written notice, investigate the site conditions identified by Contractor. If, in the sole opinion of the Project Manager, the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work, whether or not charged as a result of the conditions, the Project Manager may recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If Project Manager and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to the Assistant Director of Purchasing and Contracts for determination in accordance with the provisions of Paragraph 1.5. No request by Contractor for an equitable adjustment to this Contract under this provision shall be allowed unless Contractor has given written notice to the Project Manager in strict accordance with the provisions of this Article. **No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by the Project Manager as the date of Substantial Completion.**

The failure by Contractor to provide written notice as provided in this Paragraph 8.6 shall constitute a waiver by Contractor of any Claim arising out of or relating to such concealed or unknown condition.

ARTICLE X UNCOVERING WORK, STOPPING WORK, AND ACCEPTING DEFECTIVE OR NONCONFORMING WORK

10.1 Uncovering Work

10.1.1 No Work or portion of Work shall be covered until inspected by the County as required by the Contract Documents. If any of the Work is covered contrary to the request or direction of the County or the Project Manager or contrary to the requirements of the Contract Documents, Contractor shall, upon written request, uncover it for the Project Manager's inspection and subsequently cover the Work in accordance with the Contract Documents without adjustment to the Contract Time or Contract Price. The provisions and obligations set forth herein shall apply even if the County ultimately determines (after uncovering and inspection) that the underlying Work in question conforms to the requirements of the Contract Documents.

10.1.2 Should the County wish to either (i) re-inspect a portion of the Work that has been covered by Contractor in compliance with Paragraph 9.1.1, above, or (ii) inspect a portion of the Work that has been covered by Contractor which is not required by the Contract Documents to be observed or inspected prior to its being covered and which the County did not specifically request to observe prior to its being covered, Contractor shall uncover the applicable portion of the Work upon written request. If the County determines that the Work uncovered conforms to the requirements of the Contract Documents, then the County will pay the costs of uncovering and replacement of the cover through a Change Order and will adjust the Contract Time by Change Order if the uncovering and replacement Work extends the most current Substantial Completion or Final Completion date, as applicable. If, however, the County determines that the Work uncovered does not conform to the requirements of the Contract Documents, then Contractor shall pay the costs of uncovering and replacement and shall not be entitled to an adjustment of the Contract Price.

10.2 Right to Stop Work

If the Work is defective, or Contractor fails to supply sufficient skilled workers, suitable materials, or equipment or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the County, acting through the Project Manager, may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The County's right to stop Work, or any portion thereof, shall not give rise to any duty on the part of the County to exercise this right for the benefit of Contractor or any other party.

10.3 County May Accept Defective or Nonconforming Work

If the County chooses to accept defective or nonconforming Work, the County may do so. In such events, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Work had it not been constructed in such manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the County for its acceptance of defective or nonconforming Work, Contractor shall, pay the County such remaining compensation for accepting defective or nonconforming Work.

ARTICLE XI CONTRACT SUSPENSION AND TERMINATION

11.1 Suspension

The County may, by written notice, order Contractor to suspend, delay or interrupt Work, in whole or in part, for a period of time as the County may determine. If such suspension delays Contractor's ability to meet the authorized Contract Time, Contractor will be granted an extension of time as reasonably agreed by both parties. Contractor shall not be entitled to an adjustment to the Contract Time to the extent that performance is, was or would have been so suspended, delayed or interrupted by another cause, act or omission for which Contractor is responsible. Notwithstanding anything to the contrary in this Contract and, in the event any such suspension exceeds ninety (90) days, Contractor may, upon ten (10) days written notice to the County, terminate performance under this Contract and recover from the County an equitable adjustment in accordance with Section 8.3 above.

11.2 Termination

11.2.1 The County may by written notice to Contractor terminate the Work under this Contract in whole or in part at any time for the County's convenience or for the default of Contractor.

11.2.2 The County may terminate this Contract, in whole or in part, for its convenience upon thirty (30) calendar days written notice to the Contractor. If the termination is for the convenience of the County, an equitable adjustment in the compensation to be paid to the Contractor may be made based upon the cost for completed Work, Work in progress, and the substantiated, reasonable and actually incurred costs associated with termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors. No amount shall be allowed for anticipated profit or unperformed work.

11.2.3 Contractor may terminate this Contract, for any reason up to sixty (60) calendar days written notice, provided that any outstanding Work is completed by Contractor, or Contractor's Subcontractors. Contractor further agrees to cooperate fully and assist the County, upon request, in order to complete any Work under this Project. In such event, the County shall compensate the Contractor as mutually agreed in writing for any such Work after termination.

11.2.4 The County may terminate this Contract, in whole or in part, for cause (or "default"). In the event of Contractor's default, the County shall issue a Notice of Default to the Contractor, articulating the items which the County finds to be in

default of the requirements of this Agreement. Contractor shall have ten (10) calendar days from receipt of the Notice of Default to remedy deficiencies or submit, in writing, an acceptable plan for remedying the deficiencies identified in said notice. If Contractor fails to remedy such deficiencies, or to submit an acceptable plan for remedying such deficiencies, to the satisfaction of the County within the stated time period, the County shall issue a Notice of Termination, and take over and prosecute the Work to completion. In such case, Contractor shall be liable to the County for all reasonable additional costs incurred by the County in completion of the Work.

11.2.5 Upon receipt of such termination notice Contractor shall immediately stop all Work and shall immediately cause any and all of its Subcontractors and material suppliers at any tier, to immediately stop all work, leaving the construction Site in a safe and secured condition. Contractor shall not be paid for any work performed or costs incurred after the termination date that reasonably could have been avoided. The County may direct Contractor to assign Contractor's right, title and interest under terminated orders or subcontracts to its designee.

11.2.6 Contractor shall not remove from the construction Jobsite any materials, equipment, plant or tools that have been paid for by County pursuant to this Contract. Contractor hereby grants the County a free and unimpeded right of access to Contractor's facilities, which shall survive any termination of the Contract, for the purpose of permitting the County to take control of and remove any Work, including but not limited to any Work for which title has vested in the County.

11.2.7 For purposes of this Termination provision, Contractor shall be deemed in default if Contractor (1) persistently or repeatedly refuses or fails to perform the Work in a timely manner, (2) fails to supply enough properly skilled Workers, supervisory personnel or proper equipment or materials, (3) fails to make prompt payment to Subcontractors, or for materials or labor, (4) becomes insolvent or becomes the subject of voluntary or involuntary bankruptcy proceedings, (5) persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or (6) breaches or violates a material provision of this Contract. If the termination is attributable to the default of Contractor, the County shall have the right, without prejudice to any other right or remedy, to take possession of the construction Jobsite and of all materials, equipment, tools, construction equipment and machinery thereon owned by Contractor and may finish the Work by whatever methods it may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished.

11.2.8 If the unpaid balance of the Contract Price less any liquidated damages due under this Contract, exceeds the cost of finishing the Work, including compensation for the Project Manager's additional services and expenses made necessary thereby, Contractor shall pay the difference to the County. This obligation for payment shall survive the termination of the Contract.

11.2.9 If, after termination by the County for Contractor's default, it is determined by a Court of competent jurisdiction that Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties, including adjustment of the Contract Price, will be the same as if the termination had been issued for the convenience of the County, as provided under Paragraph 10.2.4 above.

11.3 Cancellation of Task Orders

11.3.1 The County may, by written notice to the Contractor, terminate a Task Order under this Contract in whole or in part at any time for the County's convenience or for the default of the Contractor. This includes before and after execution of Task Orders. The Contractor is to stop all work upon receipt of written notification of the termination of a Task Order.

If the termination of the Task Order occurs after work has commenced, an equitable adjustment in the compensation to be paid to the Contractor may be made based upon the cost for completed Work, Work in progress, and the substantiated, reasonable, and actually incurred costs associated with termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors. No amount shall be allowed for anticipated profit or unperformed work.

If Task Order is terminated before Task Order is fully executed, no cost shall be reimbursed to the Contractor

ARTICLE XII WARRANTY AND INDEMNITY

12.1 Warranty

12.1.1 Contractor warrants and guarantees to the County that all labor furnished to progress the Work under this Contract

shall be competent to perform the tasks undertaken and that the product of such labor shall yield only first-class results and that all materials and equipment furnished under this Contract shall be of good quality, free from faults and defects and in strict conformance with the Contract Documents.

12.1.2 Contractor warrants all materials, equipment and labor it furnishes or performs under this Contract against all defects in design, materials and workmanship for a period of one year (or the period of time in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) from and after the date of Final Completion. Contractor shall within ten (10) Days after being notified in writing by the County of any defect in the Work or non-conformance of the Work (Warranty Work), commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the County in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its Warranty Work or which becomes damaged in the course of repairing or replacing Warranty Work. For any Work so corrected, Contractor's obligation hereunder to correct Warranty Work shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected Work.

12.1.3 Contractor shall perform such tests as the County may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract Documents. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor.

12.1.4 All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the County, regardless of whether or not such warranties and guarantees have been transferred or assigned to the County by separate Contract and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the County.

12.1.5 In the event that Contractor fails to perform its obligations under this Warranty Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the County, the County shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the County for any expenses incurred hereunder upon demand.

12.1.6 Failure on the part of the County to reject defective, non-conforming or unauthorized Work shall not release Contractor from its contractual obligations, be construed to mean acceptance of such Work or material by the County, or, after Final Completion, bar the County from recovering damages or obtaining such other remedies as may be permitted by law.

12.1.7 No adjustment in the Contract Time or Contract Price will be allowed because of delays in the performance of the Work as a result of correcting defective, non-conforming or unauthorized Work.

12.1.8 County and Contractor agree that the provisions of Florida Statute Chapter 558 shall not apply to this Contract.

12.2 Indemnity

12.2.1 Contractor shall indemnify and hold harmless the County and its officers and employees ("Indemnified Party"), from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Contract.

12.2.2 To the extent permitted by, and in accordance with Section 725.06 of the Florida Statutes, Contractor further agrees that "damages, losses and costs", includes fines, citations, court judgments, insurance claims, restoration costs or other liability, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Contract.

12.2.3 To the extent permitted by, and in accordance with Section 725.06 of the Florida Statutes, for purposes of indemnity, the "persons employed or utilized by Contractor" shall be construed to include, but not be limited to, Contractor, its staff,

employees, subcontractors, all deliverers, suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of Contractor.

12.2.4 In Claims against any person or entity indemnified hereunder by an employee of Contractor, any Subcontractor, or subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 11.2 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any Subcontractor or subcontractor under any workers' compensation acts, disability benefits acts or other employee benefit acts.

12.2.5 Contractor's indemnity and hold harmless obligations hereunder shall extend to all Claims against the County by any third party or third-party beneficiary of this Contract and all liabilities, damages, losses and costs related thereto.

12.2.6 This indemnification will not be valid in the instance where the loss is caused by the gross negligence, or willful, wanton or intentional misconduct of any Indemnified Party.

12.2.7 If any provision(s), or portion(s) of a provision(s) of this Section, or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or portion(s) thereof, held invalid, illegal or unenforceable.

12.2.8 Contractor shall further indemnify and hold harmless the County its officers and employees from and against all Claims arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents and shall defend such Claims in connection with any alleged infringement of such rights.

12.2.9 The indemnification provisions of this Section 11.2 shall survive expiration or earlier termination of this Contract.

ARTICLE XIII INSURANCE AND BONDS

13.1 Contractor's Insurance Requirements

13.1.1 All insurance policies shall be satisfactory to the County and be issued by companies authorized and duly licensed to transact business in the State of Florida. Contractor shall furnish proof of insurance to the County prior to execution of this Contract. No Work shall commence under this Contract until Contractor has obtained all insurance coverages required under this section. Certificates of insurance shall clearly indicate Contractor has obtained insurance of the type, amount, and classification as required by this Contract. Required insurance coverage shall be maintained in force, including coverage for Additional Insureds, until Final Completion of all Work including Warranty Work.

13.1.2 No less than ten (10) days written notice shall be provided to the County prior to cancellation, non-renewal or any material change of required insurance policies. Yearly renewal certificates shall be provided to the County within thirty (30) days of expiration of the current policy.

13.1.3 The types and amounts of insurance required under this Contract do not in any way limit the liability of Contractor including under any warranty or indemnity provision of this Contract or any other obligation whatsoever Contractor may have to the County or others. Nothing in this Contract limits Contractor to the minimum required insurance coverages found in this Article XII.

13.2 Additional Insured Endorsements and Certificate Holder

The term "Additional Insured", as used in this Contract, shall mean St. John's County, its elected officials, officers, employees, agents and representatives. Certificates of insurance shall specifically name each Additional Insured for all policies of insurance except Workers' Compensation and Professional Liability. A copy of the endorsement showing the required coverages must accompany the certificate of insurance.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida
500 San Sebastian View
St. Augustine, FL 32084
Attn: Purchasing Division

13.3 Workers Compensation

Contractor shall procure and maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as is required by law for all of its employees per Florida Statute 440.02.

13.4 Commercial General Liability

Contractor shall procure and maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, including bodily injury (including wrongful death), property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all Claims that may arise from the services and/or operations completed under this Contract, whether such services or operations are by Contractor or anyone directly or indirectly employed by them. Such insurance(s) shall also be primary and non-contributory with regard to insurance carried by the Additional Insureds.

13.5 Automobile Liability

Contractor shall procure and maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability and insuring liability arising out of or in any way related directly or indirectly to the ownership, maintenance or use of any owned, non-owned or rented/hired automobiles.

13.6 Additional Coverages

ONLY THE SUBSECTIONS CORRESPONDING TO ANY CHECKED BOX IN THIS PARAGRAPH 12.6 WILL APPLY TO THIS CONTRACT.

13.6.1 ☐ Professional Liability.

13.6.1.1 Contractor shall procure and maintain, during the life of this Contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000 with 10-year tail coverage starting upon Final Completion. Contractor's professional liability policy should not have an exclusion for environmental compliance management or construction management professionals.

13.6.1.2 In the event that Contractor employs professional engineering or land surveyor services for performing field engineering or preparing design calculations, plans, and specifications, Contractor shall require the retained engineers and land surveyors to carry professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Contract.

13.6.2 ☒ Builders Risk for New Vertical Build Projects

a. For new Vertical Build projects, the Contractor shall procure and maintain Builder's Risk ("all risk") insurance on a replacement cost basis. The amount of coverage shall be equal to the full replacement cost on a completed value basis, including periodic increases or decreases in values through change orders.

13.6.2.2 The Builder's Risk policy shall identify the County as the sole loss payee. The policy shall name as insured the County, Contractor and its subcontractors of every tier. Each insured shall waive all rights of subrogation against each of the other insured to the extent that the loss is covered by the Builder's Risk Insurance. The Builder's Risk policy shall be primary and any self-insurance maintained by the County in not contributory. The Builder's Risk policy shall not include a co-insurance clause. This coverage shall not be lapsed or cancelled because of partial occupancy by the County prior to Final Completion of the Work.

13.6.2.3 The Builder's Risk insurance shall:

- a. insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal including demolition as may be reasonably necessary; and water damage (other than that caused by flood).

- b. cover, as insured property, at least the following: (i) the Work and all appurtenances, materials, supplies, fixtures, machinery, apparatus, equipment and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work including County furnished or assigned property; (ii) spare parts inventory required within the scope of the Contract; and (iii) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Jobsite, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
- c. extend to cover damage or loss to insured property (i) while in transit; and (ii) while in temporary storage at the Jobsite or in a storage location outside the Jobsite (but not including property stored at the premises of a manufacturer or supplier).
- d. include (i) performance/start-up and hot testing; (ii) soft costs (e.g. design and engineering fees, code updates, permits, bonds, insurances, and inspection costs); and (iii) costs of funding or financing when a covered risk causes delay in completing the Work.

13.6.3 The Builder's Risk Insurance may have a deductible clause. Contractor shall be responsible for paying any and all deductible costs. Notwithstanding anything to the contrary set forth above, the deductible for coverage of all perils and causes of loss enumerated in subparagraph 12.6.2.3 above shall not exceed \$250,000.

13.7 Other Requirements

The required insurance limits identified in Sections 12.4, 12.5, and 12.6 above may be satisfied by a combination of a primary policy and/or Umbrella or Excess Liability Insurance policy. Contractor shall require each lower-tier subcontractor to comply with all insurance requirements appropriate for its scope of work, and any deficiency shall not relieve Contractor of its responsibility herein. Upon written request, Contractor shall provide County with copies of lower-tier subcontractor certificates of insurance.

Providing and maintaining adequate insurance coverage is a material obligation of Contractor. County has no obligation or duty to advise Contractor of any non-compliance with the insurance requirements contained in this Section. If Contractor fails to obtain and maintain all of the insurance coverages required herein, Contractor shall indemnify and hold harmless the Additional Insureds from and against any and all Claims that would have been covered by such insurance had Contractor complied with its obligations herein.

County reserves the right to adjust the above minimum insurance requirements or require additional insurance coverages to address other insurable hazards.

13.8 Payment and Performance Bonds

Contractor shall execute, furnish the County with, and record in the public records of St. John's County, a Payment and Performance Bond in accordance with the provisions of Sections 255.05 and 287.0935 Florida Statutes, in an amount no less than the Contract Price. Such Payment and Performance Bond shall be conditioned upon the successful completion of all work, labor, services, equipment and materials to be provided and furnished hereunder, and the payment of all subcontractors, materialmen, and laborers. Said bond shall be subject to the approval of the Board of County Commissioners of St. John's County, Florida. In accordance with Section 255.05, F.S., the County may not make a payment to Contractor until Contractor has provided the County a certified copy of the recorded bond.

Payment and Performance Bond requirement will be reviewed at the individual Task Order level. Payment and Performance Bond requirement may be waived for Task Orders that are \$100,000.00 or less with approval of the Assistant Director of Purchasing & Contracts and the County Administrator. The waiver of a bond relieves the Contractor of the requirement of posting a Payment and Performance bond in accordance with Florida Statutes §255.05.

ARTICLE XIV MISCELLANEOUS

14.1 Independent Contractor

Contractor represents that it is fully experienced and properly qualified, licensed, equipped, organized, and financed to perform the Work under this Contract. Contractor shall act as an independent contractor and not as an agent in performing

this Contract and shall maintain complete control over its employees and all of its Subcontractors and suppliers of any tier. Nothing contained in this Contract or any lower-tier subcontract or purchase order awarded by Contractor shall create any contractual relationship between any such subcontractor or supplier and the County. Contractor shall perform all Work in accordance with the requirements of this Contract and in accordance with its own methods subject to compliance with this Contract.

14.2 Examination of Contractor's Records

The County or its authorized representative shall, until the expiration of five (5) years after final payment under this Contract, have access to, and the right to examine any directly pertinent books, documents, papers and records of Contractor involving transactions relating to this Contract, and to make copies, excerpts and transcriptions thereof. If any such examination reveals that Contractor has overstated any component of the Contract Price, Change Order, Claim, or any other County payment obligation arising out of this Contract, then Contractor shall, at the election of the County, either immediately reimburse to the County or offset against payments otherwise due Contractor, the overstated amount plus interest. The foregoing remedy shall be in addition to any other rights or remedies the County may have.

14.3 Backcharges

Upon the County's notification to undertake or complete unperformed Work such as cleanup or to correct defective or non-conforming services, equipment, or material (Backcharge Work), if Contractor states or by its actions indicates it is unable or is unwilling to immediately proceed and/or complete the Backcharge Work in an agreed time; the County may perform such Backcharge Work by the most expeditious means available and backcharge Contractor for any and all costs thereby incurred by the County.

The County shall separately invoice or deduct and retain from payments otherwise due to Contractor the costs for Backcharge Work. The County's right to backcharge is in addition to any and all other rights and remedies provided in this Contract or by law. The County's performance of the Backcharge Work shall not relieve Contractor of any of its responsibilities under this Contract and Contractor shall be responsible for the Backcharge Work as if it were its own.

14.4 Applicable Law

Contractor and the Work must comply with all Applicable Law and the requirements of any applicable grant agreements.

14.5 Governing Law & Venue

The Contract shall be governed by the laws of the State of Florida. Venue for any administrative and/or legal action arising under the Contract shall be St. Johns County, Florida.

14.6 Assignment

Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any Change Order issued pursuant to the Contract or make an assignment or transfer of any amounts payable to Contractor under the Contract, without the prior written consent of the County. In the event of any assignment, Contractor remains secondarily liable for performance of the Contract, unless the County expressly waives such secondary liability. The County may assign the Contract with prior written notice to Contractor of its intent to do so. This Contract may be assumed by and shall inure to the benefit of the County's successors and assigns without the consent of Contractor.

14.7 Severability

If a court deems any provision of the Contract void, invalid or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

14.8 Section Headings

The section and other headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

14.9 Disclaimer of Third-Party Beneficiaries

This Contract is solely for the benefit of County and Contractor and no right or cause of action shall accrue to or for the benefit of any third party not a formal party hereto. Nothing in this Contract, expressed or implied, is intended or shall be construed to confer upon or give any person or entity other than County and Contractor, any right, remedy, or Claim under

or by reason of this Contract or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon County and Contractor.

14.10 Waiver; Course of Dealing

The delay or failure by the County to exercise or enforce any of its rights or remedies under this Contract shall not constitute or be deemed a waiver of the County's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the parties to this Contract after the Effective Date shall not be deemed a waiver or modification of this Contract.

14.11 No Waiver of Sovereign Immunity

Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance and obligations under this Contract and shall be fully binding until such time as any proceeding brought on account of this Contract is barred by any applicable statute of limitations.

14.12 Execution in Counterparts

This Contract may be executed in counterparts, each of which shall be an original document, and all of which together shall constitute a single instrument. The parties may deliver executed counterparts by e-mail transmission, which shall be binding. In the event this Contract is executed through a County-approved electronic signature or online digital signature service (such as DocuSign), such execution shall be valid, effective and binding upon the party so executing. Execution and delivery of an executed counterpart of this Contract and/or a signature page of this Contract by electronic image scan transmission (such as a "pdf" file) or through a County approved electronic signature service will be valid and effective as delivery of a manually executed counterpart of this Contract.

14.13 Entire Contract

This Contract for the Work, comprised of the Contract Documents enumerated herein, constitutes the entire Contract between the Parties relating to the subject matter hereof and supersedes all prior or contemporaneous Contracts, negotiations, discussions and understandings, oral or written. This Contract may not be amended or modified except in writing, as provided herein and signed by authorized representatives of both parties.

14.14 Survival

The provisions of the Contract Documents which by their nature survive termination of the Contract, including without limitation all warranties, indemnities, insurance, payment obligations, and the County's right to audit Contractor's books and records, shall in all cases survive the expiration or earlier termination of this Contract.

14.15 Employment Eligibility and Mandatory Use of E-Verify

As a condition precedent to entering into this Contract, and in accordance with section 448.095, F.S., Contractor and its subcontractors shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after January 1, 2021.

- a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of this Contract.
- b. The County, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated section 448.09(1), F.S. or these provisions regarding employment eligibility shall terminate the contract with the person or entity.
- c. The County, upon good faith belief that a subcontractor knowingly violated these provisions regarding employment eligibility, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
- d. The County and Contractor hereby acknowledge and mutually agree that, a contract terminated pursuant to these provisions regarding employment eligibility is not a breach of contract and may not be considered as such. Any

contract terminated pursuant to these provisions regarding employment eligibility may be challenged in accordance with section 448.095(2)(d), F.S.

- e. Contractor acknowledges that, in the event that the County terminates this Contract for Contractor's breach of these provisions regarding employment eligibility, then Contractor may not be awarded a public contract for at least one (1) year after such termination. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the County as a result of the County's termination of this Contract for breach of these provisions regarding employment eligibility.
- f. Contractor shall incorporate in all subcontracts made pursuant to this Contract the provisions contained herein regarding employment eligibility.

14.16 Equal Employment Opportunity

During the performance of this Contract, Contractor agrees as follows:

14.16.1 Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, disability, age, sex (including sexual orientation and gender identity/expression), national origin (including limited English proficiency), marital status, or familial status. Contractor will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, genetic information or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

14.16.2 Contractor will, in all solicitations or advertisements for employees placed for, by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information.

14.16.3 Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

14.16.4 Contractor will send to each labor union or representatives of workers with which it has a collective bargaining Contract or other contract or understanding, a notice to be provided by the County, advising the labor union or workers' representative of Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

14.16.5 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

14.16.6 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the County and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

14.16.7 In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of

September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

14.16.8 Contractor will include the provisions of paragraphs 13.15.1 through 13.15.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontractor or vendor as may be directed to the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Contractor may request the United States to enter into such litigation to protect the interest of the United States.

14.17 Public Records

14.17.1 Contractor shall comply and shall require all of its Subcontractors to comply with the State of Florida's Public Records Statute (Chapter 119), specifically to:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services;
- (2) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;
- (3) Ensure that public records related to this Contract that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by Applicable Law for the duration of this Contract and following expiration of this Contract, or earlier termination thereof, if Contractor does not transfer the records to the County; and
- (4) Upon completion of this Contract, or earlier termination thereof, transfer, at no cost, to the County all public records in possession of Contractor or keep and maintain for inspection and copying all public records required by the County to perform the Work.

14.17.2 If Contractor, upon expiration of this Contract or earlier termination thereof i) transfers all public records to the County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements; and ii) keeps and maintains public records, Contractor shall meet all Applicable Law and requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

14.17.3 Failure by Contractor to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Contract by the County.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (904) 209-0805, PUBLICRECORDS@SJCFL.US, 500 SAN SEBASTIAN VIEW, ST. AUGUSTINE, FLORIDA 32084

14.18 Anti-Bribery

Contractor and its Subcontractors shall at all times during the term of this Contract comply with all anti-bribery and corruption laws that are applicable to the performance of this Contract. Contractor represents that it has not, directly or indirectly, taken any action which would cause it to be in violation of Chapter 838 of the Florida Statutes. Contractor shall immediately notify the County of any violation (or alleged violation) of this provision.

14.19 Convicted and Discriminatory Vendor Lists, and Scrutinized Companies

14.19.1 Contractor warrants that neither it nor any Subcontractor is currently on the convicted vendor list or the discriminatory vendor list maintained pursuant to Sections 287.133 and 287.134 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Contractor shall immediately notify the County in writing if its ability to perform is compromised in any manner during the term of the Contract.

14.19.2 Section 287.135 of the Florida Statutes prohibits agencies from contracting with companies for goods or services that are on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel, and from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations in Cuba or Syria. The lists are created pursuant to §215.473 and §215.4725, F.S. By execution of this Contract, Contractor certifies that it is not listed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria, and understands that pursuant to §287.135, F.S., the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. In accordance with §287.135, F.S., the County may terminate this Contract if a false certification has been made, or the Contractor is subsequently placed on any of these lists, or engages in a boycott of Israel or is engaged in business operations in Cuba or Syria.

14.20 Written Notice

Any and all notices, requests, consents, approvals, demands, determinations, instructions, and other forms of written communication under this Contract shall be validly given when delivered as follows:

- i. Hand delivered to Contractor's Authorized Representative or hand delivered during normal business hours and addressed as shown below, or
- ii. Delivered by U.S. Mail, electronic mail or commercial express carrier, (postage prepaid, delivery receipt requested), to the following addresses:

St. Johns County
500 San Sebastian View
St. Augustine, FL 32084
Attn: Leigh A. Daniels
Email Address: ldaniels@sjcfl.us

T B Landmark Construction, Inc.
11220 New Berlin Rd
Jacksonville, FL 32226
Attn: Robin Thigpen
Email Address: rthigpen@tblandmark.com

With a copy to:

St. Johns County
Office of the County Attorney
500 San Sebastian View
St. Augustine, FL 32084

Notices shall be deemed to have been given on the date of delivery to the location listed above without regard to actual receipt by the named addressee. County and Contractor may each change the above addresses at any time upon prior written notice to the other party.



The authorized representatives hereto have executed this Contract effective as of the Effective Date. Contractor's authorized representative executing this Contract represents that he or she is duly authorized to execute this Contract on behalf of Contractor.

County:

St. Johns County (Seal)

(Typed Name)

By: [Signature]

(Signature of Authorized Representative)

Leif A. Daniels

(Printed Name)

Purchasing Manager

(Title)

4/19/23

(Date of Execution)

ATTEST:

St. Johns County, FL

Clerk of Circuit Court & Comptroller

By: [Signature]

(Deputy Clerk)

4/19/2023

(Date of Execution)

Legally Sufficient:

[Signature]

(Office of County Attorney)

4/20/23

(Date of Execution)

Contractor:

T B Landmark Construction, Inc. (Seal)

(Typed Name)

By: [Signature]

(Signature of Authorized Representative)

Martin Adams

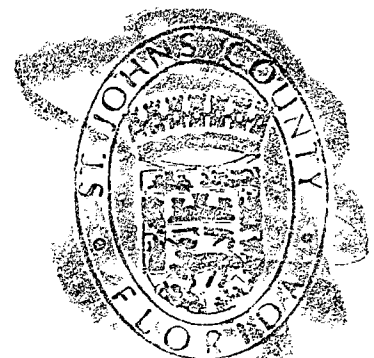
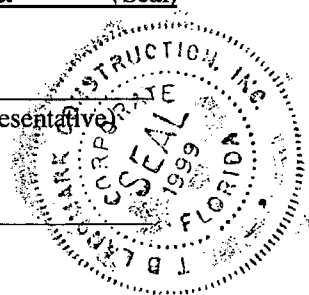
(Printed Name)

General Manager

(Title)

4/11/2023

(Date of Execution)



CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS

Contract No.	23-MCA-TBL-17941
Project Title:	

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all Subcontractors all undisputed contract obligations for labor, services, or materials provided on this Project within the time period set forth in Sections 218.73 and 218.735, Florida Statutes, as applicable.
2. The following Subcontractors have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining the good cause why payment has not been made, is attached to this form:

Subcontractor Name and Address	Date of Disputed Invoice	Amount in Dispute

Contractor's Authorized Representative executing this Certification of Payments to Subcontractors represents that he or she is duly authorized to execute this Certificate, or if executing on behalf of another, is authorized to do so and that such Authorized Representative is legally bound.

Dated _____, 20__

Contractor _____

By: _____
(Signature)

By: _____
(Name and Title)

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC:

Signature: _____

Print Name: _____

(NOTARY SEAL)

My commission expires:



FORM 2

CONTRACTOR'S FINAL RELEASE AND WAIVER OF LIEN

Owner: St. Johns County (hereafter "County")	County Department/Division:
Contract No.: 23-MCA-TBL-17941	Contractor Name:
Project:	Contractor Address:
Project Address:	Contractor License No.:
Payment Amount:	Amount of Disputed Claims:

The undersigned has been paid in full for all labor, work, services, materials, equipment, and/or supplies furnished to the Project or to the County and does hereby waive and release any notice of lien, any right to mechanic's lien, any bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to a claim or payment rights the undersigned has on the above described Project, except for the payment of Disputed Claims, if any, described below.

The undersigned warrants that he or she either has already paid or will use the monies received from this final payment to promptly pay in full all of its laborers, subcontractors, materialmen and suppliers for all labor, work, services, materials, equipment, or supplies provided for or to the above referenced Project.

Before any recipient of this document relies on it, the recipient should verify evidence of payment to the undersigned.

Disputed Claims: The following invoices, pay applications, retention, or extra work are reserved by undersigned from this final payment (if there are no Disputed Claims enter "None"):

None

Signed this __ day of ____, 20__

Contractor/Company Name

By:

Signature

Printed Name

Title

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT TO THE EXTENT OF THE PAYMENT AMOUNT OR THE AMOUNT RECEIVED.

This content is from the eCFR and is authoritative but unofficial.

Title 2 - Grants and Agreements

Subtitle A - Office of Management and Budget Guidance for Grants and Agreements

Chapter II - Office of Management and Budget Guidance

Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Source: 85 FR 49543, Aug. 13, 2020, unless otherwise noted.

Source: 85 FR 49539, Aug. 13, 2020, unless otherwise noted.

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part

3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any

other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

From: [Bryan Matus](#)
To: [Marty Adams](#)
Cc: [Justin Newell](#); [James Galley](#)
Subject: Executed Contract: 23-21 Utility Rehabilitation/Construction Services - T B Landmark
Date: Tuesday, May 16, 2023 11:37:23 AM
Attachments: [23-21 Executed Contract - TB landmark.pdf](#)
[image001.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Good morning,

Attached you will find your copy of the fully executed Contract. As a reminder, when you are requested to submit a pricing proposal, please ensure the pricing proposal incorporates the following:

- Proposal must be on company letterhead, dated, signed by an authorized representative of the Contractor, and must provide contact information including phone number, physical/mailling addresses, and email address.
- A complete description of the scope of work required to satisfactorily complete the project, as determined by the County;
- A breakout of the costs required to complete the project, including any and all materials, equipment rental, labor, permitting fees, all sub-contractors' proposals associated with the project, or other costs associated with performing the work; and
- A proposed schedule for completing the required work.
- Markup for costs of materials, subcontractors, rentals (when applicable) shall not exceed the following limits:
 - Maximum Materials Markup 15%
 - Maximum Sub-contractors Markup 5%
 - Maximum Rented Equipment Markup 5%
- Cost for Public Construction Bond (when applicable) shall not Exceed 2% of the total project cost. No markup is authorized for Public Construction Bonds.

Thank you for participating in the RFQ process.

Bryan Matus

Senior Purchasing Coordinator

Purchasing Division

St. Johns County Board of County Commissioners

500 San Sebastian View, St. Augustine, FL 32084

Direct: (904) 209-0148 | Main: (904) 209-0150 | www.sjcfl.us



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the St. Johns County Board of County Commissioners and employees regarding public business are public records available to the public and media through a request. Your e-mail communications may be subject to public