

CITY OF GREEN COVE SPRINGS CITY COUNCIL REGULAR SESSION

321 WALNUT STREET, GREEN COVE SPRINGS, FLORIDA
TUESDAY, DECEMBER 08, 2020 – 7:00 PM



Anyone wishing to address the city council regarding any topic on this agenda is requested to complete a card available at the city clerk's desk. Speakers are respectfully requested to limit their comments to three (3) minutes.

The city council prohibits the use of cell phones and other electronic devices which emit an audible sound during all meetings with the exception of law enforcement, fire and rescue or health care providers on call. Persons in violation may be requested to leave the meeting

AGENDA

Invocation & Pledge of Allegiance to the Flag

Roll Call

Mayor to call on members of the audience wishing to address the Council on matters not on the Agenda.

AWARDS & RECOGNITION

1. Proclamation – Zeta Phi Beta Sorority
2. Recognition - Boy Scout Troop 577

PUBLIC HEARINGS

3. Second and Final Reading of Ordinance No. O-11-2020, an Ordinance modifying Water Rates - Fiscal Year (FY) 2021. **Mike Null**
4. Second and Final Reading of Ordinance No. O-12-2020, an Ordinance modifying Wastewater Rates – Fiscal Year (FY) 2021. **Mike Null**
5. First Reading of Ordinance No. O-15-2020 Amendment regarding Condominium and Townhouse Requirements and requiring approval of a Special Exception for Multifamily Dwellings in excess of 35' in height in the R-3 High Density Residential Zoning District **Michael Daniels**

CONSENT AGENDA

All matters under the consent agenda are considered to be routine by the city council and will be enacted by one motion in the form listed below. There will be no separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately. Backup documentation and staff recommendations have been previously submitted to the city council on these items.

- [6.](#) City council approval of three Police Vehicles for the 2021 fiscal year. ***Derek Asdot***
- [7.](#) City Council approval of, and authorization for the Mayor to execute, Disbursement Request #7 in the amount of \$6,625.00 to the Design Loan Agreement for the Florida Department of Environmental Protection (FDEP), Drinking Water State Revolving Fund (SRF) Loan Application DW 100102 for \$356,800.00, for the design of capital improvements to the City's Water System ***Scott Schultz***
- [8.](#) City Council approval of Purchase Order for Building Inspection and Plan Review Services with Charles Abbott and Associates ***Michael Daniels***
- [9.](#) City Council approval for funding to Cummins Southeast in the amount of \$30,675.90 for purchase of a generator for Lift Station #3, utilizing Sourcewell Cooperative Bid ID# 103544. This is part of the HMGP Project # 4337-294-R, from which we have received an advance payment of \$23,006.92 (75%) ***Scott Schultz***
- [10.](#) City council approval of Evidence Custodian and Administrative Commander attending PEAFF Conference. ***Derek Asdot***
- [11.](#) City Council approval of funding in the amount of \$25,814.09 to Anixter and \$27,575.38 to AWG for electric material inventory for operating and capital projects. ***Scott Schultz***
- [12.](#) City Council Approval of Task Order # 1-20-400 to Toco Engineering, LLC in the amount of \$52,000.00 for Professional Engineering services agreement to Design, Permit and Supply Drawings for construction of the West St drainage basin project from Walnut St to MLK holding pond. ***Steve Thomas***
- [13.](#) City Council approval for funding to Cummins Southeast in the amount of \$31,795.19 for purchase of a generator for Lift Station #6, utilizing Sourcewell Cooperative Bid ID# 103544. This is part of the HMGP Project # 4337-215-R, from which we have received an advance payment of \$23,846.39 (75%) ***Scott Schultz***
- [14.](#) City Council approval of the Unaudited FY 2020 Revenues and Expenditures Report and the Quarterly Investment Report for the period ending September 30, 2020.
- [15.](#) City Council approval of Contractors Pay Request #5 in the amount of \$23,402.16 to Jax Utilities Management for Bid Award LC 2020-07, US 17 / SR 16 Force Main Modifications in the amount of \$412,915.00. ***Scott Schultz***
- [16.](#) Award of Bid LC 2020-17 Chapman Substation Construction to Terry's Electric in the amount of \$879,086. ***Mike Null***
- [17.](#) Award of Bid LC 2020-18 Chapman Substation Relay Panels to Keystone Electrical MFG in the amount of \$188,908.50. ***Mike Null***
- [18.](#) City Council approval of Pay Application #4 to KBT Contracting Corp in the amount of \$12,287.07 for the ASACC Library Building project. ***Steve Thomas***
- [19.](#) City Council approval of Pay Request #4 in the amount of \$243,001.40 to General Underground for Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of

\$685,724.00 (Base Bid), and Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00 for a total amount of \$1,000,449.00. **Scott Schultz**

20. Council approval to purchase a dual voltage, 2,000 kVA, 480/277 volt transformer for spare stock from Gresco in the amount of \$26,800. **Mike Null**
21. Council approval of Pay Application #1 from IRBY Construction in the amount of \$164,955.60 for the Chapman Third Feed Reconductor project which has a total contract amount of \$549,852.00. **Mike Null**
22. City Council approved a Change order # 2 to KBT Contracting Corp on September 15,2020 to build out the Classroom area at Augusta Savage Arts and Community Center for the food bank in the total amount of \$148,100.00. Attached is pay # 2 for your approval in the amount of \$13,015.12. **Steve Thomas**
23. City Council approval of Change Order #2 in the amount of \$400,000.00 (includes \$20,426.00 contingency / permitting) for water and sewer force main extension County Road 209 South, to General Underground, under Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00, Change Order #1 (Cove Subdivision services replacement) in the amount of \$60,245 and this Change Order #2 in the amount of \$400,000.00 for a total amount of \$1,460,244.00. **Scott Schultz**

COUNCIL BUSINESS

24. FMPA - December 2020 **Bob Page**
25. City Manager and City Attorney Reports and/or Correspondence/Executive Summary Reports.
26. City Council Reports and/or Correspondence.

Adjournment

The City Council meets the first and third Tuesday of each month beginning at 7:00 p.m., unless otherwise scheduled. Meetings are held in City Hall at 321 Walnut Street. Video and audio recordings of the meetings are available in the City Clerk's Office upon request.

City may take action on any matter during this meeting, including items that are not set forth within this agenda.

Minutes of the City Council meetings can be obtained from the City Clerk's office. The Meetings are usually recorded, but are not transcribed verbatim for the minutes. Persons requiring a verbatim transcript may make arrangements with the City Clerk to duplicate the recordings, if available, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be at the expense of the requesting party.

Persons who wish to appeal any decision made by the City Council with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and

evidence upon which the appeal is based. The City is not responsible if the in-house recording is incomplete for any reason.

ADA NOTICE

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk's office no later than 5:00 p.m. on the day prior to the meeting.

PUBLIC PARTICIPATION:

Pursuant to Section 286.0114, Florida Statutes, effective October 1, 2013, the public is invited to speak on any "proposition" before a board, commission, council, or appointed committee takes official action regardless of whether the issue is on the Agenda. Certain exemptions for emergencies, ministerial acts, etc. apply. This public participation does not affect the right of a person to be heard as otherwise provided by law.

EXPARTE COMMUNICATIONS

Oral or written exchanges (sometimes referred to as lobbying or information gathering) between a Council Member and others, including staff, where there is a substantive discussion regarding a quasi-judicial decision by the City Council. The exchanges must be disclosed by the City Council so the public may respond to such exchanges before a vote is taken.

Proclamation

WHEREAS, Zeta Phi Beta Sorority, Incorporated was founded January 16, 1920, at Howard University, Washington, D.C.; and

WHEREAS, Zeta’s national and local programs include the endowment of its National Educational Foundation community outreach services and support of multiple affiliate organizations. Zeta chapters and auxiliaries have given countless hours of voluntary service to educate the public, assist youth, provide scholarships, support organized charities, and promote legislation for social and civic change; and

WHEREAS, the sorority moves toward ending the centennial, it retains its original zest for excellence. It espouses the highest academic ideals that have resulted in its members serving groundbreaking roles in all fields of endeavor. Zeta Phi Beta Sorority, Incorporated is poised for perpetual service to mankind into her second century and beyond; and

WHEREAS, Zeta Phi Beta Sorority membership in the state of Florida is over 1600 member’s. Our chapter serves St. John and Clay Counties. In Clay County, we serve local high schools by donating money, school supplies and volunteer time helping with testing, JROTC events and PTO activities. In St. John County, we also adopted the State Veteran Elderly Homes and the Domestic Violence Shelter, Betty Griffin House; and

WHEREAS, the Sorority in the Clay County area has always been a part of our chapters chartering and we are ready and excited to continue to plant our seed in this area. Since July we have adopted the Life Care Center of Orange Part, Pine Grove Elementary School, and the Quigley House; and

WHEREAS, our yearly initiative for the Sorority consist of continuing to be involved with the American Cancer Society. For the past four years we have played an enormous role with Making Strides Against Breast Cancer by participating in the walk at Moose-haven and making monetary donations; and

WHEREAS, our local Chapter Beta Alpha Psi Zeta was chartered on March 28, 2017, and we are here to continue giving our support to the City of Green Cove Springs and the surrounding areas of Clay County.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. The City Council of the City of Green Cove Springs hereby recognizes Zeta Phi Beta Sorority for the continuous support to the City of Green Cove Springs.

Section 2. A true copy of this Proclamation shall be spread upon the Official Minutes of the City Council of the City of Green Cove Springs.

DONE AND PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, IN REGULAR SESSION THIS 8TH DAY OF DECEMBER, 2020.



CITY OF GREEN COVE SPRINGS, FLORIDA

B. Van Royal, Mayor

ATTEST:

Erin West, City Clerk



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session

MEETING DATE: December 8, 2020

FROM: Erin West, City Clerk

SUBJECT: Recognition - Boy Scout Troop 577

BACKGROUND

On November 14, the GCS Boy Scout Troop 577 worked to clear access for emergency services to the residence of an elderly woman, Mrs. Charlotte Gill who recently is recovering from a heart attack. The Scouts worked all day Saturday to clear trees and underbrush to provide 30' frontage access to the roadway. The Troop spent 44-man hours to accomplish this. As you can see from the pictures, the house was not visible prior from the roadway. If you reference the utility pole you can now see the residence. The City Electric Department also assisted clearing around their electric service. The project was at 3176 CR 209.

FISCAL IMPACT

RECOMMENDATION



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** November 10, 2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: Second and Final Reading of Ordinance No. O-11-2020, an Ordinance modifying Water Rates - Fiscal Year (FY) 2021.

BACKGROUND

On August 16, 2016, City Council approved a Rate Study presentation by staff and Mittauer & Associates which proposed water rate increases through FY 21 for operating and capital improvement expenses.

On March 5, 2019 Council approved a Mittauer update to the August 16, 2016 Water Rate Study.

On September 29, 2020, City Council approved the FY 21 budget which included proposed water rate increases of 3% for FY 2021, and authorized the notice of a proposed Water Rate Increase.

In accordance with FSS Chapter 180.136, public notices were sent to all utility customers.

Section 1. City Code Section 90-253, entitled "Water usage and monthly minimum charges," which establishes water rates, is hereby amended to read as follows, effective on December 8, 2020.

(a) *Rates schedule.* The rates, fees and charges for water service furnished by the water system of the city, referred to as a water charge, shall be based upon the quantity of water, determined by metering, furnished to each user's premises each month. The owner, occupant or tenant of each lot or parcel of land connected with or using the water system shall pay for the use of, and for the services furnished by the water system, a water charge according to the following schedule:

Base Charges for all water meters are as follows:

Meter Size	Monthly Base Charge*
¾"	\$11.94 <u>\$12.30</u>
1"	\$17.73 <u>\$18.26</u>
1-½"	\$25.24 <u>\$26.00</u>
2"	\$34.23 <u>\$35.98</u>

3"	\$47.76 <u>\$49.19</u>
4"	\$191.03 <u>\$196.76</u>
6"	\$352.25 <u>\$362.82</u>
8"	\$501.54 <u>\$516.55</u>
10"	\$656.74 <u>\$676.44</u>

* Base charge does not include any usage.

Residential Potable		Monthly Charge per 1,000 Gallon of use				
Block Size	<3,000 Gallons	3,001—10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$0.62	\$2.03	\$2.09	\$2.14	\$2.24	
	<u>\$0.64</u>	<u>\$2.09</u>	<u>\$2.15</u>	<u>\$2.21</u>	<u>\$2.28</u>	
Residential Irrigation		Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons		
Rate (\$/1,000 gal)	\$2.09	\$2.14	\$2.75	\$3.58		
	<u>\$2.15</u>	<u>\$2.21</u>	<u>\$2.83</u>	<u>\$3.69</u>		
Commercial Potable		Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons		
Rate (\$/1,000 gal)	\$2.03	\$2.09	\$2.14	\$2.21		
	<u>\$2.09</u>	<u>\$2.15</u>	<u>\$2.21</u>	<u>\$2.28</u>		
Commercial Irrigation		Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons		
Rate (\$/1,000 gal)	\$2.09	\$2.14	\$2.75	\$3.58		
	<u>\$2.15</u>	<u>\$2.21</u>	<u>\$2.83</u>	<u>\$3.69</u>		

(b) *Water utility users outside the city limits.* All water users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits.

(c) *Application of charges.* The charges in this section shall apply to all classes of users, including residential and commercial (industrial, institutional, charitable or otherwise), except as otherwise provided in this Code.

(d) *Maximum monthly bill.* There shall be no maximum charge per month.

- (e) *Minimum monthly bill.* The minimum residential and commercial charge shall be the base charge based on the user's potable water meter size. The base charge does not include any usage.
- (f) *Bulk water rates.* Bulk or wholesale water rates shall be calculated to reflect the city's cost of providing water service to those entities entering into an agreement with the city. Such rates will be determined on an individual basis by the city.
- (g) *Commercial* as defined within this section, includes all uses other than residential.
- (h) *Annual rate increase.* The City Manager shall issue a written report to the City Council during the annual budget process recommending any necessary water rate adjustments.
- (i) *Computation of use.* A consumption of a fraction of any 1,000 gallons shall be the same as using the entire 1,000 gallons.

FISCAL IMPACT

The approved FY 2021 Water Department budget is predicated on this rate increase.

RECOMMENDATION

Approve Ordinance No. O-11-2020 on Second and Final Reading



Notice to all Billing Customers
of the
City of Green Cove Springs
Water and Wastewater Utilities
 Pursuant to Section 180.136, Florida Statutes

Item #3.

The City of Green Cove Springs City Council will consider rate increases to its Water and Wastewater rates and charges at public hearings to be held on Tuesday, November 10, 2020 and Tuesday, December 8, 2020. Both hearings will be held in the City Council Chambers in City Hall, located at 321 Walnut Street, Green Cove Springs, FL 32043, and will begin at 7:00 p.m.

Attendance is not required; however, utility customers will have an opportunity to comment on these matters at that time.

PROPOSED WATER RATES (3% Increase)

Monthly Base Charge: Each customer must pay a monthly base charge for each metered point of connection to the City's water system based upon water meter size associated with each connection point.

3/4" \$12.30 per month	3" \$49.19 per month
1" \$18.26 per month	4" \$196.76 per month
1 1/2" \$26.00 per month	6" \$362.82 per month
2" \$35.98 per month	8" \$516.55 per month
	10" \$676.44 per month

Water Consumption Charge(s): Each customer must pay for water consumed through each connection point based upon service type:

Residential Potable Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$2.09 per 1,000 gallons
10,001-15,000 gallons	\$2.15 per 1,000 gallons
15,001-20,000 gallons	\$2.21 per 1,000 gallons
20,001 gallons and over	\$2.28 per 1,000 gallons

Commercial Potable Service

0-10,000 gallons	\$2.09 per 1,000 gallons
10,001-15,000 gallons	\$2.15 per 1,000 gallons
15,001-20,000 gallons	\$2.21 per 1,000 gallons
20,001 gallons and over	\$2.28 per 1,000 gallons

Residential Irrigation Service

0-10,000 gallons	\$2.15 per 1,000 gallons
10,001-15,000 gallons	\$2.21 per 1,000 gallons
15,001-20,000 gallons	\$2.83 per 1,000 gallons
20,001 gallons and over	\$3.69 per 1,000 gallons

Commercial Irrigation Service

0-10,000 gallons	\$2.15 per 1,000 gallons
10,001-15,000 gallons	\$2.21 per 1,000 gallons
15,001-20,000 gallons	\$2.83 per 1,000 gallons
20,001 gallons and over	\$3.69 per 1,000 gallons

PROPOSED WASTEWATER RATES (9% Increase)

Monthly Base Charge: Each customer must pay for wastewater discharged into the City's wastewater collection system based upon customer class:

3/4" \$33.77 per month	3" \$221.59 per month
1" \$59.82 per month	4" \$587.19 per month
1 1/2" \$117.43 per month	6" \$1,107.89 per month
2" \$168.38 per month	8" \$1,861.26 per month
	10" \$2,658.92 per month

Residential Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$6.14 per 1,000 gallons
10,001-15,000 gallons	\$6.32 per 1,000 gallons
15,001-20,000 gallons	\$6.53 per 1,000 gallons
20,001 gallons and over	\$6.77 per 1,000 gallons

Commercial Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$6.14 per 1,000 gallons
10,001-15,000 gallons	\$6.32 per 1,000 gallons
15,001-20,000 gallons	\$6.53 per 1,000 gallons
20,001-50,000 gallons	\$6.77 per 1,000 gallons
50,001 gallons and over	\$6.97 per 1,000 gallons

Residential wastewater shall not exceed \$100.00 per month

All water and wastewater utility users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits

LEGAL NOTICE

CITY OF GREEN COVE SPRINGS - 321 WALNUT STREET - GREEN COVE SPRINGS, FLORIDA 32043
TEL. (904) 297-7500 - FAX (904) 284-8118

For Immediate Release/Run Once In Legal Section of Newspaper
Furnish Proof of Publication to the City Clerk

Bill to: City of Green Cove Springs
321 Walnut Street, Green Cove Springs, FL 32043
Attn: Erin West

Date: October 29, 2020

Contact: Erin West, CMC, City Clerk

Phone: (904) 297-7500, ext. 3307 **Fax:** (904) 284-8118

Run Once: **Legal Ad Section on October 29, 2020 – Furnish Affidavit**
 Legal Ad Section on November 26, 2020 – Furnish Affidavit

PUBLIC HEARING NOTICE

The City of Green Cove Springs proposes to adopt the following Ordinance:

ORDINANCE NO. O-11-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, MODIFYING WATER RATES BY AMENDING CITY CODE CHAPTER 90 UTILITIES, ARTICLE IV - WATER SERVICE, DIVISION 3 - RATES AND CHARGES, SECTION 90-253 ENTITLED “WATER USAGE AND MONTHLY MINIMUM CHARGES”; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND SETTING AN EFFECTIVE DATE.

The following public hearing has been scheduled and will be held in the City Council Chambers, 321 Walnut Street, Green Cove Springs, to hear comments, if any, regarding said Ordinance:

City Council: First Reading on Tuesday, November 10, 2020 at 7:00 p.m. or shortly thereafter
City Council: Second & Final Reading on Tuesday, December 8, 2020 at 7:00 p.m. or shortly thereafter

Please be advised that if a person decides to appeal any decision made by the City Council with respect to any matter considered at this scheduled public hearing, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act, any person needing a special accommodation to participate in this matter should contact City Hall at (904) 297-7500 at least three (3) days prior to the meeting. Hearing impaired persons may access through (904) 284-4849 (TDD).

Said Ordinance is available at City Hall for review during the hours of 7:30 AM to 5:00 PM, Monday through Thursday.

All interested individuals are invited to attend this public hearing.

City of Green Cove Springs
Erin West, City Clerk
321 Walnut Street
Green Cove Springs, FL 32043

Steve Kennedy, City Manager

ORDINANCE NO. O-11-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, MODIFYING WATER RATES BY AMENDING CITY CODE CHAPTER 90 UTILITIES, ARTICLE III - WATER SERVICE, DIVISION 3 - RATES AND CHARGES, SECTION 90-253 ENTITLED “WATER USAGE AND MONTHLY MINIMUM CHARGES”; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND SETTING AN EFFECTIVE DATE.

WHEREAS, On August 6th, 2016 the City Council approved the Rate Study conducted by Mittauer & Associates, and on June 19, 2018 the City Council approved the Water Master Plan of which a review of the Rate Study was incorporated, and on September 29th, 2020 the City Council approved the full budget which included the proposed water rate increases and authorized the notice of a proposed Water Rate Increase; and

WHEREAS, public notices have been sent to all utility customers in accordance with FSS Chapter 180.136.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA AS FOLLOWS:

Section 1. City Code Section 90-253, entitled “Water usage and monthly minimum charges,” which establishes water rates, is hereby amended to read as follows, effective on December 8, 2020:

Sec. 90-253. Water usage and monthly minimum charges.

- (a) *Rates schedule.* The rates, fees and charges for water service furnished by the water system of the city, referred to as a water charge, shall be based upon the quantity of water, determined by metering, furnished to each user's premises each month. The owner, occupant or tenant of each lot or parcel of land connected with or using the water system shall pay for the use of, and for the services furnished by the water system, a water charge according to the following schedule:

Base Charges for all water meters are as follows:

Meter Size	Monthly Base Charge*
¾"	\$11.94 <u>\$12.30</u>
1"	\$17.73 <u>\$18.26</u>
1-½"	\$25.24 <u>\$26.00</u>
2"	\$34.93 <u>\$35.98</u>

3"	\$ 47.76 <u>\$49.19</u>
4"	\$191.03 <u>\$196.76</u>
6"	\$352.25 <u>\$362.82</u>
8"	\$501.51 <u>\$516.55</u>
10"	\$656.74 <u>\$676.44</u>

* Base charge does not include any usage.

Residential Potable	Monthly Charge per 1,000 Gallon of use				
Block Size	<3,000 Gallons	3,001—10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons
Rate (\$/1,000 gal)	\$0.62 <u>\$0.64</u>	\$2.03 <u>\$2.09</u>	\$2.09 <u>\$2.15</u>	\$2.14 <u>\$2.21</u>	\$2.21 <u>\$2.28</u>
Residential Irrigation	Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$2.09 <u>\$2.15</u>	\$2.14 <u>\$2.21</u>	\$2.75 <u>\$2.83</u>	\$3.58 <u>\$3.69</u>	
Commercial Potable	Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$2.03 <u>\$2.09</u>	\$2.09 <u>\$2.15</u>	\$2.14 <u>\$2.21</u>	\$2.21 <u>\$2.28</u>	
Commercial Irrigation	Monthly Charge per 1,000 Gallon of use				
Block Size	<10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$2.09 <u>\$2.15</u>	\$2.14 <u>\$2.21</u>	\$2.75 <u>\$2.83</u>	\$3.58 <u>\$3.69</u>	

- (b) *Water utility users outside the city limits.* All water users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits.
- (c) *Application of charges.* The charges in this section shall apply to all classes of users, including residential and commercial (industrial, institutional, charitable or otherwise), except as otherwise provided in this Code.

- (d) *Maximum monthly bill.* There shall be no maximum charge per month.
- (e) *Minimum monthly bill.* The minimum residential and commercial charge shall be the base charge based on the user's potable water meter size. The base charge does not include any usage.
- (f) *Bulk water rates.* Bulk or wholesale water rates shall be calculated to reflect the city's cost of providing water service to those entities entering into an agreement with the city. Such rates will be determined on an individual basis by the city.
- (g) *Commercial* as defined within this section, includes all uses other than residential.
- (h) *Annual rate increase.* The City Manager shall issue a written report to the City Council during the annual budget process recommending any necessary water rate adjustments.
- (i) *Computation of use.* A consumption of a fraction of any 1,000 gallons shall be the same as using the entire 1,000 gallons.

Section 2. CODIFICATION. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Green Cove Springs as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word “ordinance” may be changed to “section” or other appropriate word.

Section 3. REPEALER. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption.

INTRODUCED AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, ON THIS 10TH DAY OF NOVEMBER, 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

B. Van Royal, Mayor

ATTEST:

Erin West, City Clerk

PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, THIS 8TH DAY OF DECEMBER, 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

B. Van Royal, Mayor

ATTEST:

Erin West, City Clerk

APPROVED AS TO FORM:

L. J. Arnold, III, City Attorney



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** 11/10/2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: Second and Final Reading of Ordinance No. O-12-2020, an Ordinance modifying Wastewater Rates – Fiscal Year (FY) 2021.

BACKGROUND

On August 16th, 2016, Council accepted a rate study by staff and Mittauer & Associates, which outlined required rate increases needed to finance the proposed capital improvements to the City's wastewater and reclaimed water systems. The rates began incremental increases in 2017, leveling back off in 2022. Funds collected during this period will be set aside as retained earnings, avoiding a large single increase (approximately 90%) in 2021. Each year staff will review the proposed increases for potential adjustments.

Updates and re-evaluations have taken place annually as the City has progressed in its capital improvements to the Wastewater Treatment & Collection Systems, and Reclaimed Water Systems.

There are opportunities for citizens to minimize the implications of the rate increases through water conservation and the utilization of irrigation meters (avoiding the sewer charges for water used for irrigation purposes).

In accordance with FSS Chapter 180.136, Public Notices have been sent to all utility customers.

The FY 2021 budget approved by Council is predicated on this nine percent (9%) increase.

Section 1. City Code Section 90-376, entitled "Wastewater Rates" which establishes wastewater rates, is hereby amended to read as follows, effective on December 8, 2020:

Sec. 90-376. – Wastewater rates.

(a) *Rates schedule.* The rates, fees and charges for wastewater service furnished by the wastewater system of the city, referred to as a "wastewater charge," shall be based upon the quantity of potable water, determined by metering, furnished to each user's premises each month. The owner, occupant or tenant of each lot or parcel of land which is connected with or uses the wastewater system shall pay for the use of, and for the services and facilities furnished by the wastewater system, a wastewater charge according to the following schedule.

Base charges for all wastewater accounts are as follows:

Meter Size	Monthly Base Charge*
¾"	\$30.98 <u>\$33.77</u>

1"	\$54.88 <u>\$59.82</u>
1-1/2"	\$107.73 <u>\$117.43</u>
2"	\$154.48 <u>\$168.38</u>
3"	\$203.29 <u>\$221.59</u>
4"	\$538.71 <u>\$587.19</u>
6"	\$1,016.41 <u>\$1,107.89</u>
8"	\$1,707.58 <u>\$1,861.26</u>
10"	\$2,439.38 <u>\$2,658.92</u>
* Base charge does not include any usage.	

(b) *Wastewater utility users outside the city limits.* All wastewater utility users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits.

(c) *Application of charges.* The charges in this section shall apply to all classes of users, including residential and commercial (industrial, institutional, charitable or otherwise), except as otherwise provided in this Code.

(d) *Maximum monthly bill.* The maximum monthly residential bill shall be \$100.00. There shall be no maximum commercial charge per month.

(e) *Minimum monthly bill.* The minimum residential and commercial charge shall be the base charge based on the user's potable water meter size. The base charge does not include any usage.

(f) *Bulk wastewater rates.* Bulk or wholesale wastewater rates shall be calculated to reflect the city's cost of providing wastewater service to those entities entering into an agreement with the city. Such rates will be determined on an individual basis by the city.

	Monthly Charge per 1,000 Gallon of use					
Residential						
Block Size	<3,000 gallons	3,001—10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$0.59 <u>\$0.64</u>	\$5.63 <u>\$6.14</u>	\$5.80 <u>\$6.32</u>	\$5.12 <u>\$6.53</u>	\$6.21 <u>\$6.77</u>	
Commercial	Monthly Charge per 1,000 Gallon of use					
Block Size	<3,000 gallons	3,001—10,000 gallons	10,001—15,000 gallons	15,001—20,000 gallons	20,001—50,000 gallons	>50,001 gallons

Rate (\$/1,000 gal)	\$0.59	\$5.63	\$5.80	\$5.99	\$6.21	\$6.39
	<u>\$0.64</u>	<u>\$6.14</u>	<u>\$6.32</u>	<u>\$6.53</u>	<u>\$6.77</u>	<u>\$6.97</u>

- (g) *Commercial* as defined within this section, includes all uses other than residential.
- (h) *Annual rate increase.* The City Manager shall issue a written report to the City Council during the annual budget process recommending any necessary wastewater rate adjustments.
- (i) *Computation of use.* A consumption of a fraction of any 1,000 gallons shall be the same as using the entire 1,000 gallons.

FISCAL IMPACT

The approved FY 2021 Wastewater Department budget is predicated on this rate increase.

RECOMMENDATION

Approve Ordinance No. O-12-2020 on Second and Final Reading



Notice to all Billing Customers of the City of Green Cove Springs Water and Wastewater Utilities

Pursuant to Section 180.136, Florida Statutes

The City of Green Cove Springs City Council will consider rate increases to its Water and Wastewater rates and charges at public hearings to be held on Tuesday, November 10, 2020 and Tuesday, December 8, 2020. Both hearings will be held in the City Council Chambers in City Hall, located at 321 Walnut Street, Green Cove Springs, FL 32043, and will begin at 7:00 p.m.

Attendance is not required; however, utility customers will have an opportunity to comment on these matters at that time.

PROPOSED WATER RATES (3% Increase)

Monthly Base Charge: Each customer must pay a monthly base charge for each metered point of connection to the City's water system based upon water meter size associated with each connection point.

3/4" \$12.30 per month	3" \$49.19 per month
1" \$18.26 per month	4" \$196.76 per month
1 1/2" \$26.00 per month	6" \$362.82 per month
2" \$35.98 per month	8" \$516.55 per month
	10" \$676.44 per month

Water Consumption Charge(s): Each customer must pay for water consumed through each connection point based upon service type:

Residential Potable Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$2.09 per 1,000 gallons
10,001-15,000 gallons	\$2.15 per 1,000 gallons
15,001-20,000 gallons	\$2.21 per 1,000 gallons
20,001 gallons and over	\$2.28 per 1,000 gallons

Commercial Potable Service

0-10,000 gallons	\$2.09 per 1,000 gallons
10,001-15,000 gallons	\$2.15 per 1,000 gallons
15,001-20,000 gallons	\$2.21 per 1,000 gallons
20,001 gallons and over	\$2.28 per 1,000 gallons

Residential Irrigation Service

0-10,000 gallons	\$2.15 per 1,000 gallons
10,001-15,000 gallons	\$2.21 per 1,000 gallons
15,001-20,000 gallons	\$2.83 per 1,000 gallons
20,001 gallons and over	\$3.69 per 1,000 gallons

Commercial Irrigation Service

0-10,000 gallons	\$2.15 per 1,000 gallons
10,001-15,000 gallons	\$2.21 per 1,000 gallons
15,001-20,000 gallons	\$2.83 per 1,000 gallons
20,001 gallons and over	\$3.69 per 1,000 gallons

PROPOSED WASTEWATER RATES (9% Increase)

Monthly Base Charge: Each customer must pay for wastewater discharged into the City's wastewater collection system based upon customer class:

3/4" \$33.77 per month	3" \$221.59 per month
1" \$59.82 per month	4" \$587.19 per month
1 1/2" \$117.43 per month	6" \$1,107.89 per month
2" \$168.38 per month	8" \$1,861.26 per month
	10" \$2,658.92 per month

Residential Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$6.14 per 1,000 gallons
10,001-15,000 gallons	\$6.32 per 1,000 gallons
15,001-20,000 gallons	\$6.53 per 1,000 gallons
20,001 gallons and over	\$6.77 per 1,000 gallons

Commercial Service

0-3,000 gallons	\$0.64 per 1,000 gallons
3,001-10,000 gallons	\$6.14 per 1,000 gallons
10,001-15,000 gallons	\$6.32 per 1,000 gallons
15,001-20,000 gallons	\$6.53 per 1,000 gallons
20,001-50,000 gallons	\$6.77 per 1,000 gallons
50,001 gallons and over	\$6.97 per 1,000 gallons

Residential wastewater shall not exceed \$100.00 per month

All water and wastewater utility users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits

ORDINANCE NO. O-12-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, MODIFYING WASTEWATER RATES BY AMENDING CITY CODE CHAPTER 90 - UTILITIES, ARTICLE IV - SEWERS AND SEWAGE DISPOSAL, DIVISION 3 - RATES AND CHARGES, SECTION 90-376 ENTITLED "WASTEWATER RATES"; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND SETTING AN EFFECTIVE DATE.

WHEREAS, On August 6th 2016, the City Council approved the Rate Study conducted by Mittauer & Associates, on August 6, 2016 City Council approved the Reclaimed Water Master Plan of which a review of the Rate Study was incorporated, and a further review of the wastewater and reclaimed water budget takes place annually as the City continues improvements to the wastewater treatment & collection systems and reclaimed water systems, and on September 29, 2020 the City Council approved the full budget which included the proposed wastewater rate increases and authorized the notice of a proposed Wastewater Rate Increase; and

WHEREAS, public notices have been sent to all utility customers in accordance with FSS Chapter 180.136.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA AS FOLLOWS:

Section 1. City Code Section 90-376, entitled "Wastewater Rates" which establishes wastewater rates, is hereby amended to read as follows, effective on December 8, 2020:

Sec. 90-376. – Wastewater rates.

- (a) *Rates schedule.* The rates, fees and charges for wastewater service furnished by the wastewater system of the city, referred to as a "wastewater charge," shall be based upon the quantity of potable water, determined by metering, furnished to each user's premises each month. The owner, occupant or tenant of each lot or parcel of land which is connected with or uses the wastewater system shall pay for the use of, and for the services and facilities furnished by the wastewater system, a wastewater charge according to the following schedule.

Base charges for all wastewater accounts are as follows:

Meter Size	Monthly Base Charge*
¾"	\$30.98 <u>\$33.77</u>
1"	\$54.88 <u>\$59.82</u>
1-½"	\$107.73 <u>\$117.43</u>
2"	\$154.48 <u>\$168.38</u>
3"	\$203.29 <u>\$221.59</u>
4"	\$538.71 <u>\$587.19</u>
6"	\$1,016.41 <u>\$1,107.89</u>
8"	\$1,707.58 <u>\$1,861.26</u>
10"	\$2,439.38 <u>\$2,658.92</u>
* Base charge does not include any usage.	

- (b) *Wastewater utility users outside the city limits.* All wastewater utility users outside the city limits shall pay 125 percent of the equivalent rate charged to those users within the city limits.
- (c) *Application of charges.* The charges in this section shall apply to all classes of users, including residential and commercial (industrial, institutional, charitable or otherwise), except as otherwise provided in this Code.
- (d) *Maximum monthly bill.* The maximum monthly residential bill shall be \$100.00. There shall be no maximum commercial charge per month.
- (e) *Minimum monthly bill.* The minimum residential and commercial charge shall be the base charge based on the user's potable water meter size. The base charge does not include any usage.
- (f) *Bulk wastewater rates.* Bulk or wholesale wastewater rates shall be calculated to reflect the city's cost of providing wastewater service to those entities entering into an agreement with the city. Such rates will be determined on an individual basis by the city.

Residential	Monthly Charge per 1,000 Gallon of use					
Block Size	<3,000 gallons	3,001— 10,000 gallons	10,001— 15,000 gallons	15,001— 20,000 gallons	>20,001 gallons	
Rate (\$/1,000 gal)	\$0.59 <u>\$0.64</u>	\$5.63 <u>\$6.14</u>	\$5.80 <u>\$6.32</u>	\$5.99 <u>\$6.53</u>	\$6.21 <u>\$6.77</u>	
Commercial	Monthly Charge per 1,000 Gallon of use					
Block Size	<3,000 gallons	3,001— 10,000 gallons	10,001— 15,000 gallons	15,001— 20,000 gallons	20,001— 50,000 gallons	>50,001 gallons
Rate (\$/1,000 gal)	\$0.59 <u>\$0.64</u>	\$5.63 <u>\$6.14</u>	\$5.80 <u>\$6.32</u>	\$5.99 <u>\$6.53</u>	\$6.21 <u>\$6.77</u>	\$6.39 <u>\$6.97</u>

- (g) *Commercial* as defined within this section, includes all uses other than residential.
- (h) *Annual rate increase.* The City Manager shall issue a written report to the City Council during the annual budget process recommending any necessary wastewater rate adjustments.
- (i) *Computation of use.* A consumption of a fraction of any 1,000 gallons shall be the same as using the entire 1,000 gallons.

Section 2. CODIFICATION. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Green Cove Springs as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word “ordinance” may be changed to “section” or other appropriate word.

Section 3. REPEALER. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption.

INTRODUCED AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, ON THIS 10TH DAY OF NOVEMBER, 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

B. Van Royal, Mayor

ATTEST:

Erin West, City Clerk

PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, THIS 8TH DAY OF DECEMBER, 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

B. Van Royal, Mayor

ATTEST:

Erin West, City Clerk

APPROVED AS TO FORM:

L. J. Arnold, III, City Attorney

LEGAL NOTICE

CITY OF GREEN COVE SPRINGS - 321 WALNUT STREET - GREEN COVE SPRINGS, FLORIDA 32043
TEL. (904) 297-7500 - FAX (904) 284-8118

For Immediate Release/Run Once In Legal Section of Newspaper
Furnish Proof of Publication to the City Clerk

Bill to: City of Green Cove Springs
321 Walnut Street, Green Cove Springs, FL 32043
Attn: Erin West

Date: October 29, 2020
Contact: Erin West, CMC, City Clerk
Phone: (904) 297-7500, ext. 3307 **Fax:** (904) 284-8118

Run Once: **Legal Ad Section on October 29, 2020 – Furnish Affidavit**
 Legal Ad Section on November 26, 2020 – Furnish Affidavit

PUBLIC HEARING NOTICE

The City of Green Cove Springs proposes to adopt the following Ordinance:

ORDINANCE NO. O-12-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, MODIFYING WASTEWATER RATES BY AMENDING CITY CODE CHAPTER 90 - UTILITIES, ARTICLE IV - SEWERS AND SEWAGE DISPOSAL, DIVISION 3 - RATES AND CHARGES, SECTION 90-376 ENTITLED “WASTEWATER RATES”; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND SETTING AN EFFECTIVE DATE.

The following public hearing has been scheduled and will be held in the City Council Chambers, 321 Walnut Street, Green Cove Springs, to hear comments, if any, regarding said Ordinance:

City Council: First Reading on Tuesday, November 10, 2020 at 7:00 p.m. or shortly thereafter
City Council: Second & Final Reading on Tuesday, December 8, 2020 at 7:00 p.m. or shortly thereafter

Please be advised that if a person decides to appeal any decision made by the City Council with respect to any matter considered at this scheduled public hearing, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act, any person needing a special accommodation to participate in this matter should contact City Hall at (904) 297-7500 at least three (3) days prior to the meeting. Hearing impaired persons may access through (904) 284-4849 (TDD).

Said Ordinance is available at City Hall for review during the hours of 7:30 AM to 5:00 PM, Monday through Thursday.

All interested individuals are invited to attend this public hearing.

City of Green Cove Springs

Erin West, City Clerk
321 Walnut Street
Green Cove Springs, FL 32043

Steve Kennedy, City Manager



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council **MEETING DATE:** December 8, 2020
FROM: Michael Daniels, AICP, Planning & Zoning Director
SUBJECT: First Reading of Ordinance No. O-15-2020 Amendment regarding Condominium and Townhouse Requirements and requiring approval of a Special Exception for Multifamily Dwellings in excess of 35' in height in the R-3 High Density Residential Zoning District

BACKGROUND

Staff is proposing changes to the Residential High-Density R-3 Zoning District regarding the density control requirements for Condominium and Townhouse Development. Currently, the City has different lot area, lot width, living area and setback requirements for Condominium and Townhouse Development as opposed to Multifamily (rental) dwellings. Staff is proposing to revise the ordinance and have the same density control requirements for multifamily development regardless of ownership status. At the same time, staff has added a requirement that for all multifamily development that exceeds 3 stories in height, a special exception shall be required subject to specific conditions. A copy of the proposed ordinance is provided in an underline / strike-thru version for your review.

The proposed ordinance is supported by the following goals, objectives, and policies from the City's Comprehensive Plan:

HOUSING ELEMENT

GOAL 3: The City of Green Cove Springs shall make provisions for adequate and affordable housing that meets the physical and social needs of all segments of the current and future population of the City.

Objective 3.1: Adequate and Affordable Housing. The City shall continue to assist the private sector in providing dwelling units of various types, sizes, and costs to meet the housing needs of the current and future residents and residents with special housing needs

Policies 3.1.1: The City shall review, and revise if necessary, any ordinances, codes, regulations, and the permitting process to eliminate unnecessary requirements and requirements that may inhibit the provision of low and moderate income housing, and to streamline the development review process, while maintaining opportunity for public participation in the review process and insuring the health, welfare, and safety of the residents.

PLANNING AND ZONING COMMISSION RECOMMENDATION

On November 17, 2020, the Planning and Zoning Commission unanimously recommended approval of the proposed ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the first reading of Ordinance No. O-15-2020, amending City Code Chapter 117, Article I and II as to form and legality.

Motion: Approval of the first reading of Ordinance No. O-15-2020, amending City Code Chapter 117, Article I and II as to form and legality.

ORDINANCE NO O-15-2020

AN ORDINANCE OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, AMENDING CHAPTER 117 OF THE CITY OF GREEN COVE SPRINGS CODE TO REVISE THE RESIDENTIAL HIGH DENSITY, R-3 ZONING CATEGORY; REVISING CHAPTER 117, ARTICLE 1, SEC. 117-3 TO ESTABLISH MULTI-FAMILY DWELLING UNITS GREATER THAN 35' IN BUILDING HEIGHT TO A MAXIMUM OF 70' IN BUILDING HEIGHT AS A SPECIAL EXCEPTION IN THE R-3 ZONING DISTRICT; REVISING CHAPTER 117, ARTICLE 1, SEC. 117-6 TO AMEND THE DENSITY CONTROLS FOR MULTI-FAMILY DWELLINGS FOR CONSISTENCY WITH OTHER CHANGES HEREIN; AMENDING CHAPTER 117, ARTICLE II SEC. 117-122 TO ADD A SPECIAL EXCEPTION IN THE R-3 ZONING CATEGORY FOR MULTI-FAMILY DWELLING UNITS GREATER THAN 35' IN BUILDING HEIGHT TO A MAXIMUM OF 70' IN BUILDING HEIGHT; DELETING ARTICLE II SEC. 117-123(5) REGARDING DENSITY CONTROLS FOR CONDOMINIUMS AND TOWNHOUSE DEVELOPMENT UP TO 5 STORIES; PROVIDING FOR CONFLICTS, SEVERABILITY AND SETTING AN EFFECTIVE DATE.

WHEREAS, The City Code was adopted to promote the health, safety, morals and general welfare of the community;

WHEREAS, it is necessary to amend the land development regulations from time to time to update the permitted uses and permitted special exceptions within the zoning districts to fit the character of development in the City;

WHEREAS, it may be necessary to create development standards for specific uses; and

WHEREAS, the Green Cove Springs City Council has determined that this amendment is consistent with the Comprehensive Plan, is in the best interest of the public, and will promote the public health, safety and welfare of the City.

NOW, THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF GREEN COVE SPRINGS, FLORIDA AS FOLLOWS:

Section 1. Code Amended. That Chapter 117 Article I Section 117-3 of the City Code is hereby amended to read as follows:

CHAPTER 117

Article I: - In General.

Sec. 117-3. – Specific allowed uses generally.

(a) Permitted Use Table

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
RESIDENTIAL USES																	
Residential Operation Residential Type	Home Occupation ¹	SE	SE	SE		P	P	P			SE	SE	P	P			
	Mobile Home Park			SE ³													
	Multifamily Dwelling		SE ²	P ⁴ /SE32	P							SE ²	P ²	P ²³			
	Single-family Dwelling, Detached	P	P	P	P	P	P	P		P	P	P	P	P			
	Single-family Dwelling, Attached		SE ²	SE ²	P	P	P	P		P		SE ²	P ²	P ²			
	Two-family dwelling		SE ²	P	P												
RETAIL USES																	
General Retail	Antiques						P ¹³	P		P			P	P			
	Appliance Sales and Rentals							P		P				P			
	Art Supplies					SE ⁷	P ¹³	P		P			P	P			
	Automobile Parts							P					SE	SE			
	Bait and Tackle							P									
	Bakery					SE ¹²		P		P				P			
	Bicycle Sales and Service							P		P				P			
	Billiards							P		P				P			
	Book / Stationery Store						P ¹³	P		P			P	P			
	Bowling Alley							P									
	Building Supplies and Materials							P									
	Cabinet Shops							P									
	Cameras and Photographic Supplies					SE ⁷	P ¹³	P		P			P	P			
	Carpet Outlets							P									
	Ceramic Sales and Studios							P		P				P			
	Cigar and Smoke Shops						P ¹³	P		P				P	P		
	Clock Shops						P ¹³	P		P				P	P		
Clothing Shops							P		P					P			

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
	Commercial Retail Packaging and Mail									P				P			
	Convenience Stores (no gas pumps)						P ¹³	P		P			P	P			
	Convenience Stores (with gas pumps)						SE						SE	SE			
	Curio Shops							P		P				P			
	Decorating Studio / Shop							P		P				P			
	Delicatessen						SE ⁷										
	Department Store							P		P				P			
	Drapery Shops						P ¹³	P		P			P	P			
	Drug Sales (including medial marijuana treatment center dispensing facilities)						SE ⁷	SE	P	P			P	P			
	Electrical Shops							P									
	Florist						SE ⁷	P ¹³	P	P			P	P			
	Food Outlet Store						SE ⁷	SE					P	P			
	Fruit and Vegetables Sales (retail, no packing)							P		P							
	Furniture Store							P		P				P			
	Game Room							P		P				P			
	Gift Shop						SE ⁷	P ¹³	P	P			P	P			
	Grocery Store							P		P				P			
	Gun Sales and Repair							P ¹³	P	P			P	P			
	Hardware Store							P		P				P			
	Heating and Air Conditioning Sales and Service							P									
	Hobby and Craft						SE ⁷	P ¹³	P	P			P	P			
	Interior Decorating							P ¹³	P	P			P	P			
	Janitorial Supplies							P									
	Jewelry Store						SE ⁷	P ¹³	P	P			P	P			
	Leather Goods and Luggage						SE ⁷	P ¹³	P	P			P	P			
	Locksmiths							P ¹³	P	P			P	P			
	Meat Markets							P		P							
	Medical Supplies							P		P				P			

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
	Mobile Home Sales and Service							P									
	Motorcycle Sales and Service							P									
	Music Store					SE ¹⁰											
	Newsstands						P ¹³	P		P			P	P			
	Nurseries							P									
	Office and/or Business Machines						P ¹³	P		P			P	P			
	Office and/or Business Supplies						P ¹³	P		P			P	P			
	Optical Shops							P		P				P			
	Opticians						P ¹³	P		P			P	P			
	Outdoor Sales									SE							
	Paint / Wallpaper						P ¹³	P		P			P	P			
	Pawn Shops							P		P			P	P			
	Pet Grooming							P		P				P			
	Pet Shops					SE ⁹		P						P			
	Pool Supplies							P									
	Printing Shops							P		P				P			
	Professional Offices					P	P ¹³	P		P			P	P			
	Rentals							P		P ²⁴							
	Second Hand Retail													P			
	Shoe Repair						P ¹³	P		P			P	P			
	Shoe Store							P		P				P			
	Shopping Center							P									
	Skating Rink							P						P			
	Sporting Goods Store					SE ⁷		P		P				P			
	Sundries and Notions Shops						SE	P		P				P			
	Tailor / Dressmaker						P ¹³	P		P			P	P			
	Television and Radio Sales and Service							P		P				P			
	Theaters							P		P				P			
	Toy Stores							P		P				P			
	Upholstery Shops							P									
	Utility Building Sales							P									
	Watch Repair					SE ⁷	P ¹³	P		P			P	P			
	Wearing Apparel Shops							P		P				P			

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2	
	Wholesaling from Sample Stock						SE ¹⁴											
Vehicular Sales	Automobile Sales, Service, Repair, and Rentals						SE ¹⁵	P					SE ²¹	SE ²²				
	Boat and Motor Sales and Service							P										
	Tire Sales and Service							P										
SERVICE USES																		
Agricultural Use	Timber Growing, Tree Farming, Nursery, or Agricultural Related Businesses																	SE
Business Service	Parking Lot			SE				P		P								
	Parking Garage							P										
	Pest Control Service Establishments															P	P	
	Radio or TV Broadcasting Offices, Studios, Transmitters, or Antennas															P	P	
	Television and Radio Studios (excluding transmission equipment)						SE ¹¹	P										
Eating or Drinking Establishment	Alcoholic beverages (all types, sale and service) for on-premises consumption							SE		SE				SE				SE
	Alcoholic beverages for off-premises consumption						SE						SE ³¹	SE				
	Restaurants (with drive-through)							P					SE	P				
	Restaurants (without drive-through)					SE ⁷	SE	P		P			P	P				SE
Hospitality and Tourism	Art Gallery or Studio									P			P	P				
	Hotel / Motel							P		P				P				
	Museum									P			P	P				

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
Office Use	Building Trade Contractors with Fleet Parking On-Site									SE							
	Financial Institutions (with drive-through)							P		P				P			
	Financial Institutions (without drive-through)						P ¹³	P		P			P	P			
	Office Space for Building Trades Contractor with No Fleet Parking On-Site									P							
	Professional Offices					P	P ¹³	P		P			P	P		P	P
Personal Service	Barbershops / Beauty Shops						P ¹³	P		P			P	P			
	Dry Cleaners					SE ⁷		P		P				P			
	Funeral Homes						P ¹³	P		P			P	P			
	Health Spa							P		P				P			
	Laundries / Laundromats							P		P							
	Licensed Masseurs							P									
	Mini-Warehouse							SE								P	P
	Palmist / Psychic							SE									
	Well Drilling and Pump Services							P									
EDUCATION/RECREATION/SOCIAL USES																	
Community Service	Adult Day Care	SE	SE	SE		SE	SE	SE			SE	SE			P		
	Child Care	SE	SE	SE		SE	SE	SE		SE	SE	SE	P	P	P		
	Church	SE	SE	SE	P	SE	SE	SE		SE	SE	SE	P	P	P		
	Group Care Home			SE													
	Nursing Home			SE				SE		SE							
Educational Use	Pre-school		SE	SE		SE						SE	P	P	P		
	Private School									SE					P		
	School, elementary & secondary					SE									P		
	School, post-secondary					SE									P		
	Vocational, Technical, Trade, or Industrial School														P	P	P
Recreational Use	Adult Arcade / Electronic Game Center							SE									
	Athletic Complex							SE									

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2	
	Clubs/Lodges/Fraternal Organizations					SE												
	Country Club	P	P	P							P	P						
	Dance / Music / Gymnastics Studio							P		P				P				
	Go-Cart Track							SE										
	Golf Course	P	P	P							P	P					SE ²⁸	
	Race Tracks							SE ¹⁸										
	Recreational Facility														P			
	Public Recreational Uses								P									
PUBLIC USES																		
Public Use	Bus Passages, Parcel Pick-ups and terminals							SE										
	Governmental Uses													P	P			
	Public Utilities													P	P			
	Ancillary Public Facilities													P	P			
HEALTH CARE USES																		
Health Care Use	Convalescence Facility			SE				SE		SE								
	Dental Clinic					SE	P ¹³	P		P			P	P				
	Emergency Shelter														SE ³²			
	Hospital					SE	SE	SE		SE			SE	P	P			
	Medical / Dental Laboratories					SE	P ¹³	P		P			P	P				
	Medical Clinic					SE	P ¹³	P		P			P	P				
	Nursing Home			SE				SE		SE								
	Veterinarian Clinics						P ¹³	P		P ²⁵			P	P				
INDUSTRIAL USES																		
High-Impact Industrial Use	Boat and Ship Manufacturing, Distributions, Sales, and Storage																	P
	Container Manufacturing																	P

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2	
	Manufacturing, Sales, and Distribution of Concrete Products, Plastic Products, Fiberglass Products, Wood Products, Gypsum Products, and Foam Products;																	P
	Metal Fabrication Shops																	P
	Fuel Sales and Services																	P
	Port and Related Activities																	P
Low-Impact Industrial Use	Aviation Related Facilities, Storage, and Production																	P
	Boatyard							SE										

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
	Building Trades Contractor with Outside Storage Yard and Heavy Construction Equipment							SE									
	Bulk Storage Yard							SE ¹⁷								P	P
	Clinics, in connection with industrial activity															P	P
	Distribution Establishment															P	P
	Fabricators							SE ¹⁹									
	Food Processing, Storage and Distribution																P
	Light Manufacturing							SE ¹⁶								P	P
	Outdoor Storage															P ²⁷	P ²⁷
	Packaging Facilities																P

Use Category	Use Type	R-1	R-2	R-3	RRF ⁵	RPO ⁶	C-1 ⁸	C-2	REC ²⁹	CBD	GCR (RLD)	GCR (RMD)	GCN ²⁰	GCC	INS ²⁶	M-1	M-2
	Printing / Lithographing / Publishing															P	P
	Railroad Rights-of-Way															P	P
	Research, experimental testing laboratories															P	P
	Storage Trailers for sale or rental																P
	Truck Facilities																P
	Warehouse / Storage							SE								P	P
	Welding Shop							SE									
	Wholesale							SE								P	P

(b) *Zoning district description.*

Zoning District	Abbreviation
Residential Low Density	R-1
Residential Medium Density	R-2
Residential High Density	R-3
Riverfront Residential Land Use	RRF
Residential Professional Office	RPO
Neighborhood Commercial	C-1
General Commercial	C-2
Recreation and Conservation	REC
Central Business District	CBD
Gateway Corridor Residential Low Density	GCR (RLD)
Gateway Corridor Residential Medium Density	GCR (RMD)
Gateway Corridor Neighborhood	GCN
Gateway Corridor Commercial	GCC
Institutional	INS
Light Industrial	M-1
Industrial Park	M-2

(c) *Permitted use table footnotes.*

P – Permitted. SE – Allowed by Special Exception.

1. Subject to the conditions set forth in Sec. 117-789.
2. Single-family attached dwellings, up to four units
3. Subject to the conditions in Sec. 117-122(4)(a-j)
4. Multifamily dwelling units may omit garages through a Special Exception
5. Subject to development criteria in Sec. 117-147. Each RRF parcel requires a PUD rezoning in compliance with Sec. 117-421 in order to be developed.
6. All permitted uses are subject to the conditions set forth in Sec. 117-199.
7. Subject to the limitations in Sec. 117-200(7).
8. Subject to the limitations in Sec. 117-226.
9. No kennels. Subject to the limitations in Sec. 117-200(7).
10. Musical instruments. Subject to the limitations in Sec. 117-200(7).
11. Including repair incidental to sales. Subject to the limitations in Sec. 117-200(7).
12. Not wholesale bakeries. Subject to the limitations in Sec. 117-200(7).
13. Subject to the limitations of 117-226.
14. Provided no manufacturing or storage for distribution is permitted on-premises.
15. Subject to the limitations outlined in Sec. 117-228(10)
16. Light manufacturing, processing (including food processing but not slaughterhouse), packaging or fabricating
17. Bulk storage yards, not including bulk storage of flammable liquids
18. Race tracks for animals or vehicles
19. Plumbing, electrical, mechanical, and sheet metal.

20. All uses must be in a totally enclosed building and no more than 20 percent of floor space to be devoted to storage. The permitted uses per Sec. 117-540 are subject to the limitations in Sec. 117-541(5)(b)
21. Automobile rental not included as a use permitted by special exception.
22. Establishments or facilities for automobile parts, sales, and service without use of an outdoor intercom or public address system or speakers, and no vehicle display racks that tilt vehicles in any way to show underside, unless they are located inside a show room.
23. Through special exception, multifamily dwelling units can be built without garages.
24. Rentals, excluding heavy equipment.
25. Veterinarian clinics within enclosed buildings.
26. The following are permitted uses in the institutional land use category, institutional zoning category: Any lawful civic, governmental, religious, public utility, and other public necessity uses or activities.
27. Subject to the limitations of Sec. 117-297(5).
28. Golf courses and pro shop allowed by special exception.
29. Pursuant to Sec. 117-355: Allowable uses are public recreation uses that are compatible with the environmental characteristics of the property and, if purchased with grant funds, are consistent with grant conditions. No development potential is associated with these lands; however, recreation facilities may be constructed as a part of recreation uses that are consistent with the land use category.
30. Subject to the conditions in Sec. 117-796.
31. Beer and wine sales only.
32. Multifamily Dwellings greater than 35' in building height

Section 2. Code Amended. That Chapter 117 Article I Section 117-6 of the City Code is hereby amended to read as follows:

CHAPTER 117

Article I: - In General.

Sec. 117-6. – Lot Requirements Table.

(a) Lot requirements table

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>RPO</u>	<u>C-1</u>	<u>C-2</u>	<u>REC</u>	<u>CBD</u> ¹	<u>GCR</u> ² <u>RLD</u>	<u>GCR</u> ² <u>RMD</u>	<u>GCN</u>	<u>GCC</u>	<u>INS</u>	<u>M-1</u>	<u>M-2</u>
FRONT YARD (Minimum feet):															
Single-family dwelling unit, detached	20	20	20	20	20	20			20	20	10	10			
Single-family dwelling unit, attached		20	20	20	20	20				20	10	10			
Multi-family dwelling unit			30									10			
Mobile Home Park / Subdivision			15												
Nonresidential uses				20	25	25		NMR			10	10	20	25	25
INTERIOR SIDE YARD:															
Single-family dwelling unit, detached	10	7.5	7.5	7.5	7.5	7.5			10	7.5	5	5			
Single-family dwelling unit, attached		10 or 10% ³	7.5 or 10% ³	10 or 10% ³	10 or 10% ³	10 or 10% ³				10 or 10% ³	10	5			
Multi-family dwelling unit			10 ⁴									5 ⁹			
Mobile Home Park / Subdivision			7.5												
Nonresidential uses				7.5 or 10% ³	NMR ⁸	NMR ⁸		NMR			10	10	NMR ⁸	15	15
STREET SIDE YARD:															

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>RPO</u>	<u>C-1</u>	<u>C-2</u>	<u>REC</u>	<u>CBD</u> ¹	<u>GCR</u> ² <u>RLD</u>	<u>GCR</u> ² <u>RMD</u>	<u>GCN</u>	<u>GCC</u>	<u>INS</u>	<u>M-1</u>	<u>M-2</u>
Single-family dwelling unit, detached	15	15	15	15	15	15			15	15	10	10			
Single-family dwelling unit, attached		15 or 10% ³	15 or 10% ³	15 or 10% ³	15 or 10% ³	15 or 10% ³				15 or 10% ³	10	10			
Multi-family dwelling unit			15 ⁴									10			
Mobile Home Park / Subdivision			15												
Nonresidential uses				15 or 10% ³	NMR ⁸	NMR ⁸		NMR			10	10	NMR ⁸	15	15
REAR YARD:															
Single-family dwelling unit, detached	10	10	10	10	10	10			10	10	10	10			
Single-family dwelling unit, attached		10	10	10	10	10				10	10	10			
Multi-family dwelling unit			20 ⁵									10 ⁵			
Mobile Home Park / Subdivision			10												
Nonresidential uses				10	10 ⁷	10 ⁷		NMR			10	10	10 ⁷	20	20
LOT WIDTH (Minimum feet):															
Single-family dwelling unit, detached	70	50	50	50	50	50			70	50	50	50			

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>RPO</u>	<u>C-1</u>	<u>C-2</u>	<u>REC</u>	<u>CBD</u> ¹	<u>GCR</u> ² <u>RLD</u>	<u>GCR</u> ² <u>RMD</u>	<u>GCN</u>	<u>GCC</u>	<u>INS</u>	<u>M-1</u>	<u>M-2</u>
Single-family dwelling unit, attached		75 ¹¹	75	75 ¹¹	75 ¹¹	75 ¹¹				75 ¹¹	75 ¹¹	100			
Multi-family dwelling unit			100									100			
Mobile Home Park / Subdivision			100 ¹⁰												
Nonresidential uses				50	NMR	NMR		NMR			NMR	NMR	NMR	100	100
LIVING AREA (Minimum square feet):															
Single-family dwelling unit, detached	1,250	1,000	1,000	1,000	1,000	1,000			1,250	1,000	1000	1000			
Single-family dwelling unit, attached		1,000	700 ¹⁴	1,000	1,000	1,000				1,000	1,000	750			
Multi-family dwelling unit			800 ¹²									750 ¹³			
Mobile Home Park / Subdivision			NMR												
Nonresidential uses				NMR	NMR	NMR	NMR	NMR			NMR	NMR	NMR	NMR	NMR
LOT AREA (Minimum-1,000's square feet):															
Single-family dwelling unit, detached	7	5	5	5	5	5			7	5	5	5			

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>RPO</u>	<u>C-1</u>	<u>C-2</u>	<u>REC</u>	<u>CBD</u> ¹	<u>GCR</u> ² <u>RLD</u>	<u>GCR</u> ² <u>RMD</u>	<u>GCN</u>	<u>GCC</u>	<u>INS</u>	<u>M-1</u>	<u>M-2</u>
Single-family dwelling unit, attached		8.5 ¹⁷	7.5	8.5 ¹⁷	8.5 ¹⁷	8.5 ¹⁷				8.5 ¹⁷	8.5 ¹⁷	7.5			
Multi-family dwelling unit			7.5 ¹⁵									7.5 ¹⁵			
Mobile Home Park / Subdivision			435.6												
Nonresidential uses				6	NMR	NMR		NMR			NMR	NMR	NMR	NMR	NMR
BUILDING COVERAGE (%) or Floor Area Ratio (FAR):															
Single-family dwelling unit, detached	35%	35%	35%	35%	35%	35%			35%	35%	MP ¹⁹	MP ¹⁹			
Single-family dwelling unit, attached		35%	35%	35%	35%	35%				35%	MP ¹⁸	MP ²⁰			
Multi-family dwelling unit			40%									MP ²⁰			
Mobile Home Park / Subdivision			40%												
Nonresidential uses				0.2	0.25	0.35	0.2				MP ¹⁸	MP ²⁰	0.3	0.6	0.6
BUILDING HEIGHT (Maximum feet):	35	35	35 ²⁵	35	35	35			35	35	35 ²²	54 ²³	85 ²¹	55 ²⁴	55 ²⁴

(b) *Lot requirements notes.***NMR** – No minimum required**MP** – Minimum pervious**Districts**

1. Central Business District Density Controls: Sec 117-444
 1. Where structures are in existence and situated in the central business district at the time of the adoption of the ordinance from which this section is derived and are demolished, or destroyed, the structures shall be allowed to be rebuilt to the same footprints as existed at the time of adoption of the ordinance from which this section is derived, provided the construction of the new structure meets current building codes and is consistent with the exterior of the damaged structure or adjoining structures.
 2. The requirements for new construction which is proposed to be placed on land which is vacant at the time of adoption of the ordinance from which this section is derived shall be site specific. In general, such structures shall be required to conform to the density requirements of the adjacent structures where deemed practicable. There shall be continuity in front yard alignment without regard to other requirements in this Code.
2. Gateway Corridor Residential Zoning Category: Sec 117-515
 1. The gateway corridor residential zoning category is intended for all property located in the gateway corridor and designated as RLD (residential low density) and RMD (residential medium density) on the future land use map. The permitted uses, special exceptions, and density controls are R-1, single family residential, for the RLD (residential low density) property and R-2, single-family multifamily residential, for the RMD (residential medium density) property.
 2. Where structures are in existence and situated in the gateway corridor residential zoning category at the time of the adoption of the ordinance from which this section is derived and are demolished or destroyed, the structures shall be allowed to be rebuilt to the same footprints and density as existed at the time of adoption of the ordinance from which this section is derived, provided the construction of the new structure meets current building codes.

Setbacks

3. 10% of lot width (the greater amount must be chosen)
4. Not less than ten feet for the first two stories. For each story in excess of two, the required side yards shall be increased by five feet for each story so added
5. 20 feet for the first two stories. For each story in excess of two, the required rear yards shall be increased by five feet for each story so added.
6. Sec. 117-113(5)(c-e)
 - (c) Minimum required from side and rear yard of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required front, side and rear yards shall be increased by one foot horizontally for every one foot of vertical building rise;
 - (d) Minimum required rear yard: 25 feet unless it fronts a state-owned property (St. Johns River or Governors Creek) then a minimum of 30 feet setback;
 - (e) Minimum required side yard on each side of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required side yards shall be increased by one foot horizontally for every one foot of vertical building rise;
7. If abutting a dedicated alley, only five feet are required.

8. No minimum required (NMR), except 15 feet on corner lots and 15 feet on interior lots when abutting a residential zone.
9. Minimum required side yard on each side of the structure: Not less than five feet for the first two stories. For each story in excess of two, the required side yards shall be increased by five feet for each story so added;

Lot Width

10. 100 feet on a public street
11. Minimum required lot width:
 1. Two-family: 75 feet
 2. Three-family: 100 feet
 3. Four-family: 150 feet

Living Area

12. Sec. 117-123(3)(f)(1-4)
 - f. Minimum required living areas:
 1. Efficiency apartment: 800 square feet;
 2. One bedroom apartment: 800 square feet;
 3. Two bedroom apartment: 900 square feet;
 4. Three or more bedroom apartment: 900 square feet plus an additional 100 square feet for each bedroom over two bedrooms;
13. Sec. 117-113(f)(1-4) & Sec. 117-566(2)(f)(1-4)
 - f. Minimum required living areas:
 1. Efficiency unit: 750 square feet;
 2. One bedroom unit: 800 square feet;
 3. Two bedroom unit: 900 square feet;
 4. Three or more bedroom unit: 900 square feet plus an additional 100 square feet for each bedroom over two bedrooms;
14. Minimum required living area: 700 square feet per family

Lot Area

15. 7,500 square feet for the first two dwelling units and 2,700 square feet for each additional unit that is added.
16. Minimum required lot area shall be 7,260 square feet for the first two dwelling units and 3,630 square feet for each additional unit that is added;
17. Minimum required lot area:
 1. Two-family: 8,500 square feet
 2. Three-family: 12,500 square feet
 3. Four-family: 16,500 square feet

Minimum Pervious

18. Minimum Pervious is 30%.
19. Minimum pervious surface: 40%
20. Minimum pervious surface: 20%

Structure Height

21. Mirror industrial height for utility structures i.e., elevated water storage tanks.

22. Maximum number of stories: Three. Maximum structure height: 35 feet. For commercial and professional offices: The maximum height may be increased to 50 feet. The building must be tiered back one foot for every foot over 35 feet;
23. Maximum structure height: 54 feet. Maximum height may be increased to 70 feet. The building must be tiered back one foot for every foot over 54 feet. Maximum number of stories: Four. For a single-family detached dwelling permitted by special exception, maximum height would be 35 feet and the maximum number of stories is three.
24. Maximum structure height (buildings): 55 feet. Maximum accessory height (towers only): 85 feet.

~~Condominium and Townhouse Development up to 5 stories, excluding basement and parking garage areas:~~

~~25. Pursuant to 117-123(5):~~

- ~~a. Minimum required lot area shall be 7,260 square feet for the first two dwelling units and 3,630 square feet for each additional unit that is added;~~
- ~~b. Minimum required lot width: 400 feet;~~
- ~~c. Minimum required from side and rear yard of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required front, side and rear yards shall be increased by one foot horizontally for every one foot of vertical building rise;~~
- ~~d. Minimum required rear yard: 25 feet unless it fronts a state owned property (St. Johns River or Governors Creek) then a minimum of 30 feet setback;~~
- ~~e. Minimum required side yard on each side of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required side yards shall be increased by one foot horizontally for every one foot of vertical building rise;~~
- ~~f. Minimum required living areas:~~
- ~~1. Efficiency unit: 750 square feet;~~
 - ~~2. One bedroom unit: 800 square feet;~~
 - ~~3. Two bedroom unit: 900 square feet;~~
 - ~~4. Three or more bedroom unit: 900 square feet plus an additional 100 square feet for each bedroom over two bedrooms;~~
- ~~g. Minimum pervious area: 30 percent;~~
- ~~h. Maximum fifth floor level: Not to exceed 63 feet and the top of the roof shall not exceed 85 feet, except that an additional ten feet in height may be allowed for architectural features as provided by the city;~~
- ~~i. The above requirements of this section shall apply to any requested PUD within the RHD, residential high density, land use category.~~

25. Building Height can be increased subject to approval of a special exception as set forth in Sec. 117-122(7).

Section 3. Code Amended. That Chapter 117 Article II Division 4 Sections 117-122 and 117-123 of the City Code are hereby amended to read as follows:

CHAPTER 117

Article II: - Residential

Division 4. – Residential High Density, R-3 Zoning Category

Sec. 117-122. – Special exceptions.

The following are special exceptions in the residential high density, R-3 zoning category:

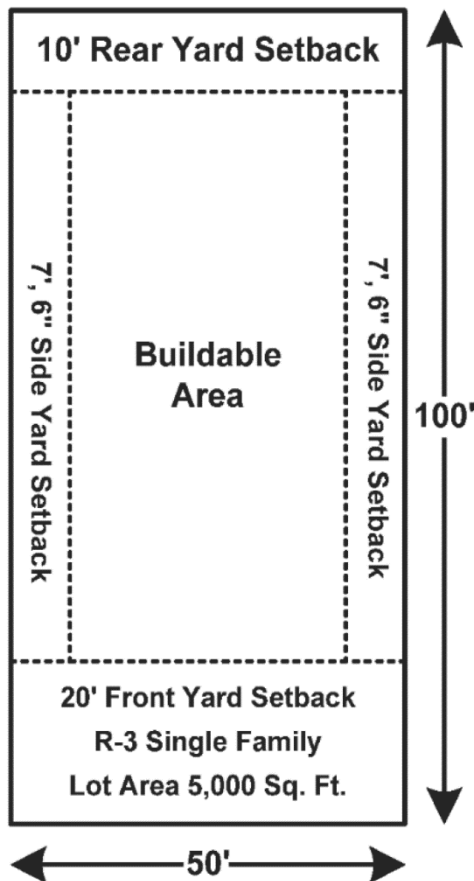
- (1) Special exceptions permitted in the residential medium density category, R-2 zoning;
- (2) Off-street parking lots;
- (3) Nursing homes and convalescence facilities;
- (4) Mobile home parks or subdivisions, provided:
 - a. Piers with adequate foundations shall be located a minimum of ten feet on center under the chassis of each unit;
 - b. Organic material shall be removed from under each unit;
 - c. Appropriate skirting shall be used around all coaches;
 - d. A minimum of three tie-downs shall be provided for each unit with adequate anchoring, however, all tie-downs shall be provided on the unit shall be anchored;
 - e. Each street shall be paved surface of a minimum of 22 feet in width curb-to-curb;
 - f. Engineering design of all construction shall be approved by the city public works director;
 - g. Individual laundry facilities shall be located within the main unit or within an approved utility structure;
 - h. All utilities shall be provided underground;
 - i. For a mobile or modular home subdivision, the design standard set forth in the city's subdivision regulations shall apply;
 - j. The park or subdivision complies with all state and federal laws.
- (5) Group care homes.
- (6) Multifamily dwelling units without garages.
- (7) Multifamily dwellings units that exceed 35' in height to a maximum of 70' in height except that an additional 10 feet may be allowed for architectural features as approved by the city provided that:
 - a. Multifamily Residential development shall comply with density controls set forth in Section 117-123(3);

b. The above requirements of this section shall apply to any requested PUD within the RHD, residential high density, land use category.

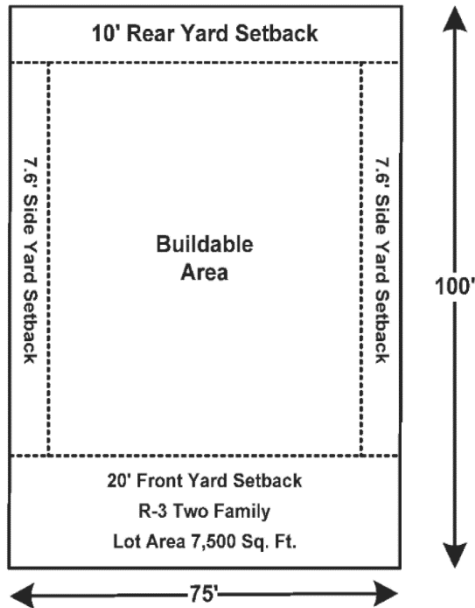
Sec. 117-123. - Density controls.

Density controls in the residential high density, R-3 zoning category shall be as follows:

(1) For single-family dwellings in the residential medium density, R-2 zoning category:



- a. Minimum required lot area: 5,000 square feet;
 - b. Minimum required lot width: 50 feet;
 - c. Minimum required front yard: 20 feet;
 - d. Minimum required rear yard: Ten feet;
 - e. Minimum required side yard: Seven feet, six inches;
 - f. Minimum required living area: 1,000 square feet together with an attached or detached garage of at least ten feet by 20 feet. Attached garages shall be architecturally integrated into the design of the dwelling and structurally connected;
 - g. Maximum lot coverage: 35 percent;
 - h. Maximum structure height: 35 feet.
- (2) For two-family dwellings:



- a. Minimum required lot area: 7,500 square feet;
 - b. Minimum required lot width: 70 feet;
 - c. Minimum required front yard: 20 feet;
 - d. Minimum required rear yard: Ten feet;
 - e. Minimum required side yard: Seven feet, six inches; or ten percent of the lot width, whichever is greater;
 - f. Minimum required living area: 700 square feet per family;
 - g. Maximum lot coverage: 35 percent;
 - h. Maximum structure height: 35 feet.
- (3) For multiple-family dwellings:
- a. Minimum required lot area: 7,500 square feet for the first two dwelling units and 2,700 square feet for each additional unit that is added;
 - b. Minimum required lot width: 100 feet;
 - c. Minimum required front yard: 30 feet;
 - d. Minimum required rear yard: 20 feet for the first two stories. For each story in excess of two, the required rear yards shall be increased by five feet for each story so added;
 - e. Minimum required side yard on each side of the structure: Not less than ten feet for the first two stories. For each story in excess of two, the required side yards shall be increased by five feet for each story so added;
 - f. Minimum required living areas:
 1. Efficiency apartment: 800 square feet;
 2. One bedroom apartment: 800 square feet;
 3. Two bedroom apartment: 900 square feet;
 4. Three or more bedroom apartment: 900 square feet plus an additional 100 square feet for each bedroom over two bedrooms;

- g. Maximum lot coverage: 40 percent;
 - h. Maximum structure height: 35 feet.
- (4) For mobile home parks and mobile home subdivisions:
- a. Minimum site area: Ten acres;
 - b. Maximum gross density: Six units per acre;
 - c. Minimum required site width: 100 feet on a public street;
 - d. Minimum yard requirements: Front, 15 feet; side, 7.5 feet; rear, ten feet;
 - e. Maximum site coverage: 40 percent;
 - f. Maximum structure height: 35 feet.
- ~~(5) For condominiums and townhome developments up to five stories, excluding basement and parking garage areas:~~
- ~~a. Minimum required lot area shall be 7,260 square feet for the first two dwelling units and 3,630 square feet for each additional unit that is added;~~
 - ~~b. Minimum required lot width: 400 feet;~~
 - ~~c. Minimum required from side and rear yard of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required front, side and rear yards shall be increased by one foot horizontally for every one foot of vertical building rise;~~
 - ~~d. Minimum required rear yard: 25 feet unless it fronts a state-owned property (St. Johns River or Governors Creek) then a minimum of 30 feet setback;~~
 - ~~e. Minimum required side yard on each side of the structure: Not less than 25 feet for the first two stories. For each story in excess of two, the required side yards shall be increased by one foot horizontally for every one foot of vertical building rise;~~
 - ~~f. Minimum required living areas:~~
 - ~~1. Efficiency unit: 750 square feet;~~
 - ~~2. One bedroom unit: 800 square feet;~~
 - ~~3. Two bedroom unit: 900 square feet;~~
 - ~~4. Three or more bedroom unit: 900 square feet plus an additional 100 square feet for each bedroom over two bedrooms;~~
 - ~~g. Minimum pervious area: 30 percent;~~
 - ~~h. Maximum fifth floor level: Not to exceed 63 feet and the top of the roof shall not exceed 85 feet, except that an additional ten feet in height may be allowed for architectural features as provided by the city;~~
 - ~~i. The above requirements of this section shall apply to any requested PUD within the RHD, residential high density, land use category.~~
- (6) All residential dwelling units shall have an attached or detached garage of at least ten feet by 20 feet. Attached garages shall be architecturally integrated into the design of the dwelling and structurally connected.

Section 4. Conflicts. If any portion of this Ordinance is in conflict with any other ordinance, then the provisions of this Ordinance shall govern.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date. Upon its adoption by the City Council, this ordinance shall become effective.

INTRODUCED AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF GREEN COVE SPRINGS, FLORIDA, ON THIS _____ DAY OF, _____ 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

By: _____
B. Van Royal, Mayor

ATTEST: _____
Erin West, City Clerk

PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF GREEN COVE SPRINGS, FLORIDA, THIS _____ DAY OF, _____ 2020.

CITY OF GREEN COVE SPRINGS, FLORIDA

By: _____
B. Van Royal, Mayor

ATTEST: _____
Erin West, City Clerk

APPROVED AS TO FORM:

L. J. Arnold III, City Attorney



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** 12/08/2020
FROM: Derek Asdot, Chief of Police
SUBJECT: City council approval of three Police Vehicles for the 2021 fiscal year.

BACKGROUND

Funds will be coming out of Capital Equipment: 001-2021-5006431. Total amount of all three vehicles is \$147,453.00 from Duval Ford.

FISCAL IMPACT

RECOMMENDATION

Please approve the purchase of 3 Police Vehicles for the 2021 Fiscal year.

PATROL

Prepared for:	Contract Holder	10/14/20
CITY OF GREEN COVE SPRING POLICE	Duval Fleet Sales	
LT. SHAW	Laura Torbett	
904-297-7311	(Work) 904-388-2144	
shines@gcspd.com	(Fax) 904-387-6816	
	(Cell) 904-568-6027	
	Laura.Torbett@duvalfleet.com	
	5203 Waterside Dr Jax, Fl 32210	
	PLEASE CONFIRM RECEIPT OF QUOTE VIA EMAIL	

We appreciate your interest and the opportunity to quote. Pricing per FLORIDA SHERIFFS ASSOCIATION LIGHT VEHICLE CONTRACT FSA19-VEL27 Heavy Equipment and Trucks FSA19-VEH 17. If you have any questions regarding this quote please call! Note, Vehicle will be ordered white exterior unless specified on purchase order. Shipping and Invoicing instructions are required on agency purchase order.

Labor	Code	Equipment	Price
0	SPEC 239	2020 FORD INTERCEPTOR POLICE RATED UTILITY - AWD K&A	\$ 35,016.00
0	D99W	3.3L HYBRID ENGINE	\$ -
0	STD	POWER WINDOWS/ DOOR LOCKS	\$ -
0	153	Front License Bracket	\$ -
0	51Y	Driver's Side (Left Hand) Spotlight	\$ -
0	BUC	BACK UP CAMERA	\$ -
0	UM	EXTERIOR: AGATE BLACK	\$ -
0	9W	INTERIOR: CLOTH FRONT SEATS/ REAR VINYL	\$ -
0		VINYL FLOOR	\$ -
0	99B	GAS ENGINE CREDIT	\$ (2,500.00)
0	52P	HIDDEN DOOR PLUNGERS WITH LOCKS, HANDLES AND WINDOWS INOP	\$ 159.00
0	INCL	PRE DRILLED HOLES FOR HEADLAMPS	\$ -
0	55F	KEYLESS ENTRY	\$ -
0	60A	GRILLE WIRING	\$ 49.00
0	TINT	DEEP WINDOW TINT WITH WINDSHIELD STRIP	\$ 265.00
0	76R	REVERSE SENSING	\$ 274.00
0	PAINT 2 TONE	TWO TONE PAINT- WHITE DOORS ONLY (PRICE INCLUDES \$400 CREDIT FOR DELETING ROOF PAINT)	\$ 1,195.00
0	87D	DECAL PACKAGE: GREEN COVE PD SPECS	\$ 399.00
8	WPLB-LED 2	54" WHELEN LEGACY PREMIUM LIGHTBAR WITH WECAN, INCLUDING TAKE DOWN AND ALLEY LIGHTS, SIREN/ SPEAKER (MT SPEAKER ON FRONT OF PUSH BUMPER) 295SL56 CONTROLLER AND MOUNTING BRACKET FOR PI UTILITY- RED/ BLUE	\$ 2,222.00
2	W-RML	WHELEN SIDE KICK LED WARNING SYSTEM, PART# V23 (1 RED, 1 BLUE WITH WHITE PUDDLE)	\$ 279.00
0	BK05341TU20	SETINA PB400 PUSH BUMPER	\$ 504.00
2	W-RDL	(2) WHELEN SINGLE AVENGERS, MT. ON REAR DECK - (1) RED, (1) BLUE	\$ 257.00
2	W-GL	(2) WHELEN STUD MOUNT MICRONS FOR GRILLE- SPLIT R/B	\$ 186.00
3	W-VERTEX	WHELEN FOUR CORNER LED LIGHTS, (2) VERTEX FOR HEADLAMPS, (2) VERTEX FOR TAIL LAMPS- R/B SPLIT	\$ 291.00
3	TCRHS5	5 LAMP WHELEN TRACER RUNNING LIGHTS- RED/ BLUE SPLIT WITH BRACKET (PAIR)	\$ 870.00
2	W-GL	WHELEN ION WITH MOUNTING BRACKET, MT. REAR CARGO WINDOW- RED/ BLUE SPLIT	\$ 186.00
2	W-GL	BROOKING LED LIGHTS- MOUNT IN REAR HATCH, OUTWARD FACING- RED/ BLUE SPLIT	\$ 186.00
0	CC-UV-S10-LB	CENTER CONSOLE, WITH 10" SLOPE & 8" LEVEL SECTION (LOW PROFILE ALLOWS MORE ROOM FOR OFFICER)	\$ 485.00
0	AC-FDUV-MNT	HD DLOOR MOUNT FOR CENTER CONSOLE	\$ 1.00
0	FP-WS295HFS9	4" FACE PLATE FOR WHELEN 295 CONTROLLER	\$ -
0	FP-AP3	3" FACEPLATE WITH (3) DC OUTLET HOLES	\$ -
0	FP-MXTL5000	3" FACEPLATE FOR MOTOROLA XTL 5000, ONE PIECE RADIO	\$ -
0	AC-INBHG	DUAL BEVERAGE HOLDER	\$ 50.00
0	FP-SGTRAY	4" CONSOLE TRAY FOR MISC ITEMS	\$ 40.00
0	L3-AP1SET	(3) DC OUTLETS WITH CAPS	\$ 68.00
0	AC-TB-ARMMNT-58	ROTATING ARM REST	\$ 166.00
0	CM-SDMT-SL-LED	SIDE MOUNT COMPUTER MOUNT (INCLUDES TROY'S UNIQUE SLIDE ARM FEATURE)	\$ 375.00
0	CM-LT-1600	LAP TOP TRAY	\$ -
0	TP-E-SL6-US-SS	STRAIGHT FRAME FRONT PARTITION WITH SLIDING WINDOW & SQUARE HOLE CRAWL THROUGH BARRIER	\$ 800.00
0	SAB-20-FDUV-BB	PARTITION MOUNTING KIT	\$ -
0	KP-UV20-DAP-SS	PARTITION KICK PANELS WITH BIG FOOT POCKETS	\$ 185.00
0	WG-20-FDUV-SET	VERTICAL WINDOW BARS	\$ -
0	PS-20-UV-OS-R	REAR PARTITION WITH SQUARE HOLE MAIN WINDOW, INCLUDES PLASTIC SEAT WITH OFFICER SAFE	\$ 1,726.00
0	AC-20-UV-HATCH	SEAT BELT SYSTEM & (2) SQUARE HOLE CARGO SIDE WINDOW GUARDS	\$ -
0	SETINA	SETINA STORAGE VAULT, UPRIGHT WITH UNIVERSAL BRACKETS TO MOUNT WITH TROY CAGE	\$ 1,575.00
0	TMP	TEMPORARY TAG	\$ 7.00
0	CP5/75	5 YEAR /75,000 MILE PREMIUM CARE WARRANTY WITH \$0 DED.	\$ 2,535.00
0	CREDIT	GCSPD EQUIPMENT DISCOUNT	\$ (1,100.00)
0	NOTE	INSTALL CUSTOMER SUPPLIED MOTOROLA RADIO	\$ -
0	NOTE	CUSTOMER WOULD LIKE CRUISE LIGHTS CONFIGURED (FOR FOUR CORNERS) INCL. DIM MODE	\$ -
0	REF	PATROL	\$ -
24	LABOR	Total labor hours per spec. Includes wire, loom, connectors, PDI and shop supplies:	\$100 \$ 2,400.00
	VENDOR COMMENTS	***See Our Face Book Page for Pics & Video https://www.facebook.com/duvalfleet/ ***	
UNIT COST			\$ 49,151.00
TOTAL QUANTITY 3			TOTAL PURCHASE \$ 147,453.00



Order Fulfillment
Vehicle Visibility

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Welcome Laura Torbett
of Duval Ford

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Search Results

Dealer Code :
F24081

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[Printer-friendly version](#)

Showing: 1 - 3 of 3

Order No	Body Code	VIN	Vehicle Line	Status		Vehicle Location	Status Date / Time	ETA		
				Primary	Secondary			Start Date	End Date	ETA Disposition
2523	K8A	1FM5K8AB7MGA42138	Explorer 4-door	In Order Processing	Scheduled to Week (Week of Nov-16-2020)	Ford Chicago Assembly, IL	Sep-17-2020	TBD	TBD	N/A
2524	K8A	1FM5K8AB9MGA42139	Explorer 4-door	In Order Processing	Scheduled to Week (Week of Nov-16-2020)	Ford Chicago Assembly, IL	Sep-17-2020	TBD	TBD	N/A
2525	K8A	1FM5K8AB5MGA42140	Explorer 4-door	In Order Processing	Scheduled to Week (Week of Nov-16-2020)	Ford Chicago Assembly, IL	Sep-17-2020	TBD	TBD	N/A

Showing: 1 - 3 of 3

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STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council Regular Session **MEETING DATE:** December 8, 2020

FROM: Scott Schultz, Asst. Water Utilities Director

SUBJECT: City Council approval of, and authorization for the Mayor to execute, Disbursement Request #7 in the amount of \$6,625.00 to the Design Loan Agreement for the Florida Department of Environmental Protection (FDEP), Drinking Water State Revolving Fund (SRF) Loan Application DW 100102 for \$356,800.00, for the design of capital improvements to the City's Water System

BACKGROUND

On June 16, 2016 the City Council approved the Rate Study conducted by Staff and Mittauer & Associates.

On March 21, 2017, Council approved a Task Order with Mittauer & Associates for \$50,000.00 for development of a Water Master Plan.

On June 19, 2018, the City Council approved the Water Master Plan conducted by Staff and Mittauer. The Master Plan included a thorough review of the existing Water Capital Improvement Program (CIP) and resulted in an update to the CIP. As a result of the updated CIP, Staff requested an update to the Water portion of the Rate Study to evaluate financing options and alternatives to CIP financing.

On September 4, 2018, City Council approved a Task Authorization with Mittauer & Associates for \$12,000.00 to update the Water Rate Study.

At the March 5, 2019 City Council meeting Staff and Mittauer presented the updated Water Rate Study which was subsequently approved by the City Council. The City Council directed staff to return with an Ordinance authorizing the borrowing of funds to complete the immediate and future CIP needs. Staff was also directed to draft an RFP to secure a loan for the "Priority 1" immediate need CIP projects.

The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000.00

The Priority 2, Harbor Road, Bonaventure and Magnolia Point Cul-de-sac, total design and construction estimate is \$4,850,000.00.

The Priority 3, Reynolds High Service Pumps & Well 2 design and construction estimate is \$2,500,000.00.

The Priority 4, asbestos concrete (AC) pipe replacement. Design and construction estimate is \$6,620,000.00

The Priority 5, Governors Creek Water Main, design, and construction estimate is \$360,000.00

Design and permitting for Priorities 3-5 cost estimate is \$1,424,000.00

- Total 2019 Water CIP Cost Estimate is \$17,124,000.00

Council approved Ordinance No. O-07-2019 on First Reading as to Form Only on 3/19/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System.

Council approved Ordinance No. O-07-2019 on Second and Final Reading on 4/2/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System

On 6/18/19 Council approved staff to submit and authorized the mayor to execute a Request for Inclusion (RFI) to the FDEP-SRF Program for \$356,800.00 in funding to design certain capital improvements to the City's Water System to be prepared to move into construction as the needs arise.

On 10/15/2019 Council approved of and authorized the Mayor to execute associated documents for the actual loan application. The FDEP-SRF Program has tentatively approved a 10-year loan with a principal amount of \$356,800.00 with a "loan forgiveness" of 50% which would make the actual loan amount approximately \$178,400.00 (there are some loan fees). Final principal forgiveness and loan percentage rate will be determined at completion of loan processing.

On 1/21/2020 Council approved and the mayor executed the actual loan agreement.

FISCAL IMPACT

\$6,625.00 from the Water Department CIP Budget

RECOMMENDATION

Approve of, and authorize the City Manager to execute, Disbursement Request #7 in the amount of \$6,625.00 to the Design Loan Agreement for the Florida Department of Environmental Protection (FDEP), Drinking Water State Revolving Fund (SRF) Loan Application DW 100102 for \$356,800.00, for the design of capital improvements to the City's Water System

Disbursement Request Package
State Revolving Fund Programs

Item #7.

- 1. Project Sponsor City of Green Cove Springs, Florida
- 2. Project Number DW100102
- 3. Disbursement Request Number 7
- 4. Invoice Period 9/26/2020 through 10/30/2020
- 5. Type of Request: Partial Final
- 6. Federal Employer Identification Number 59-6000328
- 7. Mail EFT Send Remittance to:

(This must match an address setup in MyFloridaMarketPlace.com as the Vendor address).

Wells Fargo Bank N.A. Account#: 2000007820388 | ABA#: 121000248

Account Name: City of Green Cove Springs Utility Fund Savings

City Address: 321 Walnut Street, Green Cove Springs, FL 32043

Disbursement Details

(Rounded to the nearest dollar)

	Amount This Request	Total Cumulative
1. Planning and Specialized Studies (attach invoices)	\$	\$
2. Design (attach invoices)	\$ 6,625.00	\$ 165,500.00
3. Construction and Demolition (attach pay estimates)	\$	\$
4. Technical Services during Construction (attach invoices)	\$	\$
5. <u>Other (must be specified in agreement)</u>	\$	\$
6. _____	\$	\$
7. Total cumulative to date		\$ 165,500.00
8.. Disbursements previously requested		\$(158,875.00)
9. Amount requested for disbursement	\$ 6,625.00	\$ 6,625.00
	(Total of lines 1 through 6)	(Line 7 minus Line 8)

**** SUBMIT ONE ORIGINAL COPY OF THIS FORM AND SUPPORTING DOCUMENTATION TO: ****

SRF_Reporting@dep.state.fl.us

**Authorized Representative's Certification
of Disbursement Request and Davis-Bacon Certification**

I, B. Van Royal, Mayor ,
(name of Authorized Representative designated in the agreement)

on behalf of City of Green Cove Springs, Florida , do hereby certify that:
(name of Project Sponsor)

1. The disbursement amount requested on page 1 of this form is for allowable costs for the project described in the agreement.
2. Materials, labor, equipment, and/or services representing costs included in the amount requested have been satisfactorily purchased, performed or received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation which are filed in the Project Sponsor's permanent records.
3. The Project Sponsor is required to pay such costs under the terms and provisions of contracts relating directly to the project, and the Project Sponsor is not in default of any terms or provisions of the contracts.
4. All funds received to date have been applied toward completing the project.
5. All permits and approvals required for the construction which is underway have been obtained.
6. If applicable for construction projects, I certify to the best of my knowledge and belief that the above referenced project complies with Davis-Bacon and Related Acts such that all of the laborers and mechanics employed by contractors and subcontractors during the referenced period on the contractors pay applications submitted with this disbursement request were paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon and Related Acts have been met.

I also certify that interviews and periodic reviews of a representative sample of the weekly payroll data have been performed to verify that contractors and subcontractors are paying the appropriate wage rate.

I understand that falsifying information on this certification may be grounds for termination of the SRF loan agreement.

(Signature of Authorized Representative)

Mayor

(Title)

November 17, 2020

(Date)

Period of Certification:
9/26/20 through 10/30/20
DEP Agreement No.
DW100102

MITTAUER &
ASSOCIATES, INC.
580-1 WELLS ROAD
ORANGE PARK, FL 32073
904-278-0030



Invoice 20469

Item #7.

BILL TO

City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL
32043
Attn: Mike Null

DATE 11/03/2020	PLEASE PAY \$4,125.00	DUE DATE 11/23/2020
--------------------	---------------------------------	------------------------

M&A PROJECT NO.

8905-51-1

DESCRIPTION **AMOUNT**

HARBOR ROAD WATER TREATMENT FACILITY GST NO. 3
CITY OF GREEN COVE SPRINGS, FLORIDA
P.O. NO. 2721877

Engineering services concerning the Harbor Road Water Treatment Facility GST No. 3 project for the City of Green Cove Springs including FDEP SRF submittal and FDEP permitting during the period ending October 30, 2020.

LUMP SUM CONTRACT AMOUNT: \$64,500.00

AMOUNT PREVIOUSLY INVOICED: \$60,375.00

Amount Earned This Period 4,125.00

Thank you for your business.

TOTAL DUE **\$4,125.00**

THANK YOU.

MITTAUER &
 ASSOCIATES, INC.
 580-1 WELLS ROAD
 ORANGE PARK, FL 32073
 904-278-0030



Invoice 20470

Item #7.

BILL TO

City of Green Cove Springs
 321 Walnut Street
 Green Cove Springs, FL
 32043
 Attn: Mike Null

DATE 11/03/2020	PLEASE PAY \$2,500.00	DUE DATE 11/23/2020
--------------------	---------------------------------	------------------------

M&A PROJECT NO.

8905-53-1

DESCRIPTION **AMOUNT**

DEP SRF WATER SYSTEM IMPROVEMENTS
 DESIGN PHASE
 DEP AGREEMENT NO. DW100102
 CITY OF GREEN COVE SPRINGS, FLORIDA
 P.O. NO. 2721879

Engineering services concerning the DEP SRF Water System Improvements, Design Phase project for the City of Green Cove Springs including City coordination and vendor coordination during the period ending October 30, 2020.

- LUMP SUM CONTRACT AMOUNT: \$196,800.00
- Item A. Basic Engineering Services - Design Phase, \$170,300
 - Item B. Topographic Surveying, \$15,000
 - Item C. Permitting Services, \$5,000
 - Item D. Geotechnical Services, \$3,000
 - Item E. FDEP SRF Administration Services \$3,500
 - Item F. Meetings, included above

AMOUNT PREVIOUSLY INVOICED: \$35,000.00

Amount Earned This Period 2,500.00

Thank you for your business.

TOTAL DUE **\$2,500.00**

THANK YOU.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

REIMBURSEMENT SUMMARY

Sponsor Name:		City of Green Cove Springs, Florida			Payment Request No.:		7	
DEP Agreement No.:		DW100102						
Vendor Name	Invoice Number	Invoice Date	Invoice Amount	Local Share or Other Funding or Amount Not Requested	Requested Amount	Check Number	Category (ie. construction, technical services)	
Mittauer & Associates, Inc.	20469	11/3/2020	\$ 4,125.00	\$ -	\$ 4,125.00		Design Services	
Mittauer & Associates, Inc.	20470	11/3/2020	\$ 2,500.00	\$ -	\$ 2,500.00		Design Services	
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
				\$ -	\$ -			
Totals:			\$ 6,625.00	\$ -	\$ 6,625.00			

Summary of Work
DEP SRF Water System Improvements - Design Phase
DEP Agreement No. DW100102
City of Green Cove Springs, FL
M&A Project Nos. 8905-51-1, 8905-53-1 & 8905-55-1
November 17, 2020

Summary of work for Green Cove Springs Disbursement Request #7 to accompany Mittauer & Associates Invoice Nos. 20469 and 20470, consist of:

Invoice No. 20469 Harbor Road WTF GST No. 3 – 100% submittal, FDEP SRF coordination, and FDEP permitting services. Overall, the project services are 100% complete.

Invoice No. 20470 SRF Water System Improvements – City coordination and vendor coordination services. Overall, the project services are 19% complete.



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council **MEETING DATE:** December 8 ,2020
FROM: Michael Daniels, AICP, Planning & Zoning Director
SUBJECT: City Council approval of Purchase Order for Building Inspection and Plan Review Services with Charles Abbott and Associates

BACKGROUND

The City signed a contract with Charles Abbott and Associates on October 1, 2019 for Building Plan Review and Inspection Services. A Purchase Order was issued for \$145,000 for the 2020 fiscal year. Staff is requesting a new Purchase Order in the amount of \$147,510 be secured for the 2021 fiscal year.

FISCAL IMPACT

Fees collected for these services follow our adopted fee ordinance. Any services performed by Charles Abbott on our behalf will be invoiced on a monthly basis. All expenses associated with this Agreement are provided for by the Building Fund.

RECOMMENDATION

Authorize the Mayor to execute a Purchase Order for \$147,510 to pay Charles Abbott and Associates for Building Plan Review and Inspection services through the end of the Fiscal Year.

Motion:

Authorize the Mayor to execute a Purchase Order for \$147,510 to pay Charles Abbott and Associates for Building Plan Review and Inspection services through the end of the Fiscal Year.

PROFESSIONAL BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of October, 2019, by and between Charles Abbot Associates, Inc, whose address is 3001 North Rocky Point Drive East, Suite 200, Tampa, Fl 33607, hereinafter called the "CONTRACTOR" and the City of Green Cove Springs, a political subdivision of Florida, by and through its City Council, hereinafter referred to as "CITY", whose address is City of Green Cove Springs, 321 Walnut Street, Green Cove Springs, Florida 32043.

WITNESSETH:

WHEREAS, the CITY has identified the need to retain a Building Official, Plan Review and Inspection Service to assist City personnel with all associated services related to the Building Department; and

WHEREAS, the CITY issued a Request for Proposals (RFP) No. LC 2019-05; and

WHEREAS, the CITY received two (2) replies from CONTRACTORS in response to the RFP; and

WHEREAS, the CONTRACTOR submitted a "PROPOSAL" that is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the City Council accepted the ranking of the Selection Committee for the top two (2) firms; and

WHEREAS, the CONTRACTOR is competent and qualified to furnish professional building official, inspection and plan review services to the CITY and desires to provide professional services according to the terms and conditions stated herein; and

WHEREAS, the CITY has followed the selection and negotiation process in accordance with the City's Purchasing Policies.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, the CITY and the CONTRACTOR agree as follows:

1. **SERVICES** – The CITY does hereby retain the CONTRACTOR to furnish professional services and perform those tasks as further described, but not limited to those in the RFP LC 2019-05, "Scope of Services" attached hereto as Exhibit "A" and made a part hereof.

2. **TERM** – The Term of this Agreement will commence upon the date of City Council approval as first written above and will be effective for one (1) year with an option to review every ninety days, for the first year. The City shall have the option of four (4) successive one (1) year periods, subject to the mutual consent of the CITY and the CONTRACTOR, unless otherwise amended or terminated as provided herein.
3. **AUTHORIZATION FOR SERVICES**
Authorization for performance of professional services by the CONTRACTOR under this Agreement shall be in the form of the hourly rate schedule as more fully described in Exhibit "B".
4. **COMPENSATION** – The CITY agrees to compensate the CONTRACTOR for the professional services called for under this Agreement as defined in Exhibit "B".
5. **PAYMENT FOR EXTRA WORK** -- Should additional hours of work beyond the hours described in Exhibit "B" be required, it will be paid for as an additional cost at the same rate agreed upon in Exhibit "B". If additional work hours beyond the rate schedule is needed, a work order as provided in Exhibit "E" shall need to be completed. If work beyond that described in Exhibit "A", which would be beyond the scope of functions typically required as a building department is required it shall be agreed to in a separate written agreement by the City and the Consultant prior to commencement of the additional work. Any Authorized Additional Work shall be billed to the City at the hourly rates set forth in Exhibit "B", unless otherwise agreed by the Parties in writing.
6. **TIME FOR COMPLETION** – The turnaround time for plan review and inspection services to be rendered by the CONTRACTOR shall be completed within the deadlines specified in Exhibit "C".
7. **REIMBURSABLE EXPENSES** –
The agreement is on a lump sum basis and as a result, there shall be no reimbursable expenses.
8. **PAYMENT AND BILLING**
- a. As a condition precedent for any payment, the CONTRACTOR shall submit monthly, an invoice to the CITY requesting payment for services properly rendered and expenses due. The CONTRACTOR'S invoice shall describe with reasonable particularity each service rendered, the date thereof, the time expended if such services were rendered pursuant to an Hourly Rate Basis and the person's position rendering such service. The CONTRACTOR'S invoice shall be accompanied by such documentation or data in support of expenses for which payment is sought as the CITY may require. Each invoice shall bear the signature of the CONTRACTOR, which signature shall constitute the CONTRACTOR'S representation to the CITY that the services indicated in the invoice have reached the level stated, have been properly and timely performed as required herein, that the expenses included in the invoice have been reasonably incurred in accordance with this Agreement, that all services provided are for a public purpose, that all obligations of the CONTRACTOR covered by prior invoices have been paid in full, and that the amount requested is currently due and owing, there being no reason known to the CONTRACTOR that payment of any portion thereof should be withheld. Submission of the CONTRACTOR's invoice for final payment will be clearly marked Final Invoice and shall further constitute the CONTRACTOR'S

representation to the CITY that, upon receipt by the CONTRACTOR of the amount invoiced, all obligations of the CONTRACTOR to others, including its SUBCONTRACTORS, incurred in connection with the services provided, will be paid in full.

- b. If the Scope of Services to be performed is clearly defined in advance of the work effort, a Purchase Order may be issued on a "Lump Sum Basis." Upon the CONTRACTOR'S acceptance of the Purchase Order, the CONTRACTOR shall perform all work required but in no event, shall the CONTRACTOR be paid more than the negotiated "Lump Sum Fee" amount stated therein.
- c. If the Scope of Services to be performed by CONTRACTOR is not clearly defined, the Purchase Order may, at the sole discretion of the CITY, be issued on an "Hourly Rate Basis" or Combination Rate and contain a "Not-to Exceed" amount. Upon the CONTRACTOR'S acceptance of the Purchase Order, the CONTRACTOR shall perform all work required but in no event, shall the CONTRACTOR be paid more than the "Not-to-Exceed" amount stated therein.
- d. For Purchase Orders issued on a "Lump Sum Basis," the CONTRACTOR may invoice the amount due based on the percentage of total services actually performed and completed, but in no event, shall the invoice amount exceed a percentage of the "Lump Sum Fee" amount equal to a percentage of the total services actually completed.
- e. For Purchase Orders issued on an "Hourly Rate Basis" with a "Not-to-Exceed" amount, the CONTRACTOR may invoice the amount due for actual work hours performed, but in no event, shall the invoice amount exceed a percentage of the "Not-to-Exceed" amount equal to a percentage of the total services actually completed.
- f. For Purchase Orders issued on an "Hourly Rate Basis" with a "Limitation of Funds" amount, the CONTRACTOR may invoice the amount due for services actually performed and completed.
- g. Each Purchase Order, whether issued on a "Lump Sum Basis" or an "Hourly Rate Basis" with a "Not-to-Exceed" amount shall be treated separately.
- h. The CITY shall make payments to the CONTRACTOR when requested as work progresses for services furnished, but not more than once monthly. Each Purchase Order shall be invoiced separately. The CONTRACTOR shall render to the CITY, at the close of each calendar month, an itemized invoice properly dated, describing any services rendered, the cost of the services, the name and address of the CONTRACTOR, Purchase Order Number, and all other information required by this Agreement.
- i. Invoices shall be reviewed and approved by the Project Manager prior to payment. The original invoice shall be sent to the:

Project Manager
City of Green Cove Springs

321 Walnut Street
Green Cove Springs, Florida 32043

9. **GENERAL TERMS OF PAYMENT AND BILLING**

- a. Payments for all sums properly invoiced shall be made upon satisfactory completion of work required hereunder. Upon final acceptance of the work by the CITY, the CONTRACTOR may invoice the CITY for the full amount of compensation provided for under the terms of this Agreement, less any amount already paid by the CITY. The CITY shall pay the CONTRACTOR within forty-five (45) days from receipt of a correct invoice.
- b. The CITY may perform or have performed an audit of the records of the CONTRACTOR either within one (1) year following project completion and final payment for services covered under this Agreement, or at any time during the project term. This audit would be performed at a time mutually agreeable to the CONTRACTOR and the CITY either subsequent to the close of the final fiscal period in which the last work is performed or during the term of this Agreement. Total compensation to the CONTRACTOR may be determined subsequent to an audit as provided for in Subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to the CONTRACTOR. Conduct of this audit shall not delay final payment as provided by Subsection (a) of this Section.
- c. The CONTRACTOR agrees to maintain all books, documents, papers, accounting records and other evidences pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at the CONTRACTOR'S office at all reasonable times during the Agreement period and for three (3) years from the date of final payment under the Agreement for audit or inspection as provided for in Subsection (b) of this Section or as required by Chapter 119, Florida Statutes, and schedules established by the Bureau or Archives and Record Management for the State of Florida, whichever shall be greater.
- d. In the event any audit or inspection conducted after final payment, but within the period provided in Subsection (c) of this Section reveals any overpayment by the CITY under the terms of the Agreement, the CONTRACTOR shall refund such overpayment to the CITY within thirty (30) days written notice by the CITY, in the form prescribed in Section 26.

10. **RESPONSIBILITIES OF THE CONTRACTOR**

- a. The Contractor shall become fully acquainted with the available information related to the Services. The Contractor shall affirmatively request from the City Representative and the City such information that the Contractor, based on the Contractor's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services. All documents or other data provided to the Contractor by the City shall be returned to the City. The Contractor is authorized to make copies of such documents or other data at its own expense. The Contractor shall not disclose City information to third parties without prior written consent from the City or pursuant to a lawful court order directing such disclosure. The Contractor shall promptly inform the City concerning ambiguities and uncertainties related to the Contractor's performance that

are not addressed by the Agreement. The Contractor shall provide all of the Services in a timely and professional manner. The Contractor shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions.

- b. The CONTRACTOR shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the CONTRACTOR under this Agreement. The CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- c. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement. The CONTRACTOR shall be and always remain liable to the CITY in accordance with applicable law for any and all damages to the CITY caused by the CONTRACTOR'S negligent or wrongful performance of any of the services furnished under this Agreement.
- d. Liability for Employment-Related Rights and Compensation. The Contractor shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. The Contractor will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to the Contractor's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT. To the maximum extent permitted by law. Contractor waives all claims against the City for any Employee Benefits; the Contractor will defend the City from any claim and will indemnify the City against any liability for any Employee Benefits for the Contractor imposed on the City ; and the Contractor will reimburse the City for any award, judgment, or fine against the City based on the position the Contractor was ever the City 's employee, and all attorneys' fees and costs the City reasonably incurs defending itself against any such liability
- e. Interaction with Public. The Contractor recognizes that its conduct during the performance of the Services hereunder reflects upon its reputation in the community as well as upon the public perception of the City. Therefore, the Contractor offers and warrants to the City that the Contractor, its agents and employees will conduct all of their interactions with the citizens and the public relating to

the performance of the Services hereunder in such a manner as to provide customer service that reflects positively upon its reputation and the City's public image.

- f. Standard of Performance. In performing the Services, the Contractor warrants that it shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by highly competent members of the same profession practicing in the State of Florida. The Contractor represents to the City that the Contractor is, and its employees or subcontractors performing such Services are, properly licensed and/or registered within the State of Florida for the performance of the Services (if licensure and/or registration is required by applicable law) and that the Contractor and employees possess the skills, knowledge, and abilities to perform the Services competently, timely, and professionally in accordance with this Agreement. In addition, the Contractor warrants and represents that it will provide the Services in accordance with more specific standards of performance as are included within Exhibit A. The Contractor represents, covenants and agrees that the Services will be provided to the City free from any material errors. The Contractor's failure to meet or exceed any of the foregoing standards and warranties may be considered a material breach of this Agreement and may be grounds for termination of the Agreement pursuant to Section 12 below.
- g. Review of Books and Records. The Contractor shall promptly comply with any written City request for the City or any of its duly authorized representatives to reasonably access and review any books, documents, papers, and records of the Contractor that are pertinent to the Contractor's performance under this Agreement for the purpose of the City performing an audit, examination, or other re- view of the Services.
- h. Licenses and Permits. The Contractor shall be responsible at the Contractor's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement
- i. Duty to Warn. The Contractor agrees to call to the City's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and/or other data supplied to the Contractor (by the City or by any other party) that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, the Contractor shall not independently verify the validity, completeness or accuracy of such information unless included in the Services or otherwise expressly engaged to do so by the City.

11. **OWNERSHIP OF DOCUMENTS**

- a. The CITY shall have the unlimited rights, for the benefit of the City, in all original drawings, designs, specifications, notes and other CONTRACTOR's work produced in the performance of this Agreement, or in contemplation of the work, including the right to use same on any other City work. All documents, including drawings and specifications prepared by the CONTRACTOR pursuant to this Agreement shall be instruments of service in respect of the project. They are not intended or represented to be suitable for reuse by the CITY or any others for any other project.

12. **TERMINATION**

- a. The CITY may by giving written notice to the CONTRACTOR, in the form CAA agreement

prescribed in Section 26, terminate this Agreement or any Purchase Order issued hereunder, in whole or in part, immediately, for cause, due to the failure of the CONTRACTOR to fulfill its Agreement obligations. The CITY shall be the sole judge of non-performance. Further, either the CITY or the CONTRACTOR may terminate this Agreement for convenience, with a thirty (30) day written notice, in the form prescribed in Section 26. The City Manager is authorized to terminate this Agreement on behalf of the CITY as directed by the City Council. Upon receipt of such written notice, the CONTRACTOR shall:

- (1) Immediately discontinue all services affected unless the notice directs otherwise, and
 - (2) Promptly deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by the CONTRACTOR in performing this Agreement, whether completed or in process.
- b. If the termination is for the convenience of the CITY, the CONTRACTOR shall be paid compensation for services performed to the date of termination within thirty (30) days after delivery of such work and upon receipt of an invoice. If this Agreement calls for the payment based on a "Lump Sum Basis", the CITY shall pay the CONTRACTOR no more than a percentage of the "Lump Sum Basis" amount equivalent to the percentage of the completion of work, as determined solely and conclusively, contemplated by this Agreement.
- c. If the termination is due to the failure of the CONTRACTOR to fulfill its Agreement obligations, the CITY may take over the work and ensure its completion by either other Agreements or in a manner that is in the best interest of the CITY to do so. In such case, the CONTRACTOR shall be liable to the CITY for all reasonable additional costs occasioned to the CITY thereby. The CONTRACTOR shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of the CONTRACTOR; provided, however, that the CONTRACTOR shall be responsible and liable for the actions of its subcontractors, agents, employees and persons and entities of a similar type or nature. Such causes may include acts of God or of the public enemy, acts of the CITY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without any fault or negligence of the CONTRACTOR.
- d. If, after notice of termination for failure to fulfill its Agreement obligations, it is determined that the CONTRACTOR had not so failed, the termination shall be conclusively deemed to have been affected for the convenience of the CITY. In such event, adjustment in the Agreement price shall be made as provided in Subsection (b) of this Section.
- e. If funds to finance this Agreement become unavailable, the CITY may terminate the Agreement with no less than twenty-four (24) hours written notice to the CONTRACTOR in the form prescribed in Section 26. The CITY will be the final authority as to the availability of funds. The CITY will pay the CONTRACTOR for all work completed prior to any notice of termination.

- f. The rights and remedies of the CITY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
13. **AGREEMENT AND PURCHASE ORDER IN CONFLICT** – Whenever the terms of this Agreement conflict with any Purchase Order issued pursuant to it, the Agreement shall prevail.
14. **NO CONTINGENT FEES** – The CONTRACTOR warrants that it has not employed or retained any company or person, other than a Bonafide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bonafide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, the CITY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
15. **CONFLICT OF INTEREST**
- a. The CONTRACTOR agrees that it will not contract for or accept employment for the performance of any work or service with any individual, business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the CITY.
- b. The CONTRACTOR agrees that it will neither take any action nor engage in any conduct that would cause any City employee to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government.
- c. In the event that the CONTRACTOR causes or in any way promotes or encourages a City officer, employee, or agent to violate Chapter 112, Florida Statutes, the CITY shall have the right to terminate this Agreement pursuant to Section 11.
16. **ASSIGNMENT** – This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties hereto without prior written consent of the other party and in such cases only by a document of equal dignity herewith.
17. **SUBCONTRACTORS** – In the event that the CONTRACTOR, during the course of the work under this Agreement, requires the services of any subcontractor or other professional associates in connection with services covered by this Agreement, the CONTRACTOR must first secure the prior express written approval of the CITY. If subcontractor or other professional associates are required in connection with the services covered by this Agreement, the CONTRACTOR shall remain fully responsible for the services of subcontractors or other professional associates.
18. **INDEMNIFICATION** – The CONTRACTOR agrees to indemnify and hold harmless the CITY, and its officers and employees, from claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed or utilized by the design professional in the performance of the Agreement.

Nothing contained herein shall be construed or interpreted as a waiver of sovereign immunity of the State of Florida or of the CITY beyond the waiver provided in Section 768.28, Florida Statutes.

19. **INSURANCE** – The CONTRACTOR will, for the life of this Agreement, maintain insurance in the types and amounts detailed in Exhibit “D”. The CONTRACTOR will provide the CITY with Certificates of Insurance that demonstrate coverage in at least the types and amount required herein and that the CITY shall be notified in writing at least thirty (30) days before any such insurance is cancelled. The CONTRACTOR shall certify that all subcontractors comply with the same insurance requirements.
- a. Obligations – Compliance with the foregoing insurance requirements shall not relieve the CONTRACTOR, its employees or agents of liability from any obligation under a Section or any other portions of this Agreement.
20. **MODIFICATIONS, AMENDMENTS OR ALTERATIONS** – No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
21. **INDEPENDENT CONTRACTOR** – It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the CONTRACTOR (including its officers, employees, and agents) the agent, representative, or employee of the CITY for any purpose, or in any manner, whatsoever. The CONTRACTOR is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.
22. **EMPLOYEE STATUS** – Persons employed by the CONTRACTOR in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the CITY'S officers and employees either by operation of law or by the CITY.
23. **SERVICES NOT PROVIDED FOR** – The CITY shall honor no claim for services furnished by the CONTRACTOR not specifically provided for herein.
24. **PUBLIC RECORDS LAW REQUIREMENTS**

Notwithstanding any provision in this agreement to the contrary, the following public records requirements shall apply:

1. Keep and maintain public records required by the public agency (City/Organization) to perform the service.
2. Upon request from the public agency's custodian of public records (City Clerk), provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public

records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

If the Contractor has questions regarding the application of Chapter 119 Florida Statutes, for their duties to provide public records relating to this contract then contact the City's custodian of Public Records City Clerk Erin West at (904) 297-7500 X 3307, or e-mail ewest@greencovesprings.com, 321 Walnut St, Green Cove Springs, Fl 32043.

25. **COMPLIANCE WITH LAWS AND REGULATIONS** – In providing all services pursuant to this Agreement, the CONTRACTOR shall exercise usual and customary professional care in its efforts to abide by all statutes, laws, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services, including those now in effect and hereafter adopted. Engineer shall secure all licenses or permits required by law or regulations, and shall comply with all ordinances, laws, orders, rules and regulations pertaining to its work hereunder. Any violation of said statutes, laws, ordinances, rules, or regulations shall entitle the CITY to terminate this Agreement immediately, for cause, upon written notice in the form prescribed in Section 26 to the CONTRACTOR.
26. **NOTICE** – Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice to-wit:

FOR CITY:

Steven Kennedy, City Manager

Michael Daniels, City Planning and Zoning Director

City of Green Cove Springs
321 Walnut Street
Green Cove Springs, Florida 32043

FOR CONTRACTOR:

Charles Abbott Associates, Inc.
3001 North Rocky Point Drive East,
Suite 200 Tampa, FL 33607

27. **SUCCESSORS AND ASSIGNS** – The CITY and CONTRACTOR each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement.
28. **THIRD PARTY BENEFICIARIES** – This Agreement does not create any relationship with, or any rights in favor of, any third party.
29. **NON-WAIVER** – The failure of any party to exercise any right in this Agreement shall not

be considered a waiver of such right.

30. **WAIVER OF JURY TRIAL** -- This Agreement shall be governed by and construed and enforced in accordance with the Laws of the State of Florida applicable to contracts entered into and to be performed in such state. The parties hereto agree to waive any right to trial by jury in any dispute arising from or related to this agreement.
31. **GOVERNING LAW AND VENUE** – This Agreement is governed in accordance with the laws of the State of Florida. Venue shall be in Clay County.
32. **ATTACHMENTS** – All exhibits attached to this Agreement are incorporated into and made part of this Agreement by reference.
33. **AMENDMENTS** – The parties may amend this Agreement only by mutual written agreement of the parties with the same formality and of equal dignity herewith.
34. **CAPTIONS AND SECTION HEADINGS** – Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.
35. **CONSTRUCTION** – This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that both parties have substantially contributed to the preparation of this Agreement.
36. **COLLUSION** – By signing this Agreement, the CONTRACTOR declares that this Agreement is made without any previous understanding, agreement, or connections with any persons, contractors or corporations and that this Agreement is fair, and made in good faith without any outside control, collusion, or fraud.
37. **RIGHTS AT LAW RETAINED** – The rights and remedies of the CITY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.
38. **ENTIRE AGREEMENT** – This Agreement constitutes the entire and supersedes all per or written or oral agreements, understandings, or representations.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date first written above by the CITY.

CITY OF GREEN COVE SPRINGS

CHARLES ABBOTT ASSOCIATES, INC

By: 
Steven Kelley, Mayor

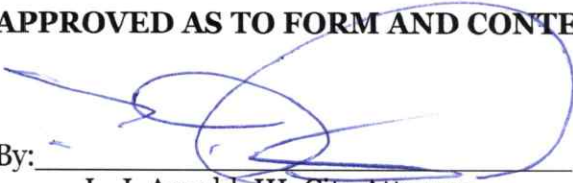
By: _____

By: 
Steven Kennedy, City Manager

ATTEST:

By: 
Erin West, City Clerk

APPROVED AS TO FORM AND CONTENT:

By: 
L. J. Arnold, III, City Attorney

Six (6) Exhibits:

- Exhibit "A" – Scope of Services-RFP
- Exhibit "B" – Hourly Rate Schedule
- Exhibit "C" – Turnaround Time for Plan Checks
- Exhibit "D" --Insurance
- Exhibit "E" --Sample Work Order
- Exhibit "F" --CAA Proposal

EXHIBIT "A"

Scope of Services – RFP LC #2019-05

REQUEST FOR PROPOSALS (RFP)
PROFESSIONAL SERVICES AGREEMENT FOR
BUILDING OFFICIAL, PLAN REVIEW AND
BUILDING INSPECTION SERVICES



RFP: RFP LC No. 2019-05

Project Name: Building Official, Plan Review and Building Inspection Services

Contracting Agency: City of Green Cove Springs

Address: 321 Walnut Street
Green Cove Springs, FL 32043

Telephone: (904) 297-7500 ext. 3323

Notice of Request for Proposals

Qualifications-based competitive sealed proposals will be received at the City Hall Office, 321 Walnut Street, Green Cove Springs, FL 32043 **until 2:00p.m., XXXXX, 2019 at XXX p.m.**, local time, for: RFP No. LC No. 2019-05, Building Official, Plan Review and Building Inspection Services.

Proposals shall be labeled “RFP No. LC No. 2019-05 Building Official, Plan Review and Building Inspection Services.” Number of Copies: Submit a total of one (1) original, so labeled, and four (4) complete hardcopies of the entire response and one thumb drive digital copy. An original signature must appear on the original hardcopy response. Executed Public Entity Crimes and Drug-Free Workplace forms, along with Standard Addendum to Contracts **must** accompany the submittal.

Any persons wishing their proposal to be considered is responsible for making certain that their proposal is received at the proper place and time. No oral, telegraphic, electronic, facsimile, or telephonic proposals or modifications will be considered unless specified. Proposals received after the scheduled submittal deadline will be returned unopened.

Request for Proposals packages can be obtained by website, www.greencovesprings.com under the Bid section. Additional information concerning the proposed service can be obtained by:

Laurie Copeland, Assistant Finance Director,
Assistant Finance Director,
At (904) 297-7500, ext. 3323
Email: lcopeland@greencovesprings.com

From 7:00a.m. – 5:30p.m., Monday – Thursday at the Green Cove Springs City Hall.

Steven Kennedy, City Manager
Mike Null, Assistant City Manager/Public Works Director
Michael Daniels, Planning and Zoning Director
Laurie Copeland, Assistant Finance Director

PROJECT DESCRIPTION:

The City of Green Cove Springs seeks proposals from Professional Building Service Firms capable of providing building official, plan review and building inspection services. The City seeks to engage responsive firms for a Continuing Services Contract.

I. SCOPE OF SERVICES

The scope of work to be performed by the awarded Contractor may consist of, but not be limited to the following:

1. Conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable construction codes as required by law. The inspections shall be for both work performed under City issued permits and for non-permitted work/stop work order situations.
 - a. Firms must be able to provide the following categories of inspection services: building, commercial electrical, mechanical, plumbing, and fire.
 - b. It is the responsibility of the building code inspector to conduct inspections of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendments to the Code. Each building code inspector must be licensed in the appropriate category as defined in Florida Statute 468.603.
 - c. The Contractor shall provide appropriate personnel to perform the inspections and re-inspections no later than the following business day that it is requested by a permit applicant.
2. Plan Reviewer who is qualified to determine that plans submitted for purposes of obtaining building and other permits comply with the building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable construction codes.
 - a. Categories of plan reviewers include: building, plumbing, mechanical, electrical, and fire.
 - b. It is the responsibility of the plan reviewers to conduct review of construction plans submitted in the permit application to assure compliance with the Florida Building Code and any applicable local technical amendments to the Code. The review of construction plans must be done by the building plans reviewer category as defined in Florida Statute 468.603. The plan reviewers' responsibilities will be performed under the supervision and authority of the building code administrator or building official.
 - c. The plans examiner shall attend any required meetings connected with the plan review or field inspection of the projects.

3. Provide a certified building official who will be responsible for signing off on permits, certificates of occupancy, final inspections, etc. The building official must be fully certified per the Department of Business and Professional Regulations.
4. All service providers shall be licensed and certified in accordance with all applicable laws, including but not limited to Florida Statutes 468 and 633.
5. Work effectively and respectfully with City elected officials and staff.
6. Inter-agency coordination as needed.
7. Attend City Council, Planning and Zoning Review Board, and Code Enforcement/Special Magistrate meetings as needed.
8. Contractor/Developer submittals shall also be submitted in digital format in addition to paper copies so can be available to the public.
9. Maintain records in accordance with local, State, and Federal public records retention requirements.
10. Provide support to Code Enforcement.
11. Ensure compliance with the Florida Building Code.
12. The contractor will need to be available in cases of natural disasters
13. Contractor shall maintain an office within Green Cove Springs City Hall, if selected. The office must be open Monday through Thursday, with regular hours.
14. Contractor shall provide all vehicles, clothing, inspection equipment, computers, cell phones, safety equipment, and other related materials necessary to perform the services. Inspectors must carry identification clearly showing they are City authorized inspectors. The cost to provide these materials shall be incorporated into the proposed bid amounts.
15. The Contractor will be expected to know the City's Comprehensive Plan and Land Development Regulations. Decisions are to be made in accordance with both documents.
16. The Contractor shall comply with all applicable public records law per section 119.0701, Florida Statutes.
17. This Bid may be utilized for FEMA projects and must follow the Field Manual for Public Assistance Grantee and Subgrantee Procurement Requirements attached hereto.

II: TERMS OF CONTRACT

1. The term of this contract is three (3) years with an option for the City to renew for two additional two (2) year terms.
2. The City may terminate this Agreement at any time for cause, and may terminate the Agreement with or without cause by giving at least thirty (30) days prior written notice. The Contractor may terminate this Agreement at any time by giving ninety (90) days prior

written notice to the City. In the event of termination by mutual agreement, the Contractor shall be compensated for services rendered.

3. All property, finished and unfinished documents, data, studies and reports prepared by the Contractor become the City's property in the event of termination.
4. Contractor shall be deemed an independent contractor as to all work required and not an agent or servant in the employ of the City. Contractor is, and shall at all times remain as to the City, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of the City or otherwise act on behalf of the City as an agent.
5. Contractor shall perform all work to the highest professional standards and in a manner reasonably satisfactory to the City Manager or his designee. The City Manager or his designee may from time to time assign additional or different tasks or services to the Contractor, provided such tasks are within the scope of services described in this document. However, no additional or different tasks or services will be performed by Contractor other than those specified or those so assigned in writing by the City Manager or his designee.
6. Contractor, in the course of its duties, may have access to confidential data of the City, private individuals, or employees of the City. Contractor covenants that all data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed without written authorization by the City. The City shall grant such authorization if disclosure is required by law. All City data shall be returned to the City upon termination of this Agreement. Contractor's covenant under this section shall survive the termination of this Agreement.
7. All reports, documents, or other written material developed by Contractor in the performance of this Agreement shall be and remain the property of the City without restriction or limitation upon its use or dissemination by the City. Such material shall not be the subject of a copyright application by Contractor.
8. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Contractor under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Contractor further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Contractor shall avoid the appearance of having any interest which would conflict in any manner with their performance of services pursuant to this Agreement.
9. Contractor represents that it has, or will secure at its' own expense, all personnel required to perform the services under this Agreement. All services required under this Agreement will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

10. Contractor reserves the right to determine the assignment of its own employees to the performance of Contractor's services under this Agreement, but the City reserves the right, for good cause, to require Contractor to exclude any employee from performing services on the City's premises or on the City's behalf.
11. Contractor shall keep itself informed of State, Federal, and local laws, ordinances, codes, and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Contractor shall at all times comply with such laws, ordinances, codes, and regulations. Without limiting the generality of the foregoing, if Contractor is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of Florida. The City, its officers, and employees shall not be liable at law or in equity occasioned by failure of Contractor to comply with this section.
12. At all times during the term of this Agreement, Contractor shall have in full force and effect all licenses required of it by law for performance of the services hereunder.

III. ESTIMATED WORKLOAD

- a. The total number of inspections conducted in 2018 was 3,819. The number of permits issued was 790. The fees collected for permits in 2018 was \$385,397.96.
- b. There is no guarantee that the actual number of building permits and inspections will fall into the range described, as the numbers depend on a number of factors, including, but not limited to, economic and construction activity.
- c. The types of permits reviewed and inspected by the City along with their corresponding fees are provided in Exhibit A.

IV: QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

1. Provide qualified inspector(s) who are multi-disciplined. This requirement will allow the City to benefit from inspectors who can perform inspection services for both plumbing and building components in lieu of multiple inspectors inspecting a single project.
2. Plumbing and mechanical inspections vary from underground, aboveground, roughs, finals, stack tests, gas tests, gas piping, mechanical boiler, lawn sprinkler, backflow inspections, residential, commercial, temperatures, property maintenance, and other duties as performed by a licensed plumbing inspector.
3. Building, electrical, and mechanical inspections include but are not limited to residential, commercial, and industrial, and are to include various construction site property maintenance, mechanical, structural, accessibility, low voltage, commercial and residential electric overhead and underground services, above ceiling, roughs, final inspections and other duties as performed by Certified International Code Council

Inspectors.

4. Minimum qualifications:
 - a. Three (3) years of construction trade experience.
5. The highest code professional certification level available through the Plan reviews and responses shall be performed and/or supervised by Master Code Professionals International Code Council.
6. All staff assigned to provide the required services shall have obtained their designated certificates and qualifications prior to the award of contract.

V: QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

1. Provide a letter of interest and introduction. Briefly describe your firm and provide the website. Include the name, address, email, and phone number of the contact person as well as a summary of your understanding of the scope of services and overall approach to
 - a. The scope of services. The letter should be signed by an officer of the firm authorized to bind the firm to all commitments made in the proposal.
2. Company Profile
 - a. The location of staffing and firm resources expected to be made available to serve the City.
 - b. General capabilities.
 - c. Number of years in business.
 - d. Whether the firm is a certified minority business as defined by the Florida Small and Minority Business Assistance Act of 1985.
3. Experience and Specific Capabilities
 - a. Qualifications, experience, and expertise of your company as a whole.
 - b. Provide a description of the firm's personnel who will be assigned to the work detailed in the Scope of Services, including each individual's professional qualifications (education, licenses, certifications, etc.), and pertinent experience.
 - c. Detail the firm's past experience providing services of the type required by the City to other public-sector clients.
 - d. Demonstrate how the operation will be supervised and what current quality control policies would be in place for the service.
 - e. Provide a statement of credit or other proof of ability to perform based on financial resources.
 - f. Provide any litigation or disciplinary proceedings that the firm has been involved

in in the past 10 years.

- g. Provide any other information the firm feels is relevant in evaluating the firm's qualifications.
4. Provide a list of at least three (3) municipalities and other government entities for whom you have provided similar services, including the following information:
 - a. The name of the entity for which the work was performed;
 - b. A brief description of the scope of the work; and,
 - c. Name of the contact person with the entity and current telephone number who can knowledgeably discuss your firm's role and performance in the project.
 5. Proof of insurance and its limits.
 6. Required Forms (forms attached, complete and return with your proposal)
 - a. Public Entity Crimes Statement
 - b. Non-Collusion Affidavit
 - c. Appendix A, 44 C.F.R. Part 18 – Certification Regarding Lobbying
 - d. Addendum Acknowledgment
 - e. Anti-Collusion Certification
 - f. Conflict of Interest Disclosure
 - g. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
 - h. Drug Free Workplace Certification
 7. Turnaround time for plan checks.
 - a. Indicate the turn-around time in terms of working days for a first time check. This turnaround time should be measured from the time a plan is received until it is sent back.
 - b. Indicate the turnaround time in terms of working days for a re-check. This turnaround time should be measured from the time a plan is received until it is sent back.

c. A table similar to the following shall be submitted.

Type of Job	Turnaround Time First Check	Turnaround Time Re-Check
Residential		
New Construction	working days	working days
Addition	working days	working days
Remodel	working days	working days

Non-Residential	Turnaround Time First Check	Turnaround Time Re-Check
New Construction	working days	working days
Addition	working days	working days
Remodel	working days	working days

8. Fee Structure

The cost for providing these services on behalf of the City will be either be on an hourly rate or on a percentage basis of the City fees collected. As part of your proposal, provide the proposed fee structure for all plan reviews and inspections. Also, include your fee structure for inspections in cases of natural disasters. No other payments will be made to the Contractor for the services provided.

VI. INQUIRIES AND INTERPRETATIONS:

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum and mailed or faxed to all parties recorded by the City as having received a copy of the RFP. All information regarding this RFP shall be placed on the City's website www.greencovesprings.com . Requests for interpretation or changes to this RFP must be received by the City's contact person listed. All such addenda issued by the City prior to the last date that submittals are required to be received shall be considered part of the RFP, and the Respondent shall be required to consider and acknowledge receipt of such in its response. Firms receiving this RFP other than directly from the City are responsible for notifying the Finance Department that they are in receipt of a submittal package and are to provide a name and address in the event an amendment is issued. It is the obligation of the Respondent to make sure that it has received all addenda prior to submission of its response. Respondents may obtain information on all addenda issued to the date of inquiry from the City's contact person or at <http://www.greencovesprings.com>.

Only those responses to inquiries, which are made by formal written addenda, shall be binding. Oral and other interpretations or clarifications will be without legal effect, and shall not be binding on the City. The Respondent must acknowledge receipt of all addenda in its response.

VII. SELECTION PROCESS:

The selection process will be conducted in accordance with Florida Statutes, Chapter 287.055 and as outlined on Proposal Evaluation Criteria, Section VI of the RFP. A Selection Committee will evaluate and rank the proposals based on Criteria outlined within the RFP.

Review of Written Proposals

- ▶ Using the criteria given in items 1 through 5 described in the "Proposal Evaluation Criteria" section VI of this RFP and with emphasis on professional competence, the City of Green Cove Springs Selection Committee shall review all proposals received to determine those firms, who are fully qualified, responsible and suitable to provide the professional services set forth by this Request for Proposals.

▶ Discussion and Interviews

The City of Green Cove Springs Selection Committee may then hold an interview with one or more of the firms who have been deemed by the Committee to be fully qualified, responsible and suitable to provide the services set forth by this Request for Proposals.

▶ Evaluation

Using all of the information developed during the proposal review and interview stages, the City of Green Cove Springs shall then select in order of preference those firms whose professional qualifications are deemed most meritorious. The City Manager will be the tie breaker if such a tie develops in the reviewing stage. At that time, the City will then present to Council.

VIII. PROPOSAL EVALUATION CRITERIA

The City of Green Cove Springs Evaluation criteria shall include the following factors which shall be considered in the evaluation and ranking process.

1. Past performance of the Firm [25 points]

- A summary of the firm's experience in providing the services required in the request for proposals.
- A list of current contracts with government agencies in Florida.
- Provide a minimum of three (3) references relating to work you have done for clients with full name, title, address, phone and fax numbers

2. Qualifications and Experience of Designated Personnel (25 points)

- Certifications
- Number and diversity of types of plans reviewed and inspections conducted

3. Methodology and Management Approach (25 points)

- Amount of training provided to staff by Firm
- Customer Service Skills (references)
- Proposed Office Hours

4. Fees (20 points)

- Pricing structure (either a percentage of fees or hourly rates)
- Any other costs

5. Financial / Other (5 points)

- Overall completeness, clarity and quality of proposal
- Financial resources and capabilities
- Evidence of insurance/bonding capability
- Litigation/disciplinary proceedings

The City of Green Cove Springs reserves the right to negotiate and contract with any firm(s) or individual suited to provide the services required under this Request for Proposals.

IX. Schedule

<i>Activity</i>	<i>Date</i>
Date of Issue	TBD
Bid Closing Date	TBD
Evaluation Process	TBD
Display and Communication of Best Evaluated Bidder Notice	TBD
Presentation to council	TBD

X. ADDITIONAL REQUIREMENTS

TERM “OWNER”

The term “Owner” where used in these documents, refers to the City of Green Cove Springs.

DATE AND RECEIPT OF RFP

Formally advertised Request for Proposals indicates a time and date for receipt of the RFP. Responses are date stamped upon receipt, those received after the scheduled closing time will be returned unopened to the proposing firm.

WITHDRAWAL OF RFP

The proposing firm may request withdrawal of their sealed proposal prior to the scheduled receipt date and time via written request to the Assistant Finance Director. After being opened, the RFP will be valid for 60 calendar days and may not be withdrawn during that time.

CONTRACT AWARD

The City reserves the right to accept or reject any or all Proposals, to waive irregularities and technicalities, and to request resubmission or additional information. The City reserves the right to award the contract to the most responsible and responsive proposing firm, resulting in an agreement, which is most advantageous to and in the best interest of the City of Green Cove Springs. The City shall be the sole judge of the Qualifications and the resulting agreement that is in the best interests, and the City of Green Cove Springs’ decision shall be final.

CONTRACT DOCUMENTS

The contract entered into by the City of Green Cove Springs and the Lead Team firm shall consist of this Request for Proposals, any addendum issued including the City’s Standard Addendum to all City Contracts and Agreements document, the submitted proposal by the contractor, any approved change orders issued and the Standard Professional Engineering Service Agreement, all of which shall be referred to collectively as the Contract Documents.

ADDENDA AND INTERPRETATIONS

If it becomes necessary to revise any part of this Request for Proposals, a written addendum will be provided to all known prospective proposing firms which will be posted on City’s website. Interpretations, corrections, and changes shall not be binding unless made by Addendum. The proposing firm shall not rely upon interpretations, corrections, or changes made in any other manner, whether by telephone, or in person. All Addenda issued shall become part of the Contract documents. It is the proposing firm’s responsibility to ascertain that it has received all Addenda issued for this solicitation. All Addenda must be acknowledged.

TERMINATION FOR CONVENIENCE

The City of Green Cove Springs shall have the right to terminate at the City’s convenience, with or without cause, any Contract resulting from this RFP by specifying the date of termination in a written notice. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed. All work produced shall become the property of the City of Green Cove Springs.

XI. INDEMNIFICATION REQUIREMENT

The City shall require the following or similar indemnification paragraphs to be made part of the contract(s) as entered into with the successful proposer(s):

The City shall be held harmless against all claims for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom arising out of performance of the agreement or contract, unless such claims are a result of the City's sole negligence.

The City shall also be held harmless against all claims for financial loss with respect to the provision of or failure to provide professional or other services resulting in professional, malpractice, or errors or omissions liability arising out of performance of the agreement or contract, unless such claims are a result of the City's sole negligence.

PROOF OF INSURANCE AND WORKERS' COMPENSATION

The successful Bidder selected for the project will be required to procure and maintain during the life of the Contract with the City of Green Cove Springs, Florida insurance of the type and in the minimum amounts listed below:

- a. Commercial General Liability
 - 1. General Aggregate \$1,000,000
 - 2. Products and Completed Operations Aggregate \$1,000,000
 - 3. Personal and Advertising Injury \$1,000,000
 - 4. Each Occurrence \$1,000,000
 - 5. Fire Damage (any one fire) \$ 50,000
 - 6. Medical Expense (any one person) \$ 5,000
- b. Automobile Liability
 - 1. Any Automobile-Combined bodily injury/property damage, with minimum limits for all additional coverage \$1,000,000 as required by Florida law
- c. Workers' Compensation/Employers Liability
 - 1. Workers' Compensation statutory limits
 - 2. Employers Liability
 - a. Each Accident \$ 100,000
 - b. Disease-Policy \$ 500,000
 - c. Disease-Each Employee \$ 100,000
- d. Professional Liability
 - 1. When required by contract-per occurrence \$1,000,000

Insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes. Prior to commencing any work on the contract, certificates of insurance, approved by the City, evidencing the maintenance of said insurance shall be furnished to the City. The certificates shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until fifteen (15) days after receipt of written notice by the City. **All applicable coverages shall name the City as "additional insured"**. Receipt of certificates or other documents of insurance or policies or copies of policies by the City, or by any

of its representatives, which indicate less coverage than required will not constitute a waiver of the successful proposer(s)' obligation to fulfill the insurance requirements herein.

XII. ANTI-COLLUSION REQUIREMENT:

Under no circumstances shall any prospective proposer, or any person or persons acting for or on behalf of any said prospective proposer, seek to influence or gain the support of any member of the City Council or the City Staff favorable to the interest of any prospective proposer or seek to influence or gain the support of any member of the City Council or City Staff against the interest of any prospective proposer. Any such activities shall result in the exclusion of the prospective proposer from consideration by the City.

XIII. PUBLIC ENTITY CRIMES REQUIREMENT:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, and may not transact business with any public entity in excess of the threshold amount provided in SECTION 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON ENTITY CRIMES**

1. This sworn statement is submitted to _____
(print name of the public entity)

by _____
(print individual's name and title)

for _____
(print name of entity submitting sworn statement)

whose business address is

and (if applicable) its Federal Employer Identification Number (FEIN) is:

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g),

Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision or any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:

a. A predecessor or successor of a person convicted of a public entity crime; or
 b. An entity under the control any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

c. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
 d. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies.)**

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **(attach a copy of the final order)**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT HIS FORM IS VALID THOROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

Sworn to an subscribed before me this _____ day of _____, 20 _____

Personally known _____

OR produced identification _____ Notary Public - State of _____

_____ My commission expires _____

(Type of identification)

(Printed typed or stamped commissioned name of notary public)

DRUG-FREE WORKPLACE COMPLIANCE FORM

In order to have a drug-free workplace program, a business shall abide as follows:

The undersigned vendor/contractor in accordance with Florida Statute 287.087 hereby certifies that _____ (name of business) does:

- 1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2. Inform employees about the dangers of drug abuse in the workplace, the company’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees or drug abuse violations.
- 3. Give each employee engaged in providing the commodities or contractual services that are under proposal a copy of the statement specified in item 1, above.
- 4. In the statement specified in item 1, notify the employees that as a condition of working on the commodities or contractual services which are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is convicted.
- 6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that, _____

_____, (name of business), fully complies/does not comply with the above requirements.

Vendor/Contractor Signature

Date

STANDARD ADDENDUM

TO ALL

CITY CONTRACTS AND AGREEMENTS

Any other provisions of the Contract or Agreement to which this Standard Addendum is attached to the contrary notwithstanding, the parties specifically agree that the provisions hereinafter set forth will apply exclusively with respect to the matters addressed, whether addressed in said Contract or Agreement or not, and shall be deemed an integral part of said Contract or Agreement as if duly set out therein, having a force and effect of equal or superior dignity, as applicable, with the provisions thereof; provided, that if the provisions of the Contract or Agreement address a particular matter in a manner which results in a lower cost to the City than this Standard Addendum, then such provisions of the Contract or Agreement shall control and supersede the applicable provisions hereof (as used herein, the term "Contractor" means the vendor or other party in the Contract or Agreement providing construction, labor, materials, professional services, and/or equipment to the City thereunder; the term "City" means Green Cove Springs, a municipal corporation of the State of Florida, its City Council, or any other name or label set forth in the Contract or Agreement indentifying such entity).

1. All payments for services rendered, or supplies, materials, equipment and the like constructed, delivered or installed under the Contract or Agreement (the Work) shall be made by the City in accordance with the Local Government Prompt Payment Act (the Act). Upon receipt of a proper statement, invoice or draw request, the City shall have the number of days provided in the Act in which to make payment.
2. Any work or professional services sub-contracted for by the Contractor for which the City has agreed to reimburse the Contractor shall not be marked up, but shall be payable by the City only in the exact amount reasonably incurred by the Contractor. No other such sub-contracted services shall be reimbursed.
3. In the event the Contract or Agreement is for professional services, charged on a time basis, the City shall not be billed or invoiced for time spent traveling to and from the Contractor's offices or other points of dispatch of its sub-contractors, employees, officers, or agents in connection with the services being rendered.
4. The City shall not be liable to reimburse the Contractor for any courier service, telephone, facsimile, or postage charges incurred by the Contractor, except as follows, and then only in the exact amount incurred by the Contractor [if the space below is left blank, then "NONE" is deemed to have been inserted therein]:
5. The City shall not be liable to reimburse the Contractor for any copying expenses incurred by the Contractor, except as follows, and then only at \$0.05 per page [if the space below is left blank, then "NONE" is deemed to have been inserted therein]:
6. If and only if travel and per diem expenses are addressed in the Contract or Agreement in a manner which expressly provides for the City to reimburse the Contractor for the same, then the City shall reimburse the Contractor only for those travel and per diem expenses reasonably incurred and only in accordance with the provisions of Section 112.061, Florida Statutes or as otherwise limited by Florida law. In the event the Contractor has need to utilize hotel accommodations or common carrier services,

the City shall reimburse the Contractor for his, her, or its reasonable expense incurred thereby provided prior written approval of the City Manager of the City or his or her designee is obtained.

7. With respect to drawings and/or plans prepared on behalf of the City by the Contractor under the Contract or Agreement, unless specifically provided otherwise therein, complete sets of such drawings and/or plans shall be reproduced by the Contractor without cost to the City for all bidders requesting the same, and five (5) complete sets of such drawings and/or plans shall be reproduced and delivered to the City without cost.
8. With respect to any indemnification by the City provided under the Contract or Agreement, any such indemnification shall be subject to and within the limits set forth in Section 768.28, Florida Statutes, and shall otherwise be limited as provided by law.
9. In that the City is a governmental agency exempt from sales tax, the City shall pay no such taxes, any other provisions of the Contract or Agreement to the contrary notwithstanding. The City shall provide proof of its exempt status upon reasonable request.
10. Any pre-printed provisions of the Contract or Agreement to the contrary notwithstanding, the same shall not automatically be renewed but shall be renewed only upon subsequent agreement of the parties.
11. The Contractor acknowledges that in the budget for each fiscal year of the City during which the term of the Contract or Agreement is in effect, a limited amount of funds are appropriated which are available to make payments arising under the Contract or Agreement. Any other provisions of the Contract or Agreement to the contrary notwithstanding, and pursuant to applicable Florida Statutes, the maximum payment that the City is obligated to make under the Contract or Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.
12. The Contractor shall comply with applicable provisions of Section 119.0701, Florida Statutes and any contract between the parties shall fully comply with such section.

CITY OF GREEN COVE SPRINGS

CONTRACTOR/FIRM/INDIVIDUAL

By: _____
Steven Kelley, Mayor

By: _____
(Printed Name and Title)

ATTEST:

By: _____
Erin West, City Clerk

ACKNOWLEDGEMENT OF ADDENDUM

I acknowledge the receipt of _____ Addendums to the original RFP.

Company Representative Signature

EXHIBIT A**BUILDING PERMIT FEES**

New residential buildings: For each \$1,000.00 of estimated value or fraction thereof - contract shall be required to establish value	\$6.00
New commercial buildings (non-single family) : for each \$1,000.00 of estimated value or fraction thereof - contract shall be required to establish value	\$14.00
Renovation or modification of commercial (non-single family) : for each \$1,000.00 of value or fraction thereof - contract shall be required to establish value - this includes roofing	\$14.00
Mobile home (Singlewide)	\$250.00
Mobile home (Doublewide)	\$275.00
Mobile home (Triplewide)	\$300.00
Alterations—Remodeling For each \$1,000.00 of estimated value or fraction thereof - contract shall be required to establish value	\$6.00
Garages, accessory buildings For each \$1,000.00 of estimated value or fraction thereof - contract shall be required to establish value	\$6.00
Carports, screen porch, barns For each \$1,000.00 of estimated value or fraction thereof - contract shall be required to establish value	\$6.00
Roofing, or improvements (siding, interior, etc.) per \$1,000.00 value	\$13.00
Temporary or portable amusement devices per unit	\$100.00
Fireplace	\$100.00
Demolition of buildings or structures:	
For each building structure up to 5,000 s.f.	\$170.00
Greater than 5,000 s.f.	\$270.00
Change in occupant	\$100.00
Signs:	
For the first 100 square feet	\$175.00
For every 100 square feet	\$30.00
Minimum fee for a sign	\$175.00
Safety Inspection	\$100.00
Minimum fee for any building permits (Including Amendments)	\$100.00

INSPECTION FEES	
Re-inspection Fee (Per inspection) for failed or partial inspections	\$50.00
After Hours Inspection (Per inspection)	\$100.00
PLAN REVIEW FEES	
Residential Review Plan Fee	\$50.00
Amendments and Revisions to Residential Permits and/or Plans	\$50.00
Commercial Review Plan Fee (Based on value of job to be permitted)	Review Fee
Projects under \$25,000	\$50.00
\$25,000.00 to \$100,000.99	\$100.00
\$100,001.00 to \$250,000.99	\$200.00
\$250,001.00 to \$500,000.99	\$300.00
\$500,001.00 to \$1,000,000.99	\$400.00
In excess of \$1,000,000.00	\$600.00
Revisions (per Revision)	\$50.00
Public Safety Division:	Review Fee
Projects under \$100,000.00	\$50.00
\$100,000.01 to \$500,000.00	\$100.00
\$500,000.01 to \$1,000,000.00	\$200.00
\$1,000,000.01 or greater	\$300.00
Revision (per revision) between \$0.00 and \$500,000.00	\$50.00
Revision (per revision) \$500,000.01 or greater	\$100.00
OTHER BUILDING PERMIT RELATED FEES	
Annual License Fee	\$25.00
Change in Qualifying Agent	\$50.00

ELECTRICAL PERMIT FEES

(a) New residential construction and mobile homes:

New residential construction and mobile homes	\$150.00
Temporary service pole, installation of (for new construction)	\$85.00
Reconnect existing mobile home	\$70.00
Pool wire	\$70.00
Electrical sub feeds	\$70.00

(b) Existing residential units and mobile homes:

Air conditioning or electrical heat (each)	\$25.00
Minimum fee	\$70.00

(c) Commercial buildings (new construction):

0— 300 ampere service	\$150.00
301—400 ampere service	\$175.00
401—600 ampere service	\$200.00
601— and above ampere service	\$225.00
For each outlet, including lighting requiring electrical connection	\$.50
For each appliance, fixed or stationary, air conditioning and/or heating amperes requiring circuit capacity above 30	\$35.00
Temporary pole	\$85.00
Minimum fee	\$35.00

(d) Existing commercial structures:

Increase in additional ampere service each additional ampere	\$0.40
Additions or alterations requiring service from panel (Home Run)	\$1.60

For each outlet, including lighting requiring electrical connection	\$0.40
Circuits requiring capacity above 30 amperes, each	\$25.00
Minimum fee	\$70.00

MECHANICAL PERMIT FEES

(a) New Construction (Residential and Commercial)

Up to Three and one-half (3½) tons	\$120.00
Four (4) tons	\$125.00
Five (5) tons	\$130.00

(b) Mobile homes or Mechanical Change Outs:

Up to Three (3) tons	\$70.00
Three and one-half (3½) tons	\$80.00
Four (4) tons	\$85.00
Five (5) tons	\$90.00

(c) Other Mechanical Permits

Gas burner (each)	\$10.00
Underground tank (for each \$1,000.00 of value)	\$10.00
Boilers (including heating element) for the first 500,000 BTU per hours input of fuel used or fractional part thereof	\$40.00
For each additional 500,000 BTU	\$10.00
Air conditioning and refrigeration (total capacity in single installation) For each ton capacity or fractional part	\$10.00
Range hood (for each \$1,000.00 of value)	\$10.00

Oil furnace	\$10.00
Minimum fee	\$70.00

PLUMBING PERMIT FEES

(1) *New construction—Residential and mobile homes:*

Up to Three (3) baths	\$150.00
Each bath thereafter	\$20.00
Each additional fixture	\$10.00
Minimum fee	\$70.00

(2) *Commercial buildings (new construction):*

Additionally, for each fixture having a water supply and/or waste outlet, including floor drains and roof drains (each)	\$20.00
Minimum fee	\$70.00+ Above

(3) *Irrigation:*

Minimum Fee	\$70.00
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POOL PERMITS FEES

Minimum fee for first 15,000 gallons	\$175.00
For each additional 1,000 gallons	\$5.00
Re-marcite	\$100.00

**EXHIBIT B
FEMA Field
Manual**



FEMA

FIELD MANUAL

PUBLIC ASSISTANCE GRANTEE AND SUBGRANTEE PROCUREMENT REQUIREMENTS UNDER 44 C.F.R. PT. 13 AND 2 C.F.R. PT. 215

**FEMA Office of Chief Counsel
Procurement Disaster Assistance Team**

December 2014



FEMA

FIELD MANUAL – PUBLIC ASSISTANCE GRANTEE AND SUBGRANTEE PROCUREMENT REQUIREMENTS UNDER 44 C.F.R. PT. 13 AND 2 C.F.R PT. 215

1. PURPOSE. This Field Manual provides a description and explanation of the mandatory requirements for Public Assistance grantees and subgrantees when using Public Assistance funding to finance their procurements. We developed this Field Manual to support FEMA employees in assisting grantees and subgrantees to comply with the procurement requirements and to increase consistency in the FEMA’s application of these standards across the agency.

2. BACKGROUND
 - a. Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) authorizes FEMA, among other things, to provide financial assistance to States, local governments, Indian tribal governments, and certain private nonprofit organizations (“PNPs”) for debris removal, emergency protective measures, and permanent restoration of infrastructure following a Presidential declaration of an emergency or major disaster.

 - b. Public Assistance Program. FEMA has administratively combined these Stafford Act authorities under the umbrella of its Public Assistance Program, under which FEMA provides financial assistance through grants to a State or Indian tribal government (grantees), which in turn carry out work directly and/or process subgrants to other eligible Public Assistance applicants (subgrantees).

 - c. Use of Third-Party Contractors by Grantees and Subgrantees. Grantees and subgrantees may use contractors to assist them in carrying out these Public Assistance awards, and such contractor costs are attributable to billions of dollars in grant funding each year. As a condition of receiving financial assistance for these contractor costs, grantees and subgrantees must comply with, among other things, the Federal procurement requirements set forth at 44 C.F.R. § 13.36 (for States, local and Indian tribal governments) and 2 C.F.R. §§ 215.40-48 (for institutions of higher education, hospitals, and other private nonprofit organizations).

3. LEGAL EFFECT OF THIS FIELD MANUAL. The Field Manual is an internal guidance document and does not have the force and effect of law, regulation, or FEMA policy. Although it does not have such force and effect, in clarifying the content of the regulations and describing recommended best practices, it does contain information about how FEMA interprets and applies federal procurement requirements and how a grantee or subgrantee can comply with these requirements.

4. SCOPE

- a. This Field Manual provides a description and explanation of the procurement requirements to applicable grantees and subgrantees when procuring property and services for debris removal (Category A), emergency protective measures (Category B), and restoration of damaged facilities (Categories C-G) under the Public Assistance Grant Program. This includes, among other things, the procurement of property and services for the construction, repair, and alteration of buildings, structures, or appurtenances.
 - b. Procurements of real property consisting of land and any existing buildings and structures on that land are generally beyond the scope of this Field Manual. This Field Manual, on the other hand, does apply to the procurement of services and property for the construction of buildings, structures, or appurtenances that were not on land to be used for the Public Assistance project when that land was acquired. This Field Manual also applies to any alterations or repairs to buildings or structures existing on that land when that land was acquired or made available for the Public Assistance project.
 - c. This Field Manual describes and explains the procurement requirements for grantees and subgrantees under 44 C.F.R. § 13.36 and 2 C.F.R. §§ 215.40-48. In December 2014, FEMA will be joining with the Department of Homeland Security (“DHS”) in adopting the new “Governmentwide Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” codified at 2 C.F.R. pt. 200. FEMA will, as part of adopting the new Common Rule, remove the administrative requirements at 44 C.F.R. pt. 13 and no longer follow the procurement requirements at 2 C.F.R. pt. 215 (which have already been removed from the Code of Federal Regulations) for Stafford Act declarations after the date of promulgation. FEMA will, however, continue to apply 44 C.F.R. pt. 13 and 2 C.F.R. pt. 215 for declarations occurring before that date and this Field Manual will continue to provide guidance to FEMA employees for those declarations.
5. DISSEMINATION. This Field Manual is intended for use by FEMA personnel in applying the procurement standards under the Federal regulations. The Field Manual may be made available to grantees and subgrantees to increase their understanding as to how FEMA interprets procurement requirements under the Federal regulations.
 6. UPDATES. The FEMA Office of Chief Counsel (“OCC”) will continue to update this Field Manual by identifying, capturing, and validating information and interpretations based on agency experience.
 7. PROCUREMENT DISASTER ASSISTANCE TEAM (PDAT). The PDAT is a group of attorneys within OCC that trains and advises Public Assistance staff; works with Public Assistance staff to provide training and guidance to grantees and subgrantees; reviews grantee and subgrantee procurement policies and procedures; and provides general guidance regarding concerns with a proposed grantee or subgrantee procurement action. This includes the PDAT providing various tools to FEMA staff, such as this Field Manual. FEMA employees may contact PDAT at FEMA-PFLDPDAT@fema.dhs.gov.

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I. INTRODUCTION

A. USE OF CONTRACTORS BY GRANTEES AND SUBGRANTEES

Grantees and subgrantees often use contractors to help them carry out their Public Assistance project awards. For example, a subgrantee may receive financial assistance under a Public Assistance Category E project award to repair a building damaged by a major disaster, and it may then award a contract to a construction company to do the work. FEMA's regulations specifically make contractor costs an "allowable cost" under the Public Assistance Grant Program.¹

Such a contract is a commercial transaction between the grantee/subgrantee and its contractor, and there is privity of contract between the grantee/subgrantee and its contractor. The Federal Government, on the other hand, is not a party to that contract and has no privity of contract with that contractor.² The Federal Government's only legal relationship is with the grantee, not with the subgrantee or contractors. Therefore, there is no contractual liability on the part of the Federal Government to the grantee's/subgrantee's contractor because there is no privity of contract between them.³

¹ 44 C.F.R. § 13.22(a) ("(a) Limitation on the use of funds. Grant funds may be used only for: (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and (2) Reasonable fees or profit to cost-type contractors...").

² The United States has waived sovereign immunity from suit under the Tucker Act in actions brought in the Court of Federal Claims "founded either upon the Constitution, or any act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages not sounding in tort." 28 U.S.C. § 1491(a)(1). The United States Court of Appeals for the Federal Circuit has "consistently held that for the government to be sued on a contract pursuant to the Tucker Act, there must be privity of contract between the plaintiff and the United States." *Chancellor Manor v. United States*, 331 F. 3d 891 (Fed. Cir. 2003).

³ See *D.R. Smalley & Sons, Inc. v. United States*, 179 Ct. Cl. 594, 372 F. 2d 505 (1967):

"The National Government makes many hundreds of grants each year to the various States, to municipalities, to schools and colleges and to other public organizations and agencies for many kinds of public works, including roads and highways. It requires the projects to be completed in accordance with certain standards before the proceeds of the grant will be paid. Otherwise the will of Congress would be thwarted and taxpayers' money would be wasted. (citation omitted) These grants are in reality gifts or gratuities. It would be farfetched indeed to impose liability on the Government for the acts and omissions of the parties who contract to build the projects, simply because it requires the work to meet certain standards and upon approval thereof reimburses the public agency for a part of the costs."

See also 2 U.S. Government Accountability Office, Office of the General Counsel, *Principles of Federal Appropriations Law*, pp. 10-55 to 10-57 (3rd Ed. 2006).

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B. ROLE OF THE FEDERAL GOVERNMENT IN GRANTEE AND SUBGRANTEE CONTRACTING

Although the Federal Government is not a party to a grantee's or subgrantee's contract, it plays a large role in a grantee's or subgrantee's contracting with outside sources under the Public Assistance Grant Program. Grantees and subgrantees⁴ that use Public Assistance funding must comply with the procurement requirements imposed by Federal law, executive orders, Federal regulations, and terms of the grant award. These requirements will control over non-Federal authorities (such as State or local rules for contracting) to the extent they conflict with Federal requirements.⁵

FEMA regulations impose procurement requirements on grantees and subgrantees at 44 C.F.R. § 13.36 (which applies to States and local and Indian tribal governments)⁶ and 2 C.F.R. §§ 215.40-48 (which apply to institutions of higher education, hospitals, and other nonprofit organizations).⁷ The rules in both sets of regulations are similar, but not the same. Most notably, the requirements in 2 C.F.R. pt. 215 are far less descriptive and prescriptive than those in 44 C.F.R. pt. 13. For example, 44 C.F.R. pt. 13 devotes a great deal of attention to the procurement methods of sealed bidding, competitive negotiations, procurement through competitive proposals, and procurement through noncompetitive proposals, while 2 C.F.R. pt. 215 does not discuss these methods at all. Regardless of any such differences, it is important to recognize that the purpose of the procurement standards in these regulations is not just to obtain the best value for a particular service or good, but also to further various public policy

⁴ Although FEMA has no direct financial relationship with a subgrantee, only with the grantee, the grantee will "flow down" to the subgrantee the obligations that the grantee has under Federal law, regulations, executive orders, and the terms and conditions of the FEMA-State Agreement for the use of Public Assistance funding. This includes compliance with 44 C.F.R. pt. 13 and 2 C.F.R. pt. 215. This makes the subgrantee accountable to the grantee to comply with the "flowed down" requirements. See 44 C.F.R. § 13.37(a).

⁵ See *Illinois Equal Employment Opportunity Regulations for Public Contracts*, B-167015, 54 Comp. Gen. 6 (1974) ("It is clear that a grantee receiving Federal funds takes such funds subject to any statutory or regulatory restrictions which may be imposed by the Federal Government. (citations omitted). Therefore, although the Federal Government is not a party to contracts awarded by its grantees, a grantee must comply with conditions attached to the grant in awarding federally assisted contracts."); see also *King v. Smith*, 392 U.S. 309, 333 n. 34 (1968) ("There is of course no question that the Federal Government, unless barred by some controlling constitutional prohibition, may impose the terms and conditions upon which its money allotments to the States shall be disbursed, and that any State law or regulation inconsistent with such Federal terms and conditions is to that extent invalid.").

⁶ FEMA codified the Common Rule of OMB Circular A-102 at 44 C.F.R. pt. 13 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

⁷ OMB codified OMB Circular A-100 at 2 C.F.R. pt. 215 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations). Unlike many other agencies, FEMA has not codified its own version of OMB Circular A-110, which means that 2 C.F.R. pt. 215 applies to a Public Assistance grant.

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objectives.⁸

C. STATE AND LOCAL LAWS AND REGULATIONS

The regulations at 44 C.F.R. § 13.36 and 2 C.F.R. pt. 215 provide that grantees and subgrantees will use their own procurement procedures that comply with applicable State and local laws and regulations, and also comply with applicable Federal laws and regulations. If State or local laws or regulations do not adequately address a particular aspect of procurement, the Federal Acquisition Regulations (“FAR”) may provide useful guidance. To be clear, the Federal Government’s rules for its own procurements under Federal law do not apply to grantee and subgrantee contracting under Public Assistance awards. However, in the case where the regulations at 44 C.F.R. pt. 13 or 2 C.F.R. pt. 215 are not clear or need amplification/clarification, FEMA may rely on FAR provisions that provide background for how similar terms and provisions are interpreted for federal procurements. FEMA staff should also review and consider audit findings of the OIG and FEMA Public Assistance appeals decisions.

D. STANDARD OF FEMA REVIEW

The regulations at 44 C.F.R. § 13.36 and 2 C.F.R. pt. 215 set forth various procurement standards that can be mandatory or discretionary. In some cases, a regulation will set forth a mandatory requirement—for example, 44 C.F.R. § 13.36(f) requires grantees and subgrantees to perform a price or cost analysis in connection with every procurement action including contract modifications. FEMA affords no deference to a grantee or subgrantee when making the determination of whether the grantee or subgrantee complied with the mandatory regulation. In the case of a cost or price analysis, FEMA will make the determination of whether or not the grantee or subgrantee conducted an analysis that met the regulatory requirement.

In other cases, a regulation will allow the grantee or subgrantee to take an action that involves the exercise of discretion. One example is the regulation at 44 C.F.R. § 13.36(b)(10), which provides that a local or Indian tribal government may use a time and materials contract only after, among other things, it makes a determination that no other contract is suitable. Another example is 44 C.F.R. § 13.36(d)(4), which provides that a local or Indian tribal government may use a noncompetitive procurement only if it is infeasible to award a contract through small purchase procedures, sealed bids, or competitive proposals and if the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. A third example is the decision by the subgrantee to conduct a competitive acquisition through

⁸ See Department of Homeland Security (“DHS”) Office of Inspector General, Report No. 14-46-D, *FEMA’s Dissemination of Procurement Advice Early in Disaster Response Periods*, pp. 5-6 (Feb. 28, 2014) (“Contracting practices that do not comply with Federal procurement regulations result in high-risk contracts that can cost taxpayers millions of dollars in excessive costs and that often do not provide full and open competition to all qualified bidders, including small firms and women- and minority-owned businesses. In addition, full and open competition helps prevent favoritism, collusion, fraud, waste, and abuse.”).

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either sealed bidding or competitive proposals. In these examples, the subgrantees must exercise its discretion in making the required determinations and should justify its determination in writing.

The regulations do not identify the “standard of review” with which FEMA, as the federal awarding agency, should evaluate grantee and subgrantee procurement discretionary decisions. A “standard of review” is the criterion or level of deference by which a FEMA will measure the propriety of a decision or action made by a grantee or subgrantee. Consistent with the overall direction of 44 C.F.R. § 13.36 and 2 C.F.R. pt. 215 to not impose additional administrative requirements than those already set forth in the regulations⁹ and consistent with principles of federalism,¹⁰ FEMA will review discretionary procurement decisions by grantees and their subgrantees to determine whether: (1) the grantee’s or subgrantee’s decision lacked a rational basis; or (2) the procurement procedure involved a violation of federal law, regulation, or FEMA policy.¹¹ In reviewing whether a decision lacked a rational basis, FEMA does not substitute its judgment for that of its grantees and their subgrantees.

E. CONFLICTING FEDERAL REQUIREMENTS

A grantee or subgrantee may use both Public Assistance funding and another federal agency’s funding for a particular project. In these cases, the grantee or subgrantee that uses funding for a third party procurement provided by FEMA and the other federal agency must comply with the procurement requirements of both FEMA and the other federal agency. These requirements may sometimes differ, with the result that FEMA expects the grantee or subgrantee to comply with both sets of requirements. If compliance with all applicable Federal requirements is impossible, the grantee or subgrantee should notify FEMA for resolution.

F. ORGANIZATION OF MANUAL

The following section of this Field Manual provides an overview of contracts and describes various contract types. This overview section liberally cites to the FAR as a common point of

⁹ 44 C.F.R. § 13.6(a) (“(a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the Federal Register.”); 2 C.F.R. § 215.4 (“Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB.”).

¹⁰ See Executive Order No. 13132, *Federalism* (Aug. 4, 1999), 64 Fed. Reg. 43255, 5 U.S.C. § 601 notes.

¹¹ For comparison purposes, the GAO will review federal agency bid protest decisions for reasonableness, consistency with the solicitation, and applicable procurement statutes and regulations. See *Matter of Analytical Innovative Solutions, LLC*, B-408727, 2013 Comp. Gen. Proc. Dec. P 263 (Nov. 6, 2013) (“In reviewing a protest challenging an agency’s evaluation, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency’s discretion....Rather, we will review the record only to determine whether the agency’s evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations.”) [internal citations omitted]. The scope of this review is similar to that of the Administrative Procedures Act, 5 U.S.C. § 706.

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reference to facilitate a general discussion on contract types. To reemphasize, the Federal Government's rules for its own procurements under Federal law do not apply to grantee and subgrantee contracting under Public Assistance awards. The next three sections then provide an overview of the procurement standards applicable to States (44 C.F.R. § 13.36(a)), local and Indian tribal governments (44 C.F.R. §13.36(b)-(i)), and institutions of higher education, hospitals, and private nonprofit organizations (2 C.F.R. §§ 215.40-48). These subsections, at various points, will use examples to illustrate the application of a particular procurement standard under the regulations, and several such examples involve fact patterns from OIG audits. Although findings from OIG audits are not binding precedent on FEMA (and FEMA may have disagreed with the OIG's finding(s) in cited audits), they do comprise a useful body of administrative determinations that help inform an understanding of a particular standard. The last section describes the consequences of a grantee or subgrantee failing to comply with the procurement standards applicable to that organization.

Following these five sections, the Field Manual includes two appendices. Appendix A provides synopses of each OIG audit report in the past four years that had a finding related to grantee or subgrantee procurement, and Appendix B provides synopses of the Public Assistance second appeal decisions that addressed a grantee or subgrantee procurement issue as part of the decision.

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II. OVERVIEW OF CONTRACTS

A. DEFINITION OF CONTRACT AND DISTINCTION FROM A SUBGRANT

A contract is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty.¹² There are three elements necessary to form a contract—mutual assent (known as offer and acceptance), consideration or a substitute, and no defenses to formation. Contracts are generally governed by the common law, although contracts for the sale of goods (movable, tangible property) are governed by Article 2 of the Uniform Commercial Code as well as the common law.

The term “contract” is generic and includes a number of different varieties or types.¹³ For example, one could categorize a contract type by subject matter (construction, research, supply, service) or by the manner in which it can be formed and accepted (such as bilateral or unilateral). Grantees and subgrantees are free to select the type of contract they award consistent with 44 C.F.R. § 13.36, 2 C.F.R. pt. 215, Federal law and regulations, and applicable State and local law and regulations, and within the bounds of good commercial business practice.

It is important to recognize the difference between a subgrantee and a contractor. Through a grantee, a subgrantee performs work to accomplish a public purpose authorized by law—in other words, a subgrantee performs substantive work on an award project.¹⁴ A contractor, in contrast, does not seek to accomplish a public benefit, and does not perform substantive work on the project. It is merely a vendor providing goods or services to directly benefit the grantee. FEMA’s regulation at 44 C.F.R. § 13.3 defines a “subgrant” as follows:

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of grant in this part.

By comparison, the regulation provides that a contract “means...a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.” In making a determination of whether a subgrantee or vendor relationship exists, the substance of the

¹² Restatement (Second) of Contract, § 1 (1981).

¹³ Id.

¹⁴ Compare 31 U.S.C. §§ 6301-6308. These statutes require the federal government’s choice and use of legal instruments reflect the type of basic relationship which it expects to have with the nonfederal parties. There are three basic relationships between federal agencies and those who receive contracts and federal assistance awards: procurement contracts, grants, and cooperative agreements. Sections 6303-6305 of Title 31 provide the criteria for selecting the most appropriate funding arrangement.

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relationship is more important than the form of the agreement.¹⁵

OMB Circular A-133 states that the characteristics indicative of a federal award received by a subgrantee are when the organization: (1) determines who is eligible to receive financial assistance; (2) has its performance measured against whether the objective of the Federal program are met; (3) has responsibility for programmatic decision making; (4) has responsibility for adherence to applicable Federal program compliance requirements; and (5) uses Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the grantee.¹⁶

In contrast, OMB Circular A-133 states that the characteristics indicative of a payment for goods and services received by a vendor are when the organization: (1) provides the goods and services within normal business operations; (2) provides similar goods and services to many different purchasers; (3) operates in a competitive environment; (4) provides goods or services that are ancillary to the operation of the Federal program; and (5) is not subject to compliance requirements of the Federal program.¹⁷

The distinctions between a subgrant and contract necessitate that different requirements apply. For example, a subgrantee must comply with the cost principles based on the nature of the subgrantee, whereas a contractor has no such requirement. Profit, furthermore, is allowable and indeed expected. In addition, a contractor also has no requirement to comply with any of the administrative requirements in 44 C.F.R. pt. 13 or 2 C.F.R. pt. 215, including procurement.

B. CONTRACT PAYMENT OBLIGATIONS

There are basically three types of contract payment obligations: fixed-price, cost-reimbursement, and time and materials (“T&M”). All three types of contracts are referenced in 44 C.F.R. pt. 13, and fixed price and cost-reimbursement contracts are referenced in 2 C.F.R. pt. 215. Because neither set of regulations defines nor fully describes these types of contracts, the following provides a general overview of these contracts that is largely based on the concepts and principles from the FAR. As noted earlier, although the FAR does not govern grantee and subgrantee procurement, it is a useful general reference tool to describe terms and concepts not delineated in the 44 C.F.R. pt. 13 and 2 C.F.R. pt. 215.

¹⁵ See also FEMA Directive 205-1, *Properly Selecting Between Grants, Cooperative Agreements or Procurements When Transferring Federal Funds to Non-Federal Entities* (Apr. 07, 2014) for guidance regarding the distinction between grants and procurement contracts.

¹⁶ OMB Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, § __.210(b) (2003) (as amended)

¹⁷ *Id.* § __.201(d).

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1. Fixed Price and Cost-Reimbursement Contracts

With respect to fixed price and cost-reimbursement contracts, the specific contract types range from firm-fixed price, in which the contractor has full responsibility for the performance costs and resulting profit (or loss), to a cost-plus-fixed-fee, in which the contractor has minimal responsibility for the performance costs and the negotiated fee (profit) is fixed. In between these two ends of the spectrum, there are various incentive contracts in which the contractor's responsibilities for the performance costs and the profit or fee incentives offered are tailored to the uncertainties involved in contract performance.

Fixed price contracts provide for a firm price or, in appropriate cases, an adjustable price.¹⁸ The risk of performing the required work, at the fixed price, is borne by the contractor.¹⁹ Firm-fixed price contracts are generally appropriate where the requirement (such as, scope of work) is well-defined and of a commercial nature.²⁰ Construction contracts, for example, are often firm-fixed price contracts. T&M contracts and labor-hour contracts are not firm-fixed-price contracts.²¹

Cost-reimbursement types of contracts provide for payment of certain incurred costs to the extent provided in the contract.²² They normally provide for the reimbursement of the contractor for its reasonable, allocable, actual, and allowable costs, with an agreed-upon fee.²³ There is a limit to the costs that a contractor may incur at the time of contract award, and the contractor may not exceed those costs without the grantee's or subgrantee's approval or at the contractor's own risk. In a cost-reimbursement contract, the grantee/subgrantee bears more risk than in a firm-fixed price contract.²⁴ A cost-reimbursement contract is appropriate when the details of the required scope of work are not well-defined.²⁵ There are many varieties of cost-reimbursement contracts, such as cost-plus-fixed-fee, cost-plus-incentive-fee, and cost-plus-award-fee contracts.²⁶

¹⁸ Cf. 48 C.F.R. subpart 16.2 (Fixed-Price Contracts). A fixed price contract can be adjusted, but this normally occurs only through the operation of contract clauses providing for equitable adjustment or other revisions of the contract price under certain circumstances. Cf. also, 48 C.F.R. § 16.203 (Fixed-Price Contracts with Economic Price Adjustment).

¹⁹ Bowsher v. Merck & Co., 460 U.S. 824, 826 at n. 1 (U.S. 1983) ("A pure fixed-price contract requires the contractor to furnish the goods or services for a fixed amount of compensation regardless of the costs of performance, thereby placing the risk of incurring unforeseen costs of performance on the contractor rather than the Government.").

²⁰ Cf. 48 C.F.R. § 16.202-2.

²¹ Cf. 48 C.F.R. § 16.201(b).

²² Cf. 48 C.F.R. subpart 16.3 (Cost-Reimbursement Contracts).

²³ Cf. 48 C.F.R. subpart 16.3.

²⁴ Kellogg Brown & Root Servs. v. United States, 742 F.3d 967, 971 (Fed. Cir. 2014) ("...cost-reimbursement contracts are intended to shift to the Government the risk of unexpected performance costs...").

²⁵ Cf. 48 C.F.R. § 16.301-2(a).

²⁶ Cf. 48 C.F.R. subpart 16.3.

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However, the cost-plus-a-percentage-of-cost type contract, which is discussed in detail later on in this manual, is strictly prohibited.²⁷

2. Time and Materials (T&M) Contracts

This type of contract is one that typically provides for the acquisition of supplies or services on the basis of (1) direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and (2) actual costs for materials.²⁸ A T&M contract is generally used when it is not possible at the time of awarding the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.²⁹ T&M contracts are neither fixed-price nor cost-reimbursement contracts, but constitute their own unique contract type. A labor-rate contract is a type of T&M contract.

C. TYPES OF CONTRACT BASED ON PROCUREMENT METHOD

Another type of contract concern is the method of procurement, which is the process followed by a grantee or subgrantee to solicit contractors, evaluate offers, and selects a contractor through the use of evaluation criteria. The Federal procurement standards for local and Indian tribal governments recognize four methods of procurement: small purchase procedures, sealed bidding, procurement through competitive proposals, and procurement through noncompetitive proposals. A grantee's or subgrantee's method of procurement will most likely align to one of these four methods (although there may be various permutations). The following provides a brief overview of these four procurement methods, which are discussed in greater detail in later sections of this Field Manual.

1. Small Purchase Procedures

This method comprises those relatively simple and informal procurement methods for securing services, supplies, or other property for awards below the simplified acquisition threshold of \$150,000.³⁰ Contract awards can be based on either lowest price submitted (such as in sealed bidding) or on technical qualifications and price (such as in procurement through competitive

²⁷ See 44 C.F.R. § 13.36(f)(4), 2 C.F.R. § 215.44(c); DHS Office of Inspector General, Report No. OIG-14-44-D, *FEMA Should Recover \$5.3 Million of the \$52.1 Million of Public Assistance Grant Funds Awarded to the Bay St. Louis Waveland School District in Mississippi-Hurricane Katrina*, p. 4 (Feb. 25, 2014) ("Federal regulations prohibit cost-plus-percentage-of-cost contracts because they provide no incentive for contractors to control costs—the more contractors charge, the more profit they make."). See also Section IV(E)(4), *infra*.

²⁸ See 48 C.F.R. § 16.601(b).

²⁹ Cf. 48 C.F.R. § 16.601(c).

³⁰ The simplified acquisition threshold, which is currently \$150,000, is set by the Federal Acquisition Regulation at 48 C.F.R. subpart 2.1 (Definitions) and in accordance with 41 U.S.C. § 1908. Note, however, that if applicable state or local law or regulation sets a threshold for simplified acquisitions at a dollar amount below \$150,000, then that threshold will control per 44 C.F.R. § 13.36(b)(1).

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proposals).

2. Sealed Bidding

Sealed bidding is a method of contracting that employs competitive bids, public opening of bids, and awards. In this method, the grantee or subgrantee prepares an invitation for bid that describes its requirements clearly, accurately, and completely and publicizes the invitation. Bidders submit sealed bids in response to the invitation to be opened publicly, and the grantee or subgrantee evaluates those bids without discussions. After evaluating the bids, the grantee or subgrantee makes an award to the responsible bidder whose bid was responsive and most advantageous to the grantee or subgrantee, considering only price and price-related factors (such as warranties, life-cycle costs, and transportation costs).³¹ The type of contract awarded under sealed bidding is a firm fixed price contract.³² Construction contracts and commercial-off-the-shelf items are examples of when sealed bidding is normally appropriate.

3. Procurement through Competitive Proposals (or Negotiated Procurement)

Under this method, either a fixed-price or cost-reimbursement contract is awarded to the responsible firm whose proposal is determined to be the most advantageous to the grantee or subgrantee with price and other factors, such as technical and past performance, considered.³³ The competitive negotiation process includes the solicitation and receipt of proposals from offerors, permits negotiations with offerors...³⁴

This is the method of procurement most often used for professional services in connection with construction, such as program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.³⁵ But it is not the method commonly used for actual construction, alteration, or repair to real property, as the regulations include a preference for sealed bidding to be used for these types of services (unless it would be infeasible to do so).³⁶

4. Noncompetitive Procurement

This method of procurement involves the award of a contract by the grantee or subgrantee

³¹ Cf. 48 C.F.R. § 14.101.

³² 44 C.F.R. § 13.36(d)(2).

³³ See 44 C.F.R. § 13.36(d)(3).

³⁴ Cf. 48 C.F.R. pt. 15.

³⁵ See 44 C.F.R. § 13.36(d)(3); cf. 48 C.F.R. pt. 36 (Construction and Architect-Engineer Contracts) and 37 (Service Contracting).

³⁶ 44 C.F.R. § 13.36(d)(2).

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without providing for full and open competition.³⁷

III. PROCUREMENT BY A STATE

The Federal procurement standards at 44 C.F.R. § 13.36(a) require a State³⁸ to follow the same policies and procedures it uses for procurements from its non-Federal funds when it procures property and services under a Public Assistance grant award.³⁹ In addition, the State must ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.⁴⁰

The procurement standards at 44 C.F.R. § 13.36(a) apply to a State not only when the State is acting as a grantee under a Federal grant, but also when a State agency is a subgrantee.⁴¹ Within the context of the Public Assistance grant, a State will designate a State agency that has responsibility for Public Assistance grant administration (and that State administrative agency serves the role as the “grantee”).⁴² But, in most cases, FEMA will approve a Project Worksheet for a scope of work to be completed by a State agency applicant other than the state

³⁷ 44 C.F.R. § 13.36(d)(4); cf. 48 C.F.R. § 6.302.

³⁸ A “State” means “any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.” 44 C.F.R. § 13.3.

³⁹ 44 C.F.R. § 13.36(a); see also DHS Office of Inspector General, Report No. 14-46-D, *FEMA’s Dissemination of Procurement Advice Early in Disaster Response Periods*, p. 3 (Feb. 28, 2014) (“Federal Regulation 44 CFR 13.36(a) allows States, as grantees, to use their own procurement procedures.”).

⁴⁰ *Id.* Many of the laws with which a State must comply as a condition of receiving federal assistance and which will apply to state contractors are set forth in the DHS Standard Terms and Conditions, although that document does not contain mandatory or model contract clauses. In addition, the regulation at 44 C.F.R. § 13.36(i) identifies several additional laws, regulations, and executive orders. Such laws include, but are not limited to, the Clean Air Act; Federal Water Pollution Control Act; Copeland Anti-Kickback Act; Contract Work Hours and Safety Standards Act; False Claims Act; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VIII of the Civil Rights Act of 1968; Title IX of the Education Amendments of 1975; Rehabilitation Act of 1973; Trafficking Victims Protection Act of 2000; Executive Orders 12549 and 12689 concerning debarment and suspension; Drug Free Workplace Act of 1988; Hotel and Motel Fire Safety Act of 1990; and the lobbying prohibitions of 31 U.S.C. § 1352.

⁴¹ See, e.g. DHS Office of Inspector General, Report No. DS-13-09, *The Alaska Department of Transportation and Public Facilities Did Not Properly Account for and Expend \$1.5 Million in FEMA Public Assistance Grant Funds*, p. 3 at n. 3 (Apr. 30, 2013) (“The Central Region is a State agency and, according to Federal regulations, officials must therefore comply with the same policies and procedures used for procurements from its non-Federal funds (44 CFR 13.36(a).”); DHS Office of Inspector General, Report No. DS-13-05, *The California Department of Parks and Recreation Did Not Account for or Expend \$1.8 Million in FEMA Public Assistance Grant Funds According to Federal Regulations and FEMA Guidelines*, p. 4 (Mar. 27, 2013) (“The Department is a State entity and officials must therefore comply with the same policies and procedures used for procurements for its non-Federal funds (44 CFR 13.36(a).”).

⁴² 44 C.F.R. § 206.207(b)(1).

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administrative agency for the Public Assistance grant.

Upon FEMA's approval of the project, FEMA's regulation at 44 C.F.R. 206.202(e)(1) directs that the grantee, in turn, would approve "subgrants based on the Project Worksheets approved for each applicant."⁴³ The procurement standards applicable to the State agency applicant in this case would still be 44 C.F.R. § 13.36(a). In other words, approval of a "subgrant" from the State administrative agency to the other State agency applicant does not change or otherwise affect the procurement standard applicable to the "State" applicant.⁴⁴

Even if a State complies with its own policies and procedures it uses for procurements from its non-Federal funds when it procures property and services under a Public Assistance grant award, FEMA will still evaluate the method of procurement and associated costs for, among other things, reasonableness.⁴⁵ FEMA will, for example, scrutinize a State's noncompetitive

⁴³ 44 C.F.R. § 206.202(e)(1) ("(e) Grant approval. (1)...After we receive the SF 424 and 424D, the Regional Administrator will obligate funds to the Grantee based on the approved Project Worksheets. *The Grantee will then approve subgrants based on the Project Worksheets approved for each applicant.*") (emphasis added).

⁴⁴ See 53 Fed. Reg. 8034 (Mar. 11, 1988) (which finalized the common rule for the administration of grants and cooperative agreements to states, local and Indian tribal governments) ("As explained in E.O. 12612, Federalism, States possess unique constitutional authority, resources and competence. Under Federalism, States should be given the maximum administrative discretion possible with respect to national programs they administer. Intrusive, Federal oversight is neither necessary nor desirable... Consistent with the President's Federalism Executive Order, the proposed common rule provided that in three important areas (financial management systems, § XX .20, equipment, § XX .32, and procurement, § XX .36), States will expend and account for grant funds according to their own laws and procedures. This flexibility for States in these three areas applies only to funds expended by the State itself."); see also the DHS Office of Inspector General audits reports cited at *supra* note 41.

⁴⁵ See 2 C.F.R. pt. 225 (Cost Principles for State, Local, and Indian Tribal Governments), Appendix A (General Principles for Determining Allowable Costs), ¶ C.2:

A cost is "reasonable" if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particular important when government units or components are predominantly federally-funded. In determining reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.
- b. The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.
- c. Market prices for comparable goods or services.
- d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
- e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

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procurement to determine whether or not circumstances warranted that method of procurement and resulted in unreasonable pricing, even if such a procurement otherwise complied with state policies and procedures.

**Example of the Differing Procurement Standards for States and Local Governments –
 Geographic Preference**

Scenario: The President declares a major disaster for the State of Z as a result of a hurricane, and the declaration authorizes the Public Assistance Grant Program for all counties in the State. The hurricane damaged a building of the State Z Agency of Transportation. Following approval of a Project Worksheet to repair the damaged building, State Z Agency of Transportation procures the services of a contractor to complete the repairs to the building by following the same policies and procedures it uses for procurements from its nonfederal funds when it procures construction services. The State Z Agency, when evaluating the bids for the work, uses a state statutorily imposed geographic preference and awards a contract, and the contract includes all clauses required by federal law, regulation, and executive order. The Disaster Recovery Manager has asked whether the use of the geographic preference was permissible under 44 C.F.R. pt. 13.

Answer: Yes, the use of the geographic preference was permissible under 44 C.F.R. pt. 13. The federal regulation at 44 C.F.R. § 13.36(a) provides, in relevant part, that a state must follow the same policies and procedures it uses for procurements from its nonfederal funds when it procures property and services under a Public Assistance grant award. In this case, the State Z Agency of Transportation followed these procedures, which included adhering to a statutorily imposed geographic preference when evaluating the bids.⁴⁶

It is important to recognize that the procurement standards are different for states than they are for local and Indian tribal governments. As it relates to those entities, the federal regulation at 44 C.F.R. § 13.36(c)(2) provides that “grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in the evaluation of bids or proposals,” except in those cases where “applicable federal statutes expressly mandate or encourage geographic preference.” However, because the state is not subject to regulation at 44 C.F.R. § 13.36(c)(2), the regulation bears no applicability to the question presented.

⁴⁶ Whether or not a particular geographic preference regime imposed by a State raises Constitutional issues under the dormant commerce clause is outside the scope of this Field Manual.

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IV. PROCUREMENT BY LOCAL AND INDIAN TRIBAL GOVERNMENTS

Local⁴⁷ and Indian tribal governments⁴⁸ must use their own procurement procedures that reflect State and local law and regulations, provided that the procurements conform to applicable Federal law and standards identified at 44 C.F.R. § 13.36(b)-(i).⁴⁹ The following provides a summary of the eight subsections to 44 C.F.R. § 13.36. Notably, an Indian tribal government can be, in certain circumstances, a Public Assistance grantee, and the Indian tribal government must still meet the requirements of 44 C.F.R. § 13.36(b)-(i) when serving as a grantee or subgrantee.⁵⁰ The term “subgrantee” as used in the following subsections, therefore, includes a local government (which will never serve as a Public Assistance grantee) and an Indian tribal government acting as either a subgrantee or grantee.

A. GENERAL PROCUREMENT STANDARDS (44 C.F.R. § 13.36(b))

The regulation at 44 C.F.R. § 13.36(b) sets forth twelve general procurement standards, nine of which are mandatory. The first standard at 44 C.F.R. § 13.36(b)(1), as summarized above,

⁴⁷ A “local government” means “a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.” 44 C.F.R. § 13.3.

⁴⁸ A “federally recognized Indian tribal government” means the “governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.” 44 C.F.R. § 13.3.

⁴⁹ 44 C.F.R. § 13.36(b)(1); *see also* DHS Office of Inspector General, Report No. 14-46-D, *FEMA’s Dissemination of Procurement Advice Early in Disaster Response Periods*, p. 3 (Feb. 28, 2014) (“Federal Regulation 44 CFR 13.36(a) allows States, as grantees, to use their own procurement procedures. *Other grantees and subgrantees may also use their own procurement procedures, but those procedures must conform to Federal law and standards stated in 44 CFR 13.36(b) through (i)* [emphasis added].”).

⁵⁰ The regulation at 44 C.F.R. § 13.4(a) provides that subparts A through D of 44 C.F.R. pt. 13 apply to all grants and subgrants to “governments,” with limited exceptions. A “government” is defined as including a State or local government and a federally recognized Indian tribal government. Accordingly, the regulations in subparts A through D of 44 C.F.R. pt. 13—which includes 44 C.F.R. § 13.36—apply to Indian tribal governments.

Next, the regulation at 44 C.F.R. § 13.36(a) provides that “[w]hen procuring property and services under a grant, a *State* will follow the same policies and procedures it uses for procurements from its non-Federal funds...” (emphasis added). The regulation then states that “[o]ther grantees and subgrantees will follow paragraphs (b) through (i) in this section.” The definition of “State” under 44 C.F.R. § 13.3 (*see supra* note 38) does not include an Indian tribal government.

FEMA has interpreted the regulations at 44 C.F.R. §§ 13.4 and 13.36 to mean that Indian tribal governments, whether serving as a grantee or subgrantee, must adhere to their procurement procedures, but those procedures must conform to applicable federal law and the Federal procurement standards at 44 C.F.R. § 13.36(b)-(i), with the Federal standards controlling to the extent that the Indian tribal procedures do not conform to these Federal standards.

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requires a subgrantee to use its own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards under 44 C.F.R. § 13.36(b)-(i). The following provide a summary of the remaining eleven standards at 44 C.F.R. § 13.36(b)(2)-(12).

1. Contract Administration (44 C.F.R. § 13.36(b)(2))

Local and Indian tribal governments will maintain a contract administration system to ensure that contractors perform in accordance with terms, conditions, and specifications of their contracts or purchase orders.⁵¹ The regulation does not provide any additional detail as to what the content of such an administration system should be, such that the content of any such administration system is left to the discretion of the subgrantee.

If reviewing a subgrantee's contract administration system, FEMA would look for at least the following basic elements that should reasonably be part of any such system.

- **Contract Monitoring.** The subgrantee should have identified methods for monitoring the performance of the contractor to ensure that work conforms to project design and the scope of work in the Project Worksheet, quality controls are being met, and potential delays or cost overruns are identified.⁵² The extent of monitoring may vary depending upon the type and scope of the contract.
- **Voucher Processing.** The subgrantee should have clearly defined roles and responsibilities for the payment of the contractor. This will, among other things, ensure that the nature, type, and quantity of effort or materials being expended are in general accord with the progress of work under the contract, and that claimed costs are reasonable for the period covered by the voucher.
- **Contract Closeout.** Contract closeout begins when the contract has been physically completed (all services performed and/or products delivered). The subgrantee should have a defined process for closeout that includes, among other things, final inspection,

⁵¹ 44 C.F.R. § 13.36(b)(2).

⁵² See 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance); cf. 48 C.F.R. § 42.11 (related to surveillance of Federal contracts for supplies and services other than construction); 48 C.F.R. § 37.6 (regarding surveillance of Federal contracts for services); see also DHS Office of Inspector General, Report No. 14-63-D, *FEMA Should Recover \$1.7 Million of Public Assistance Grant Funds Awarded to the City of Waveland, Mississippi-Hurricane Katrina*, p. 4 (Apr. 15, 2014) (The subgrantee claimed costs for installing a temporary sewer collection system that the contractor improperly billed for excessive contract costs because the costs did not comply with contract terms. Among other violations, this violated the subgrantee's requirement to maintain an adequate contract administration system.); DHS Office of Inspector General, Report No. 11-24, *FEMA Public Assistance Grant Awarded to Wayne County, Mississippi, Board of Supervisors*, p. 6 (Sep. 15, 2011) (Subgrantee's failure to have adequate debris monitoring procedures constituted a failure to have an adequate contract administration system. The performance of the debris monitoring contractor suffered from multiple failures: the contractor has no experience and was provided no training in debris monitoring, load tickets were deficient, and there was no means to verify truck capacities.).

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settlement of any disputes, and final payments.

A subgrantee, in establishing its administrative system, should also review the guidance provided by OMB under the FY 2013 Compliance Supplement to OMB Circular A-133 to auditors that will be auditing subgrantees that are subject to an audit under the Single Audit Act. Specifically, Section I of Part 6 of the Compliance Supplement provides specific guidance for “Procurement and Suspension and Debarment.”

One of the key “risk assessment” activities is for an auditor to evaluate whether a subgrantee has “procedures to identify risks arising from vendor inadequacy, e.g., quality of goods and services, delivery schedules, warrant assurances, user support.”⁵³ In addition, the Compliance Supplement states that relevant “control activities” include that a “contractor’s performance with the terms, conditions, and specifications of the contract is monitored and documented.”

As it relates to debris removal (Public Assistance Category A), FEMA has promulgated specific guidance as to monitoring performance under the contract.⁵⁴ Specifically, FEMA has stated that an applicant should establish debris monitoring procedures and include those procedures in an applicant’s debris management plan for the applicant’s financial interest, especially if the applicant has contracted for any component of the debris removal operation.⁵⁵ Monitoring contracted debris removal operations achieves two objectives. First, it verifies that work completed by the contractor is within the contract scope of work. Second, it provides the required documentation for Public Assistance reimbursement.⁵⁶ Applicants can use force account resources, contractors, or a combination of both to monitor debris removal operations. FEMA periodically validates an applicant’s monitoring and validation of the debris operation, including inspection of truck loads.

2. Written Code of Procurement Standards of Conduct (44 C.F.R. § 13.36(b)(3))

Subgrantees are required to have a written code of standards of conduct for their employees who are engaged in the award and administration of contracts.⁵⁷ FEMA expects an applicant, when contracting with Public Assistance grant funding, to ensure that procurement transactions are conducted in a manner beyond reproach, at arm’s length, with impartiality, and without preferential treatment. FEMA’s regulations require the subgrantee’s written standards to provide for, at a minimum, the following items.

⁵³ OMB Circular A-133 Compliance Supplement, pt. 6, § I (Mar. 2013).

⁵⁴ See FEMA 325, Public Assistance Debris Management Guide, Chapter 11 (Jul. 2007) [“Debris Management Guide”].

⁵⁵ Id. at 105.

⁵⁶ Id.

⁵⁷ 44 C.F.R. § 13.36(b)(3); see also 48 C.F.R. subpart 3.1.

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i. No Conflicts of Interest

The regulation at 44 C.F.R. § 13.36(b)(3) requires subgrantees to maintain a written code of conduct governing the performance of their employees engaged in the award and administration of contracts.⁵⁸ The regulation then makes clear that “no employee, officer, or agent of the... subgrantee shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.”⁵⁹ The purpose of this code and the prohibition is to ensure, at a minimum, that employees involved in the award and administration of contracts are free of undisclosed personal or organizational conflicts of interest—both in appearance and fact.

An organizational conflict of interest is one form of a prohibited conflict of interest and discussed later in this chapter. A second form is a personal conflict of interest. The regulation at 44 C.F.R. § 13.36(b)(3) provides that such a conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, or a partner, or an organization that employs (or is about to employ) any of the above, has a financial or other interest in the contractor that is selected for award.⁶⁰

Although the term “financial interest” is not defined or otherwise described in the regulation, the following provides a non-exhaustive list of the types of financial interest that may give rise to a personal conflict of interest:

- Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
- Consulting relationships (such as commercial and professional consulting and service arrangements);
- Investment in the form of stock or bond ownership or partnership interest;
- Real estate investments; and
- Business ownership.⁶¹

⁵⁸ 44 C.F.R. § 13.36(b)(3).

⁵⁹ Id.

⁶⁰ 44 C.F.R. § 13.36(b)(3)(i)-(iv). See also 18 U.S.C. § 208 and 5 C.F.R. pts. 2635 and 2640, subpart D (which prohibit a Federal employee from having a financial interest in an organization with which he or she is dealing); 48 C.F.R. § 52.203-16 (Preventing Personal Conflicts of Interest) (defining “personal conflict of interest” as it relates to an individual who performs an acquisition function closely associated with an inherently governmental function and is an employee of the contractor or a subcontractor).

⁶¹ Federal criminal law at 18 U.S.C. § 208 prohibits an employee (subject to certain exceptions) from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any other person specified in the statute has a *financial interest*, if the particular matter will have a direct and predictable effect on that interest. The implementing federal regulation provides that a “disqualifying financial interest” means:

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Example – Personal Conflict of Interest under a Federal Grant

In *Town of Fallsburg v. United States*, the Town of Fallsburg awarded a contract, under an Environmental Protection Agency (EPA) grant, to purchase equipment to maintain its sewage facility.⁶² The town was governed by a town board and the town supervisor, who served as the project manager. The equipment contract was awarded to a business connected with the town supervisor's family. The town supervisor had no ownership interest in the business, but drew a small salary from it. After suspecting a conflict of interest, the EPA withheld payment under the grant. The town supervisor was eventually convicted of mail fraud for executing the bonding instrument needed for the equipment contract on behalf of the business and held guilty of fraudulently accelerating payments to the business.

The court affirmed the EPA's decision, reviewing the administrative decision under the arbitrary and capricious standard, and held that the town negligently failed to avoid a conflict of interest under 40 C.F.R. § 33.300(a), failed to exercise the degree of care required to effectively manage its public trust under 40 C.F.R. § 30.210, and failed to prohibit the appearance or actuality of favoritism in the awarding and administration of the contract as required by the grant. Notably, the EPA's regulations were different than 44 C.F.R. § 13.36(b)(3),⁶³ but the case is illustrative of the types of conflict of interest that FEMA would find prohibited.

ii. Prohibitions Against Gratuities

The subgrantee's officers, employees, and agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.⁶⁴ This would include entertainment, hospitality, loan, and forbearance. It would

“[T]he potential for gain or loss to the employee, or other person specified in [18 U.S.C. § 208], as a result of governmental action on the particular matter. The disqualifying financial interest might arise from ownership of certain financial instruments or investments such as stock, bonds, mutual funds, or real estate. Additionally, a disqualifying financial interest might derive from a salary, indebtedness, job offer, or any similar interest that may be affected by the matter.”

5 C.F.R. § 2640.103(b).

⁶² *Town of Fallsburg v. United States*, 22 Cl. Ct. 633, 1991 U.S. Cl. Ct. LEXIS 76 (1991).

⁶³ *Id.* at 644, footnote 8 (“8. Under the provisions of 40 C.F.R. § 33.300(a), the Town, as grantee was required to avoid conflicts of interest and to maintain a code or standards of conduct governing the performance of its officers, employees, and agents in the conduct of project work, including procurement and the expending of project funds, which would prohibit such officers, employees, and agents from accepting anything of monetary value from contractors.”) and footnote 9 (“Under the provisions of 40 C.F.R. § 30.210, the grantee is required to efficiently and effectively manage grant funds which are deemed to constitute a public trust.”).

⁶⁴ 44 C.F.R. § 13.36(b)(3); *see, e.g.* DHS Office of Inspector General, Report No. DD-13-11, *FEMA Should Recover \$46.2 Million of Improper Contracting Costs from Federal Funds Awarded to the Administrators of the Tulane Educational Fund, New Orleans, Louisiana*, pp. 16-18 (Aug. 15, 2013) (which involved a conflict of interest and is further described at *infra* note 376).

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also include services as well as gifts of training, transportation, local travel, and lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.⁶⁵

iii. Permitted Financial Interests and Gratuities

As an exception to the general prohibition against gratuities and financial interests, the subgrantee may set minimum rules where the financial interest is not substantial or the gift is an *unsolicited* item of nominal intrinsic value.⁶⁶ The regulations do not provide any additional clarity as to what comprises “substantial” or “nominal intrinsic value,” such that the content of any such exception is left to the discretion of the subgrantee. In any case, the Standards of Conduct for Employees of the Executive Branch provide a useful guide in analyzing a subgrantee’s exceptions.⁶⁷

iv. Penalties for Violations

The subgrantee’s standards of conduct must, to the extent permitted by State or local law or regulations, provide for penalties, sanctions, or other disciplinary actions for violations by the subgrantee’s officers, employees, agents, or by contractors or their agents.⁶⁸ For example, the penalty for a subgrantee’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract by the subgrantee.

v. Additional Restrictions

Federal agencies are permitted to impose additional restrictions in the case of real, apparent, or potential conflicts of interest.⁶⁹ As of the date of publication, FEMA has not imposed any such additional restrictions.

3. Review of Proposed Procurements (44 C.F.R. § 13.36(b)(4))

Subgrantee procurement procedures must provide for a review of proposed procurements to

⁶⁵ Cf. 5 C.F.R. § 2635.203(b) (defining “gift” under the Standards of Conduct for Employees of the Executive Branch).

⁶⁶ 44 C.F.R. § 13.36(b)(3).

⁶⁷ See 5 C.F.R. §§ 2635.203 (providing exclusions for the meaning of gift, such modest items of food and refreshments offered other than part of a meal) and 2635.204 (providing exceptions to the gift prohibitions, such unsolicited non-cash gifts of a fair market value of \$20 per occasion with a limit of \$50 per year per source); see also 5 C.F.R. pt. 2640, subpart B (identifying exemptions for financial interests from the prohibitions of 18 U.S.C. § 208 for federal employees).

⁶⁸ 44 C.F.R. § 13.36(b)(3).

⁶⁹ *Id.*

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avoid purchase of unnecessary or duplicative items pursuant to 44 C.F.R. § 13.36(b)(4).⁷⁰ Under these procedures, the subgrantee should give consideration to consolidating or breaking out procurements to obtain a more economical purchase.⁷¹ Where appropriate, the subgrantee must make an analysis of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.⁷² Within the context of the Public Assistance Program, there will be various occasions when a subgrantee would perform this analysis.

i. Eligibility

The property and services to be acquired must be eligible under the Stafford Act and the Public Assistance regulations at 44 C.F.R. pt. 206 and within the scope of the specific Project Worksheet.

ii. Necessity

FEMA expects grantees and subgrantees to limit the acquisition of federally-assisted property and services to the amount it needs to support its Public Assistance project(s). In monitoring whether a grantee or subgrantee has complied with its procedures to determine what property or services are unnecessary, FEMA bases its determinations on what would have been a grantee's or subgrantee's reasonable expectations at the time it entered into the contract.

iii. Examples

Acquisition of Equipment

One example is when a subgrantee needs to obtain equipment⁷³ that is necessary to respond to and/or recover from a major disaster in areas designated for Public Assistance.⁷⁴ In those circumstances, the subgrantee must analyze its options to either lease or purchase equipment, although the regulation at 44 C.F.R. § 13.36(b)(4) does not provide any detail or amplifying information on how such an analysis should be performed, leaving such details to the discretion of the subgrantee.

Although FEMA will not mandate that an applicant pursue a specific option for obtaining

⁷⁰ 44 C.F.R. § 13.36(b)(4).

⁷¹ Id.

⁷² Id.

⁷³ Equipment is "tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit. 44 C.F.R. § 13.3.

⁷⁴ There may be instances after a major disaster when an applicant will not have sufficient equipment and supplies to respond to the incident in an effective manner. FEMA may, in those circumstances, provide financial assistance for the acquisition of equipment and supplies purchased or leased by an applicant. See FEMA Disaster Assistance Policy No. 9525.12, *Disposition of Equipment, Supplies, and Salvageable Materials*, § VI (Jul. 14, 2008).

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equipment, FEMA will generally fund only the most cost-effective option. FEMA will analyze the applicant's decision to either lease or purchase equipment on a case-by-case basis by evaluating comparative costs and other factors. The following provides a non-exhaustive list of the considerations FEMA may use in this analysis:

- Estimated length of the period the equipment is to be used and the extent of use within that period;
- Financial and operating advantages of alternative types and makes of equipment;
- Cumulative rental payments for the estimated period of use;
- Net purchase price;
- Transportation and installation costs;
- Maintenance and other service costs;
- Availability of purchase options;
- Trade-in or salvage value;
- Availability of a servicing capability.⁷⁵

Temporary Facilities

Another example of where a lease vs. purchase option analysis will be necessary is in the case of "temporary facilities." As a result of major disasters and emergencies, services provided at public and private nonprofit facilities may be disrupted to the extent that they cannot continue unless they are temporarily relocated to another facility.⁷⁶ Applicants may request temporary facilities to continue that service, and may lease, purchase, or construct eligible temporary facilities.⁷⁷ Whichever option is selected, the option must be reasonable, cost-effective, and temporary in nature.⁷⁸

FEMA will not mandate that the applicant pursue a specific option for a temporary facility, but FEMA will fund only the most cost effective option.⁷⁹ In its policy guidance, FEMA has asserted that it will use various considerations in determining whether to fund a temporary facility. One such consideration is that an applicant must supply FEMA with sufficient information so as to enable FEMA to conduct a "cost comparison," and this information should

⁷⁵ Cf. 48 C.F.R. pt. 7, subpart 7.4 (Equipment Lease or Purchase).

⁷⁶ Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, § 403(a)(3)(D) (1974) (codified as amended at 42 U.S.C. § 5170b(a)(3)(D)) ["Stafford Act"]; FEMA Recovery Policy No. 9523.3, *Provision of Temporary Relocation Facilities* (Dec. 14, 2010).

⁷⁷ FEMA DAP No. 9523.3, supra note 76, § VII(D).

⁷⁸ Id.

⁷⁹ Id.

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consist of at least three proposals with cost estimates.⁸⁰

4. Awards to Responsible Contractors (44 C.F.R. § 13.36(b)(8))

A subgrantee must make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.⁸¹ In awarding a contract, the subgrantee must give consideration to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.⁸²

As a preliminary matter, a subgrantee may not enter into a contract with a contractor that is debarred or suspended as detailed in 44 C.F.R. § 13.35. But it is important to recognize that a contractor, even if not debarred or suspended, may still not be a “responsible” contractor for the purposes of 44 C.F.R. § 13.36(b)(8). For example, a contractor may not have the necessary “technical and financial resources” to properly perform a contract, such as the necessary equipment and technical skills (or the ability to obtain them) to perform a particular scope of work.

The Federal Acquisition Regulation (“FAR”) sets forth general standards for determining contractor responsibility that provide a useful guide within the Public Assistance contracting context.⁸³ To be determined responsible, the FAR states that a prospective contractor, among other things, must:

- Have adequate financial resources to perform the contract, or the ability to obtain them;
- Be able to comply with the required proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- Have a satisfactory performance record;
- Have a satisfactory record of integrity and business ethics;
- Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors);
- Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and

⁸⁰ Id. § VII(D)(1).

⁸¹ 44 C.F.R. § 13.36(b)(8).

⁸² Id.

⁸³ 48 C.F.R. pt. 9 (Contractor Qualifications), subpart 9.1 (Responsible Prospective Contractors).

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- Be otherwise qualified and eligible to receive an award under applicable laws and regulations.⁸⁴

5. Procurement Records (44 C.F.R. § 13.36(b)(9))

A subgrantee must maintain sufficiently detailed records that document the procurement history.⁸⁵ These records must include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.⁸⁶ Although not mentioned in the regulation, these records must also include the contract document and any contract modifications with the signatures of all parties. In addition, the procurement documentation file should also contain:

- Purchase request, acquisition planning information, and other pre-solicitation documents;
- List of sources solicited;
- Independent cost estimate;
- Statement of work/scope of services;
- Copies of published notices of proposed contract action;
- Copy of the solicitation, all addenda, and all amendments;
- An abstract of each offer or quote;
- Determination of contractor's responsiveness and responsibility;
- Cost or pricing data;
- Determination that price is fair and reasonable, including an analysis of the cost and price data;
- Notice of award;
- Notice to unsuccessful bidders or offerors and record of any debriefing;
- Record of any protest;
- Bid, performance, payment, or other bond documents;
- Notice to proceed

⁸⁴ See 48 C.F.R. § 9.104-1.

⁸⁵ 44 C.F.R. § 13.36(b)(9).

⁸⁶ Id.

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Example – Insufficient Records Detailing a Procurement

Second Appeal, County of Hyde, NC, Debris Removal, FEMA-4019-DR

Background. In August 2011, strong winds from Hurricane Irene downed tree limbs and generated vegetative debris throughout Hyde County, North Carolina. FEMA prepared Project Worksheet (PW) 1296 for \$1,833,070 to fund Hyde County's (Applicant) debris removal activities countywide. The Applicant employed a contractor through a "pre-event contract" it entered into in 2010 for debris removal services.

During the review of the PW, FEMA determined that of the total cost claimed by the Applicant, only \$1,425,627 was eligible for reimbursement. FEMA reduced the eligible amount by \$407,442, based on the contract rates proposed by the lowest bidder that had responded to the Applicant's request for proposals (RFP) for the pre-event contract. The contractor the Applicant selected for the pre-event contract was the highest bidder.

Applicant's Rationale. Following the original solicitation in 2010, the Applicant received four bids in response to the RFP and awarded the corresponding Pre-Event Agreement for Debris Management and Removal Services on September 2, 2010, to J.B. Coxwell, a contracting firm that was the highest bidder. The contractor's response to the RFP was the only response out of the four that included unit prices for ferry rides in its proposal. The Applicant maintained that by including the unit prices for the ferry rides, J.B. Coxwell was the only "responsible" bidder. The Applicant stated that J.B. Coxwell was the only bidder that had previous experience removing debris from Ocracoke Island and that it considered costs related to the County's unique geographical setting and the North Carolina Ferry System by including fees for debris transported by ferry from the island.

Second Appeal Decision. FEMA denied the Applicant's second appeal, largely basing its decision on the fact that the Applicant did not provide documentation supporting that it had evaluated all four RFPs based on the evaluation factors in the original RFP. The second appeal decision stated the following:

While the Applicant provides statements in support of its decision to award the contract to the highest bidder, the Applicant did not provide documentation supporting that it evaluated all four RFPs based on the areas of consideration listed in its RFP. The Applicant refers to "proposer rankings" in its appeal but has provided no documentation supporting that it ranked all bids. The Applicant asserts that the contractors that were not selected were not "responsive" because they failed to address the special considerations outlined in the RFP. However, there is no indication that the three other contractors did not take those special considerations into account when developing the bid unit prices. Simply because J.B. Coxwell was the only contractor to include unit prices for the ferry rides does not justify disqualifying the other three bids. Based on the documentation, the Applicant did not follow the State procurement procedures detailed above. Therefore, the actual costs associated with the debris removal activities performed by J.B. Coxwell are not eligible for

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funding.

6. Time and Material (T&M) Contracts (44 C.F.R. § 13.36(b)(10))

The regulation at 44 C.F.R. § 13.36(b)(10) provides that a subgrantee may use a T&M contract only after a determination that no other contract is suitable, and if the contract includes a ceiling price that the contractor exceeds at its own risk.⁸⁷ The ceiling price must not be so high as to render it meaningless as a cost control measure.⁸⁸ Although the regulation does not define the term “T&M” contract, this type of contract is one that typically provides for the acquisition of supplies or services on the basis of (1) direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and (2) actual costs for materials.⁸⁹ A T&M contract is generally used when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.⁹⁰

⁸⁷ For examples of subgrantees failing to include cost ceiling limitations, see DHS Office of Inspector General, Report No. DA-13-07, *FEMA Should Recover \$701,028 of Public Assistance Grant Funds Awarded to Memphis Light, Gas and Water Division – Severe Weather February 2008*, p. 3 (Nov. 20, 2012); DHS Office of Inspector General, Report No. DA-13-05, *FEMA Should Recover \$2.2 Million of Public Assistance Grant Funds Awarded to Memphis Light, Gas and Water Division - Severe Weather, June 2009*, p. 3 (Nov. 20, 2012); DHS Office of Inspector General, Report No. DA-13-04, *FEMA Should Recover \$7.7 Million of Public Assistance Grant Funds Awarded to the City of Lake Worth, Florida Hurricane Wilma*, p. 3 (Nov. 20, 2012); DHS Office of Inspector General, *FEMA Public Assistance Grant Awarded to Henderson County, Illinois*, p. 3 (Sep. 27, 2011); see also Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Mark S. Ghilarducci, Secretary, California Emergency Management Agency re: *Second Appeal—Santa Barbara County, PA ID 083-99083-00, OIG Audit Report DS-11-04, FEMA-1577-DR-CA, Multiple Project Worksheets, Enclosed Analysis* (Nov. 4, 2013); Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Jonathon E. Monken, Director, Illinois Emergency Management Agency, re: *Second Appeal Henderson County, PA ID 071-99071-00, Procurement Standards, FEMA-1771-DR-IL, Office of the Inspector General (OIG) Audit DD-11-22, Enclosed Analysis* (Sep. 20, 2013).

⁸⁸ See DHS Office of Inspector General, Report No. DD-13-06 *FEMA Should Recover \$6.7 Million of Ineligible or Unused Public Assistance Funds Awarded to Cameron Parish, Louisiana, for Hurricane Rita*, p. 9 (Feb. 27, 2013) (Subgrantee awarded a time and materials contract for program management that contained a limit of \$50 million, however, this ceiling was unreasonably high and therefore meaningless as a cost control measure for a contract award of \$9.4 million.).

⁸⁹ See e.g. 48 C.F.R. § 16.601(b).

⁹⁰ FEMA 322, Public Assistance Guide, p. 53 (Jun. 2007) [“Public Assistance Guide”]:

Applicants should avoid using time and materials contracts. FEMA may provide assistance for work completed under such contracts for a limited period (generally not more than 70 hours) *for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed*. Monitoring is critical and a competitive process still should be used to include labor and equipment rates. . . . Applicants must carefully monitor and document contractor expenses, and a cost ceiling or “not to exceed” provision must be included in the contract. If a time and materials contract has been used, the applicant should contact the State to ensure proper guidelines are followed. (emphasis added).

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FEMA, as a matter of policy, has advised the following with respect to the use of T&M contracts under Public Assistance projects:

- Since this type of contract creates the risk that costs could be beyond what the parties anticipated, FEMA generally discourages the use of T&M contracts except when circumstances warrant such use and when no other contract type is suitable.⁹¹
- T&M contracts may, on occasion, be extended for a short period when absolutely necessary, for example, until appropriate unit price contracts have been prepared and executed.⁹²
- Applicants must carefully monitor and document contractor expenses.⁹³
- When T&M contracting is employed, the applicant should notify the State to ensure proper guidelines are followed.⁹⁴
- FEMA has advised that these contracts should be limited to work that is necessary immediately after an incident and should not exceed 70 hours.⁹⁵

FEMA has cited these policies above in various second appeal decisions,⁹⁶ and the OIG has also cited those policies in various OIG audits. The inappropriate use of T&M contracts is a relatively frequent finding of the OIG during audits of Public Assistance projects.

⁹¹ Id.; FEMA Recovery Fact Sheet No. 9580.212, *Public Assistance Frequently Asked Questions (FAQ)*, ¶ 6 (Oct. 28, 2012);

6. Are there any procurement actions that are discouraged by FEMA?

Time and materials contracts. Applicants should avoid using time and materials contracts in their procurement actions. This contract type creates the risk that costs could go beyond what the parties anticipated, so applicants should only use it when no other contract type is suitable. In light of this risk, time and materials contracts must include a ceiling amount on the price of the contract. [footnote omitted] Including a ceiling shifts the risk to the contractor for any overages. For Public Assistance, contracts should be limited for work that is necessary immediately after a disaster and should not exceed 70 hours. [footnote omitted].

⁹² FEMA P-323, Public Assistance Applicant Handbook, p. 45 (Mar. 2010).

⁹³ Public Assistance Guide, *supra* note 90, p. 53; Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Jonathon E. Monken, Director, Illinois Emergency Management Agency *re: Second Appeal—Henderson County, PA ID 071-99071-00, Emergency Levee Repairs and Dewatering, FEMA-1771-DR-IL, Project Worksheet (PW) 1524 v2*, Enclosed Analysis (Sep. 11, 2012).

⁹⁴ Public Assistance Guide, *supra* note 90, p. 53.

⁹⁵ See supra note 90.

⁹⁶ See, e.g. Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Mark S. Ghilarducci, Secretary, California Emergency Management Agency *re: Second Appeal—Santa Barbara County, PA ID 083-99083-00, OIG Audit Report DS-11-04, FEMA-1577-DR-CA, Multiple Project Worksheets, Enclosed Analysis* (Nov. 4, 2013).

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Example – Use of Time and Materials Contract

DHS Office of Inspector General Report No. DA-13-08 (Dec. 2012)
FEMA Should Recover \$470,244 of Public Assistance Grant Funds to the City of Lake Worth, Florida – Hurricanes Frances and Jeanne

Background. Hurricane Frances struck the City of Lake Worth (City) on September 3, 2004, and caused widespread damage to the City’s electrical distribution system. Using its emergency contracting procedures, the City hired multiple electrical contractors under noncompetitive time and equipment contracts to repair damages caused by the storm. The City hired the contractors without performing a cost or price analysis to determine the reasonableness of the proposed prices, and without establishing ceiling prices that the contractors exceeded at their own risk.

Before the City could complete all electrical repair work resulting from Hurricane Frances, the City’s electrical distribution system suffered additional damage from Hurricane Jeanne on September 24, 2004. According to the City’s utility department, electrical power was restored to all of the City’s customers by September 29, 2004. However, additional work was required to complete permanent repairs necessitated by the two storms. The City did not solicit competitive bids for the permanent work. Instead, it continued to use the contractors hired under the noncompetitive contracts for the contract work, which was completed December 5, 2004.

General Summary of OIG Finding. The OIG concluded that the need to restore electrical power constituted exigent circumstances that warranted the use of noncompetitive contracts through September 29, 2004, because lives and property were at risk. However, the City should have performed a cost/price analysis and established contract ceiling prices for the time-and-material work. In addition, the OIG concluded that the City should have openly competed the permanent repair work after that date because exigent circumstances no longer existed to justify the use of noncompetitive contracts.

It is important to recognize that, in some cases, a T&M contract may be appropriate in the immediate response to an incident to protect lives, public health, and safety, as it may be impossible to accurately estimate the extent or duration of the required scope of work or to anticipate costs with any reasonable degree of confidence in the immediate aftermath of the incident. Such a contract must still include a contract ceiling price and, furthermore, the applicant should recognize that the use of the contract in perpetuity may not be appropriate. Specifically, after a period of exigency or emergency has ended, the applicant should normally be able to formulate a detailed scope of work so as to allow a contract to be competitively awarded and/or transitioned to a non-T&M basis.

Example – Use of Time and Materials Contract Beyond the Exigent or Emergency Period

DHS Office of Inspector General Report No. DS-13-11 (Jul. 2013)
Los Angeles County, California, Did Not Properly Account for and Expend \$3.9 Million in

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FEMA Grant Funds for Debris-Related Costs

Background. County officials noncompetitively awarded debris-related T&M contracts to various contractors for four FEMA-funded projects. The County awarded these contracts without full and open competition; after the exigency period; and when a scope of work could be formulated. The County selected the contractors from an on-call list that the County established approximately 3 years before the disaster for its internal operations. Because the County's selection occurred before the disaster, pricing could not be predicated upon a FEMA- (or otherwise-) specified scope of work, nor could a comparison be made to other contractors who may have offered more competitive pricing on a particular, defined, post-disaster scope of work.

General Summary of OIG Finding. Using these preselected/on-call contractors may have been advantageous in the immediate aftermath of the disaster (*i.e.*, the exigency period), when a scope of work could not be easily defined and a streamlined procurement process was necessary to ensure the safety of lives and property. However, the OIG stated that it was not appropriate to claim costs associated with these contracts for the full extent of disaster-related projects ultimately reimbursed by the Federal Government when there was no exigency or actual assurance that contract costs were reasonable.

After the exigency period had passed, "full and open competition—through competitive bidding on an appropriate type of contract (*i.e.*, non-T&M)—should have occurred." Instead, County officials allowed the four contractors to complete the projects on a T&M basis, and without project-specific contracts and project-specific scopes of work. Further, the OIG asserted that (1) the circumstances did not warrant the award of noncompetitive/T&M contract after the exigency period passed; (2) there was no evidence that only T&M contracts would be suitable; (3) the contracts did not include project-specific cost ceilings; and (4) contractor expenses were not carefully and consistently monitored.

7. Settlement of Contractual and Administrative Issues (44 C.F.R. § 13.36(b)(11))

Subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of their procurements.⁹⁷ These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the subgrantee of any contractual responsibilities under its contracts. FEMA will not substitute its judgment for that of the subgrantee unless the matter is primarily a Federal concern, such as the subgrantee's compliance with the requirements of 44 C.F.R. § 13.36. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

⁹⁷ 44 C.F.R. § 13.36(b)(11).

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8. Protest and Dispute Procedures (44 C.F.R. § 13.36(b)(12))

A subgrantee must have “protest procedures” to handle and resolve “disputes” relating to their procurements and shall in all instances disclose information regarding the protest to the State.⁹⁸ A protestor must exhaust all administrative remedies with the subgrantee and State before pursuing a protest with FEMA.⁹⁹

The regulation at 44 C.F.R. § 13.36(b)(12) appears to use the terms “protests” and “disputes” interchangeably. Under Federal acquisitions, the terms are distinct—a “protest” pertains to disagreements before or over the award of a contract,¹⁰⁰ and a “dispute” pertains to disagreements after a contract has been awarded.¹⁰¹ Because 44 C.F.R. § 13.36(b)(12) uses the terms interchangeably, it appears that the regulation extends to both protests and disputes.

Reviews of disputes or protests by FEMA will be limited to:

- Violations of Federal law or regulations (violations of State or local law will be under the jurisdiction of State or local authorities);
- Subgrantee’s noncompliance with FEMA’s regulation for subgrantee procurement at 44 C.F.R. § 13.36; and
- Violations of the subgrantee’s protest procedures for failure to review a complaint or protest.¹⁰²

FEMA will review the protests within its jurisdiction *de novo*, that is, FEMA will review such protests without reference to the legal conclusions and assumptions reached of the grantee or subgrantee. Protests or disputes received by FEMA other than those specified above will be

⁹⁸ 44 C.F.R. § 13.36(b)(12).

⁹⁹ Id.

¹⁰⁰ A “protest” is defined under 48 C.F.R. § 33.101 as a written objection by an interested party to any of the following:

- (1) a solicitation or other request by an agency for offers for a contract for the procurement of property or services;
- (2) the cancellation of the solicitation or other request;
- (3) an award or proposed award of the contract;
- (4) a termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

Protests are also known as “bid protests,” “award protests,” or “protests against award.”

¹⁰¹ A “dispute” is a disagreement between the contractor and the contractor officer regarding the rights of a party under a contract.

¹⁰² 44 C.F.R. § 13.36(b)(12). FEMA has not adopted any formal process for reviewing such actions.

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referred to the State or subgrantee.¹⁰³

Examples – FEMA Review of Protests and Disputes

Example 1: A contractor, after exhausting all administrative remedies with the State and Town, submits a request to FEMA for a review of the contractor's protest to the Town's procurement of construction services. The Town, a Public Assistance subgrantee, had solicited bids to a contract to repair a damaged Town building. The sole ground for the protest was that the Town used a local geographic preference in evaluating bids in violation of 44 C.F.R. § 13.36(c)(2). As this protest relates to the Town's compliance with FEMA's procurement regulations, this is a matter that FEMA would review.

Example 2: An architectural firm, after exhausting all administrative remedies with the State and Town, submits a request to FEMA for a review of the architectural firm's protest to the Town's procurement of architectural and engineering services. The Town, a Public Assistance subgrantee, had solicited bids for architectural and engineering services to design a new Town Hall to replace the Town Hall that was destroyed by a major disaster. The sole ground for the protest was that the architectural firm was more qualified than the firm to whom the Town ultimately awarded the contract. As this protest does not involve a potential violation of Federal law, regulation, executive order, noncompliance with FEMA's regulation for subgrantee procurement at 44 C.F.R. § 13.36, or the Town's violation of its own protest procedures, FEMA would not review this matter and would return it to the State for action.

9. Encouraging Intergovernmental Agreements (44 C.F.R. § 13.36(b)(5))

To foster "greater economy and efficiency," the regulation at 44 C.F.R. § 13.36(b)(5) encourages grantees and subgrantees to enter into "State and local intergovernmental agreements for procurement or use of common goods and services." The regulation does not, however, provide any additional context as to the attributes of such an intergovernmental agreement and what procedures parties would need to implement in order to satisfy the requirements of 44 C.F.R. § 13.36 when procuring goods and services in support of such an agreement.

FEMA has generally interpreted this regulation as encouraging jurisdictions to collaborate in joint procurements (or a "cooperative procurement") for goods and services where economies of scale would result in savings or using purchasing schedules or contracts. A joint procurement means a method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for the delivery of property and services. This is typically done to obtain advantages unavailable for smaller procurements. Unlike a State or local purchasing schedule or contract, a joint procurement is not drafted for the purposes of accommodating the needs of other parties that may later choose to

¹⁰³ Id.

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participate in the benefits of the contract.

The subgrantee responsible for undertaking the joint procurement may, upon contract award, assign to the other participants responsibilities for administering those parts of the contract affecting their property or services. Participation in a joint procurement, however, does not relieve any participating subgrantee from the requirements and responsibilities it would have if it were procuring the property or services itself, and does not relinquish responsibility for the actions of other participants merely because the primary administrative responsibility for a particular action resides in an entity other than itself.

Example – Intergovernmental Agreements / Joint Procurements

Hypothetical: Two jurisdictions collaborate to promulgate a joint solicitation for a contract for debris removal services in both jurisdictions. Following the solicitation and receipt of bids, both jurisdictions jointly evaluate the responses and jointly award a contract to a debris removal contractor. The procurement meets all of the other requirements of 44 C.F.R. §§ 13.36(b)-(i), such as including the required contract clauses, and the parties having taken all required affirmative steps to ensure minority firms, women-owned business enterprises, and labor surplus area firms are used when possible. A major disaster declaration occurs one week after the contract is awarded, and the jurisdictions both use the contract for the debris removal services for two weeks.

Analysis: Both jurisdictions worked together to prepare the solicitation and conducted the evaluations of bids, both are parties to the agreement, and the scope of work under the contract expressly describes that the performance of services will occur in both jurisdictions. Presuming that the procurement meets all of the other requirements of 44 C.F.R. § 13.36, this contract could be used by both jurisdictions for debris removal services during a major disaster.

It is important to understand, however, that FEMA and the OIG have not interpreted this regulation so as to enable one jurisdiction to satisfy the procurement requirements of 44 C.F.R. § 13.36 by just using another jurisdiction's contractor after entering into an intergovernmental agreement with that other jurisdiction.¹⁰⁴ This is the case even if the use of another jurisdiction's contractor through an interlocal agreement would satisfy local and State procurement laws and regulations. In that case, the jurisdiction that availed itself of the other jurisdiction's contract was not an original party to the contract, and the scope of work under that contract did not involve work in the jurisdiction where the work was ultimately being performed. FEMA often refers to the assignment of contracts from one jurisdiction to another as "piggybacking."¹⁰⁵

¹⁰⁴ FEMA has expressed in various policy documents that it disfavors an applicant's use of another jurisdiction's contractor, and how such use can jeopardize reimbursement. See Debris Management Guide, *supra* note 54, p. 19; FEMA Recovery Fact Sheet No. 9580.212, *supra* note 91, ¶ 6.

¹⁰⁵ FEMA Recovery Fact Sheet No. 9580.212, *supra* note 91, ¶ 6.

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FEMA guidance provides that “[b]ecause the competitive process for the existing contract could not have included the full scope of the new work, the new work has not been competitively bid. The resulting costs may therefore be higher than if the work had been bid out separately. FEMA therefore discourages such contracts and will use the reasonableness of eligible work as a basis to determine reimbursable cost.”¹⁰⁶ There are, notwithstanding, limited circumstances where the acquisition of contract rights through assignment from another entity may be permissible as discussed in section IV(C)(5). In cases falling outside these limited circumstances, it may be the case that awarding a short-term, non-competitive emergency work contract (such as debris removal) to another jurisdiction’s contractor for site-specific work may be appropriate to meet the immediate, exigent or emergency needs. However, if the contract is for a long-term operation lasting weeks or months, the contract should be competitively bid as soon as possible (*see* section II(D)(3)(iv) below for a more detailed discussion of “infeasibility” and emergency/exigent procurements).

The use of state, local or tribal supply schedules or contracts is prohibited unless the underlying transaction complies with all of the applicable provisions of 44 C.F.R. § 13.36(b)-(i), to include the requirement for open and full competition.

10. Purchasing From the General Services Administration’s Schedules

The General Services Administration (“GSA”) establishes long-term governmentwide multiple award schedule (“MAS”) contracts with commercial firms to provide access to millions of commercial products and services at volume discount pricing.¹⁰⁷ The MAS contracts, also referred to GSA Schedule and Federal Supply Schedule contracts, are indefinite delivery, indefinite quantity contracts.¹⁰⁸ Use of the GSA Schedules Program by a federal agency is considered a “competitive procedure” under the Competition in Contracting Act of 1984 when certain ordering procedures are followed.¹⁰⁹

Disaster Purchasing¹¹⁰ is a GSA program that allows state and local governments access to buy goods and services from ALL GSA Federal Supply Schedules to facilitate disaster preparation¹¹¹

¹⁰⁶ Id.

¹⁰⁷ GSA awards and administers MAS contracts pursuant to 40 U.S.C. § 501.

¹⁰⁸ The GSA Schedules program is prescribed in the Federal Acquisition Regulations at 48 C.F.R. pt. 8, subpart 8.4 and 48 C.F.R. pt. 38.

¹⁰⁹ 48 C.F.R. § 6.102(d)(3).

¹¹⁰ See U.S. General Services Administration, *State and Local Disaster Purchasing* (available at http://www.gsa.gov/portal/content/202321?utm_source=FAS&utm_medium=print-radio&utm_term=disasterrecovery&utm_campaign=shortcuts).

¹¹¹ “Preparedness” means actions that involve a combination of planning, resources, training, exercising, and organizing to build, sustain, and improve operational capabilities. Preparedness is the process of identifying the personnel, training, and equipment needed for a wide range of potential incidents, and developing jurisdiction –

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or response¹¹²; facilitate recovery¹¹³ from a major disaster declared by the President under the Stafford Act, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.¹¹⁴ A “State or local government” authorized to use the GSA schedules includes any State, local, regional, or tribal government, or any instrumentality of such an entity (including any local educational agency or institution of higher education).¹¹⁵ The use of a GSA schedule is voluntary for a State or local government, and agreement by a schedule contractor to offer recovery purchasing under the contract and acceptance of any order for recovery purchasing from a State or local government is voluntary.¹¹⁶

FEMA promulgated Disaster Assistance Fact Sheet No. 9580.103 to set forth amplifying guidance for State and local governments’ use of the GSA supply schedules.¹¹⁷ This Fact Sheet states that applicants who purchase goods and services under the DRPP should follow the GSA ordering procedures found at 48 C.F.R. §§ 8.405-1 and 405-2.¹¹⁸ The Fact Sheet states that by using these procedures, applicants that participate in the DRPP will satisfy the requirements to procure products and/or services through full and open competition.¹¹⁹

State and local governments may be able to avail themselves of other GSA federal supply schedules or similar purchasing arrangements as authorized by federal law.

specific plans for delivering capabilities when needed for an incident. See U.S. General Services Administration, *Disaster Purchasing FAQs* (available at <http://www.gsa.gov/portal/content/202557#Question5>).

¹¹² “Response” means immediate actions to save lives, protect property and the environment, and meet basic human needs. Response also includes the execution of emergency plans and actions to support short-term recovery. *Id.*

¹¹³ “Recovery” means the development, coordination, and execution of service- and site-restoration plans; the reconstitution of government operations and services; individual, private-sector, nongovernmental, and public-assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post incident reporting; and development of initiatives to mitigate the effects of future incidents. *Id.*

¹¹⁴ 40 U.S.C. § 502(d). Section 502(d) was created by the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083, § 833 (2006) and later amended by Federal Supply Schedules Usage Act of 2010, Pub. L. No. 111-263, § 4 (2010).

¹¹⁵ 40 U.S.C. § 502(d), (c)(3); 48 C.F.R. § 538.7001.

¹¹⁶ 48 C.F.R. § 538.7001(a).

¹¹⁷ Disaster Assistance Fact Sheet No. 9580.103, *General Services Administration Disaster Recovery Purchasing Program* (Jul. 7, 2008).

¹¹⁸ *Id.* at 3 (“FEMA may reimburse Public Assistance State, local, and tribal government applicants for products and/or services purchased under DRPP if they were procured competitively and are otherwise eligible under the Public Assistance Program. Public Assistance applicants who purchase goods or services under the DRPP should follow the GSA ordering procedures found in 48 CFR §§ 8.405 – 8.405-2. By using these outlined procedures, [] State, local, and tribal governments that participate in GSA DRPP will satisfy the requirements to procure products and/or services through full and open competition.”).

¹¹⁹ *Id.*

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11. Obtaining Goods and Services through Mutual Aid Agreements

FEMA, pursuant to FEMA Recovery Policy No. 9523.6, allows a subgrantee to use Public Assistance funding to pay for work performed by another entity through a mutual aid agreement.¹²⁰ This policy applies to all forms of mutual aid assistance, including agreements between a requesting and providing entity, statewide mutual aid agreements, and mutual aid services provided under the Emergency Management Assistance Compact (“EMAC”).¹²¹ There are three types of mutual aid work eligible for FEMA assistance:

- **Emergency Work (Public Assistance Categories A and B)** – Mutual aid work provided in the performance of emergency work necessary to meet immediate threats to life, public safety, and improved property.
- **Permanent Work Related to Utilities (Public Assistance Category F)** – Work that is of a permanent nature but is necessary for emergency restoration of utilities. For example, work performed to restore electrical and other power.
- **Grant Management Work** – For Public Assistance only, work associated with the performance of the grantee’s responsibilities as grant administrator outlined in 44 C.F.R. § 206.202(g). Use of Emergency Management Assistance Compact (“EMAC”) provided assistance to perform these tasks is eligible mutual aid work.¹²²

If mutual aid work falls within the scope described above, then FEMA will next look to see if the providing entity performed the work using force account labor or contract resources.¹²³ A subgrantee (the requesting entity) may use Public Assistance funding to pay for the costs of the *force account labor* of the entity providing assistance (the providing entity) consistent with FEMA Recovery Policy No. 9523.6.¹²⁴ If, however, the providing entity performs mutual aid work through contract, then FEMA will perform the following analysis.

Contract Services or Supplies Are Incidental to the Work Performed by the Providing Entity. In those cases where contract services or supplies are incidental to the work performed by the

¹²⁰ FEMA Recovery Policy No. 9523.6, *Mutual Aid Agreements for Public Assistance and Fire Management Assistance* (Nov. 10, 2012). FEMA does not treat a mutual aid agreement as a procurement for the purposes of 44 C.F.R. pt. 13 (or 2 C.F.R. pt. 215 in the case of private nonprofit organizations) so long as the work provided under the agreement falls within certain categories of work. Rather, FEMA treats the mutual aid assistance performed by a providing entity’s employees as akin to temporary hires of the requesting entity.

¹²¹ *Id.* § VI(C).

¹²² *Id.* § VI(B).

¹²³ If mutual aid work does not fall within these three eligible types of work, then FEMA treats the mutual aid agreement as a procurement and evaluates it against the criteria of 44 C.F.R. § 13.36(b)-(i).

¹²⁴ The providing entity’s force account labor is treated akin to temporary hires.

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providing entity, then FEMA will generally not treat the mutual aid agreement as a procurement and evaluate it according to the criteria at 44 C.F.R. § 13.36.

The Providing Entity Predominantly or Exclusively Performs Mutual Aid Work Through Contract. In other cases, however, a providing entity may perform the work under the mutual aid agreement predominantly or exclusively through contract. FEMA will, in these cases, treat the mutual aid agreement as a procurement and evaluate it against the criteria of 44 C.F.R. § 13.36(b)-(i). The following example illustrates the approach.

Examples –Mutual Aid Work Performed Through Contract

Example 1: The City of X (requesting entity) requests 30 police officers from the City of W (providing entity) to provide police officers to perform law enforcement operations immediately following a tornado in the requesting entity’s jurisdiction. This request is pursuant to an existing mutual aid agreement for police support. The providing entity contracts with a bus company to transport the police officers to the requesting entity’s jurisdiction, and includes the costs of this transportation along with its force account labor costs in its bill to the providing entity. Such contract services are incidental to the law enforcement services performed by the providing entity, and FEMA would treat those costs as eligible so long as all other requirements of FEMA Recovery Policy No. 9523.6 were met.

Example 2: The City of Z is impacted by a tornado that generates widespread debris throughout the jurisdiction. In order to obtain debris removal services, the City of Z contacts the City of Y, which has an existing contractor for debris removal. Rather than entering into a contract directly with Debris Removal Contractor, the City of Z enters into a mutual aid agreement with the City of Y for the provision of debris removal assistance. The City of Y, after the mutual aid agreement is executed, sends Debris Removal Contractor to the City of Z, and the Contractor performs debris removal throughout the City of Z for 90 days. This would not be a mutual aid agreement falling within the scope of FEMA Recovery Policy No. 9523.6. As such, FEMA would treat this transaction as a procurement, and would evaluate City of Z’s procurement of the debris removal services of the City of Y through the mutual aid agreement according to 44 C.F.R. § 13.36(b)-(i).¹²⁵

¹²⁵ In limited circumstances (and although not encouraged by FEMA), it may be possible for the City of X to acquire the contract rights of the City of Y (the “Providing Entity”), which would avoid the need for the contract work to be performed through mutual aid and would be a method of procurement which could satisfy the requirements of 44 C.F.R. § 13.36. See *infra* section IV(A)(12). It may also be the case that, based on individual facts and circumstances, the procurement may fall within exception for noncompetitive procurements at 44 C.F.R. § 13.36(d)(4). See *infra* section IV(C)(4).

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12. Using Another Jurisdiction's Contract

A grantee or subgrantee may find it useful to acquire contract rights through assignment by another jurisdiction.¹²⁶ FEMA refers to the assignment of contracts from one jurisdiction to another as “piggybacking,” and as discussed earlier in this manual, discourages the use of such contracts.¹²⁷ Although FEMA generally discourages the practice, a grantee or subgrantee that obtains contractual rights through assignment¹²⁸ may use them after first determining that:

- The original contract was procured in compliance with 44 C.F.R. § 13.36.
- The original contract contains appropriate assignability provisions that permit the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions.
- The contract price is fair and reasonable;¹²⁹
- The contract provisions are adequate for compliance with all Federal requirements.¹³⁰
- The scope of work to be performed falls within the scope of work under the original contract and there are no cardinal changes to the contract.¹³¹
- The scope of the assigned contract originally procured by the assigning party *does not exceed the amount of property and services required to meet the assigning party's original, reasonably expected needs*. The regulation at 44 C.F.R. § 13.36 requires the grantee or subgrantee to have procurement procedures that preclude it from acquiring property or services it does not need. Therefore, a contract would have an improper original scope if the original party added excess capacity in the original procurement primarily to permit assignment of those contract rights to another entity. Moreover, an assignable contract with an overbroad scope of work may lead to unreasonable pricing

¹²⁶ The assignment of contracts or portions of contracts from the original purchasing entity to another entity to purchase equipment, supplies, and services is separate and distinct from joint procurements and state and local supply schedules.

¹²⁷ FEMA Recovery Fact Sheet No. 9580.212, *supra* note 91, ¶ 6.

¹²⁸ An “assignment” is the transfer of contract rights from one party to another. *Black's Law Dictionary* 138 (9th Ed. 2009) (defining “assignment of rights”).

¹²⁹ The grantee or subgrantee need not perform a second price analysis if a price analysis was performed for the original contract. However, FEMA expects the grantee or subgrantee to determine whether the contract price or prices originally established are still fair and reasonable before using those rights.

¹³⁰ The grantee or subgrantee using assigned contract rights is responsible for ensuring the contractor's compliance with required Federal provisions.

¹³¹ See section IV(A)(14) for a discussion of cardinal changes.

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and thus should not be used. For example, a statewide debris removal contract that does not have pricing that accounts for variables in the actual scope of work required by a local government subgrantee or the specific conditions of that local market may lead to unreasonable pricing.

- The quantities the assigning party acquired, coupled with the quantities the acquiring grantee or subgrantee seeks, do not exceed the amounts available under the assigning entity's contract.

If these circumstances are not met, then FEMA considers the subgrantee's contract with its vendor as a sole-source award. The subgrantee may still be able to use the existing contract if the conditions precedent for a sole-source award at 44 C.F.R. § 13.36(d)(4) (and discussed in section VII(C)(4)) are met.

13. Using an Existing Contract of the Subgrantee

A subgrantee may have an existing contract in place for a particular service or supplies that it wishes to utilize to perform work under a Public Assistance project award. The use of such an existing contract may be permissible in the following circumstances:

- The subgrantee originally procured the contract in full compliance with the federal procurement standards at 44 C.F.R. § 13.36(b)-(i).
- The work to be performed falls within the scope of work of the original contract and there are no cardinal changes.¹³²
- The scope of the original contract originally procured does not exceed the amount of property and services required to meet the subgrantee's original, reasonably expected needs. The regulation at 44 C.F.R. § 13.36 requires the grantee or subgrantee to have procurement procedures that preclude it from acquiring property or services it does not need. Therefore, a contract could have an improper original scope if the subgrantee added excess capacity in the original procurement primarily to permit not only its present use, but also its future use in an incident.¹³³ Moreover, an existing contract with an overbroad scope of work may lead to unreasonable pricing and thus should not be used. For example, a standing debris removal contract that does not have pricing that accounts for variables in the actual scope of work required by a local government subgrantee or the specific conditions of the specific event may lead to unreasonable pricing.

¹³² Id.

¹³³ We note that jurisdictions may, as a matter of prudence, procure "advance contracts" that are only to be used in the case of a future incident, such as contracts for debris removal. If procured in full compliance with 44 C.F.R. § 13.36(b)-(i), such a method of advance procurement is permissible.

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If these circumstances are not met, then FEMA considers the subgrantee's contract with its vendor as a sole-source award. The subgrantee may still be able to use the existing contract if the conditions precedent for a sole-source award at 44 C.F.R. § 13.36(d)(4) (and discussed in section VII(C)(4)) are met.

14. Changes in Contracts

Subgrantee contracts will not be perfect when awarded. During performance, many changes may be required in order to fix inaccurate or defective specifications, react to newly encountered circumstances, or modify the work to ensure the contract meets subgrantee requirements. A contract "change" is any addition, subtraction, or modification of work required under a contract during contract performance. Notwithstanding the need to make appropriate contract changes, all such modifications must be within the scope of the original contract. "Cardinal" changes, however, are not permissible.

A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. Such practices are sometimes informally referred to as "tag-ons." A change within the scope of the contract (sometimes referred to as an "in-scope" change) is not a "tag-on" or cardinal change. Issues related to impermissible, cardinal changes may arise within the context of a subgrantee using an existing contract or obtaining assigned contract rights from another jurisdiction.

FEMA has not developed a finite list of acceptable contract changes. Recognizing a cardinal change contract can be difficult, and a cardinal change cannot be identified easily by assigning a specific percentage, dollar value, number of changes, or other objective measure that would apply to all cases. The following provide some amplifying guidance.

i. Changes in Quantity

To categorize virtually any change in quantity as a prohibited cardinal change (sometimes referred to as an "out-of-scope" change) fails to account for the realities of the marketplace and unnecessarily restricts a subgrantee from exercising reasonable freedom to make minor adjustments contemplated fairly and reasonably by the parties when they entered into the contract.

ii. Tests

Among other things, customary marketing practices can influence the determination of which changes will be "cardinal." Other tests involve the nature and extent of the work to be performed, the amount of effort involved, whether the change was originally contemplated at the time the original contract was entered into, or the cumulative impact on the contract's quantity, quality, costs, and delivery terms.

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iii. Federal Contracting Standards

The broader standards applied in Federal contracting practice reflected in Federal court decisions, Federal Boards of Contract Appeals decisions, and Comptroller General decisions provide guidance in determining whether a change would be treated as a cardinal change. FEMA does not imply that these Federal procurement decisions are controlling, but FEMA intends to consider the collective wisdom within these decisions in determining the nature of third party contract changes along the broad spectrum between permissible changes and impermissible cardinal changes.

15. Encouraging the Use of Federal Excess and Surplus Property (44 C.F.R. § 13.36(b)(6))

The Federal regulation at 44 C.F.R. § 13.36(b)(6) encourages subgrantees to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever this is feasible and reduces project costs. A subgrantee would acquire such equipment and property through the Federal Surplus Personal Property Donation Program.

Various Federal laws, including 40 U.S.C. § 549,¹³⁴ authorize the Administrator of General Services to carry out the Federal Surplus Personal Property Donation Program.¹³⁵ Under this Program, GSA will donate surplus Federal property—through a State agency for surplus property (SASP)—to eligible “public agencies”¹³⁶ and eligible “nonprofit educational or public health institutions.”¹³⁷ Surplus personal property (surplus property) means excess personal property (as defined in 41 U.S.C. § 102-36.40) not required for the needs of any Federal agency, as determined by GSA.¹³⁸

A SASP, under state law, is the agency responsible for fair and equitable distribution, through

¹³⁴ See 41 C.F.R. § 102-37.380 (What is the statutory authority for donations of surplus Federal property made under this subpart?).

¹³⁵ See 41 C.F.R. pt. 102-37 (Donation of Surplus Personal Property).

¹³⁶ 40 U.S.C. § 549(a):

“The term “public agency” means—

- (A) a State;
- (B) a political subdivision of a State (including a unit of local government or economic development district);
- (C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or
- (D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

¹³⁷ 40 U.S.C. § 549(c)(3); 41 C.F.R. § 102-37.380(b).

¹³⁸ 41 C.F.R. § 102-37.25.

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donation, of property transferred by GSA.¹³⁹ For most public and nonprofit activities, the SASP determines if an applicant is eligible to receive property as a public agency, a nonprofit educational or public health institution, or for a program for older individuals.¹⁴⁰ A SASP may request GSA assistance or guidance in making such determinations.¹⁴¹

The process for requesting surplus property for donation varies, depending on who is making the request. As a general matter, most prospective donation recipients should submit requests for property directly to the appropriate SASP, and SASPs and public airports submit their requests to the appropriate GSA regional office.¹⁴²

16. Encouraging the Use of Value Engineering (44 C.F.R. § 13.36(b)(7))

The Federal regulation at 44 C.F.R. § 13.36(b)(7) encourages subgrantees to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.¹⁴³ Value engineering, according to the regulation, is a “systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.”¹⁴⁴ The regulation, however, does not offer any additional explanation, and it is useful to examine the meaning of “value engineering” as used in Federal contracting for additional context.

As it relates to Federal procurement, Federal law defines “value engineering” as an “analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency” that is “performed by qualified agency or contractor personnel” and “directed at improving performance, reliability, quality, safety, and life cycle costs.”¹⁴⁵ Simply stated, value engineering is a systematic and organized approach to provide the necessary functions in a project at the lowest cost, and promotes the substitution of materials and methods with less expensive alternatives without sacrificing functionality.¹⁴⁶

¹³⁹ 40 U.S.C. § 549(a)(3); 41 C.F.R. pt. 102-37, subpart D (State Agency for Surplus Property).

¹⁴⁰ 41 C.F.R. § 102.37-385 (Who determines if a prospective donee applicant is eligible to receive surplus property under this subpart?); see also 41 C.F.R. § 102-37.130 (What are a SASP’s responsibilities in the donation of surplus property?).

¹⁴¹ Id.

¹⁴² 41 C.F.R. § 102-37.50 (What is the general process for requesting surplus property for donation?).

¹⁴³ 44 C.F.R. § 13.36(b)(7).

¹⁴⁴ Id.

¹⁴⁵ 41 U.S.C. § 1711 (Value Engineering). The law requires Federal agencies to establish and maintain value engineering processes and procedures, and such policies and procedures are prescribed in the Federal Acquisition Regulations. See 48 C.F.R. pt. 48 (Value Engineering).

¹⁴⁶ The Federal Acquisition Regulation requires Federal agencies to provide contractors a substantial financial incentive to develop and submit value engineering change proposals, and Federal contracting activities will include

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For example, GSA states that value engineering can be used in both the design and construction phase of Federal buildings. In the design phase of Federal building development, properly applied value engineering considers alternative design solutions to optimize the expected cost/worth ratio of projects at completion and elicits ideas for maintaining or enhancing results while reducing life cycle costs. In the construction phase, GSA contractors are encouraged through shared savings to draw on their special “know-how” to propose changes that cut costs while maintaining or enhancing quality, value, and functional performance.

B. COMPETITION (44 C.F.R. § 13.36(c))

The regulation at 44 C.F.R. § 13.36(c) requires a subgrantee to conduct all procurement transactions in a manner providing “full and open competition” consistent with the standards of 44 C.F.R. § 13.36. Although not defined in the regulation, “full and open competition” generally means that a complete requirement is publicly solicited and all responsible sources are permitted to compete.¹⁴⁷ The full and open competition requirement has proven to be one of the most common problems with subgrantee procurements in recent years and comprises a majority of audit findings by the OIG.

There are numerous benefits to full and open competition, such as increasing the probability of reasonable pricing from the most qualified contractors, and helping discourage and prevent favoritism, collusion, fraud, waste, and abuse.¹⁴⁸ It also allows the opportunity for minority firms, women’s business enterprises, and labor surplus area firms to participate in federally-funded work.¹⁴⁹

Noncompetitive procurements not providing for full and open competition will be scrutinized by FEMA and may be scrutinized by the OIG during an audit, even if they result in the same or lower price than if the procurement was conducted through full and open competition.

I. Situations Restrictive of Competition (44 C.F.R. § 13.36(c)(1))

The regulation at 44 C.F.R. § 13.36(c)(1) identifies seven situations that are considered to be restrictive of competition. This is an illustrative and non-exclusive list, such that FEMA may consider other situations similar to those on the list as restrictive of competition, even though

value engineering provisions in appropriate supply, service, architect-engineer, and construction contracts (except where exemptions are granted). 48 C.F.R. § 48.102.

¹⁴⁷ Cf. 48 C.F.R. § 2.101 (“Full and open competition, when used with respect to a contract action, means that all responsible sources are permitted to compete.”).

¹⁴⁸ DHS Office of Inspector General, Report No. 14-11-D, *FEMA Should Recover \$6.1 Million of Public Assistance Grant Funds Awarded to Orlando Utilities Commission under Hurricane Frances*, p. 5 (Dec. 3, 2013).

¹⁴⁹ *Id.*

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they are not specifically listed.¹⁵⁰

i. Requiring Unnecessary Experience and Excessive Bonding (44 C.F.R. § 13.36(c)(1)(i))

A subgrantee must not require unnecessary experience and excessive bonding.¹⁵¹ First, as it relates to experience, this could include requiring unnecessary levels or years of experience for contractors as organizations, the contractors' workforce, or the contractors' key personnel on a project.

Second, as it relates to bonding, the regulation discourages unnecessary bonding because it increases the cost of the contract and restricts competition, particularly by disadvantaging and small business enterprises. Many bidders have limited "bonding capacity" and unnecessary performance bonding requirements reduce a prospective bidder's or offeror's capability to bid or offer a proposal on bonded work. Small and disadvantaged businesses with a limited record of performance may have particular difficulty obtaining bonds.

FEMA does not require any additional bonding requirements other than construction bonding set forth at 44 C.F.R. § 13.36(h). However, a subgrantee might find bid, performance, or payment bonds to be desirable for work other than construction work or in amounts in excess of those required at 44 C.F.R. § 13.36(h), even though bonding can be expensive. In these cases, because bonding requirements can limit contractor participation, FEMA expects the subgrantee's bonding requirements to be reasonable and not unduly restrictive.

ii. Placing Unreasonable Requirements on Firms in Order for Them to Qualify to Do Business (44 C.F.R. § 13.36(c)(1)(ii))

The subgrantee must not place unreasonable requirements on firms in order for them to do business.¹⁵² This means that the subgrantee should include only those requirements that are the least restrictive to meet the purposes necessitating the establishment of the qualification requirements.

iii. Noncompetitive Pricing Practices between Firms or Between Affiliated Companies (44 C.F.R. § 13.36(c)(1)(iii))

Noncompetitive pricing practices between firms or between affiliated companies are restrictive

¹⁵⁰ The regulation provides that "Some of the situations considered to be restrictive of competition *include but are not limited to...*" (emphasis added). Applying the interpretive principle of ejusdem generis, this means that the list is not exhaustive.

¹⁵¹ 44 C.F.R. § 13.36(c)(1)(i).

¹⁵² 44 C.F.R. § 13.36(c)(1)(ii).

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of competition.¹⁵³ The most prominent form of noncompetitive pricing is referred to as “bid rigging,” which is the practice where conspiring competitors effectively raise prices where a purchaser acquires goods or services by soliciting competing bids. Essentially, competitors agree in advance who will submit the winning bid on a contract being awarded through the competitive bidding process.¹⁵⁴ Bid rigging takes many forms, but bid-rigging conspiracies usually fall into one or more of the following categories: bid suppression, complementary bidding, and bid rotation.

The following provides some additional explanations for these types of schemes, which are predominantly based on the Department of Justice, Anti-Trust Division’s description of them within the Federal context.

- In *bid suppression* schemes, one or more competitors, who otherwise would be expected to bid, or who have previously bid, agree to refrain from bidding or withdraw a previously submitted bid so that the designated winning competitor’s bid will be accepted.¹⁵⁵
- *Complementary bidding* (also known as “cover” or “courtesy” bidding) occurs when some competitors agree to submit bids that are either too high to be accepted or contain special terms that will not be acceptable to the buyer. Such bids are not intended to secure the buyer’s acceptance, but are merely designed to give the appearance of genuine competitive bidding. Complementary bidding schemes are the most frequently occurring forms of bid rigging, and they defraud purchasers by creating the appearance of competition to conceal secretly inflated prices.¹⁵⁶
- In *bid rotation* schemes, all conspirators submit bids but take turns being the low bidder. The terms of the rotation may vary. For example, competitors may take turns on contracts according to the size of the contract, allocating equal amounts to each conspirator or allocating volumes that correspond to the size of each conspirator company.¹⁵⁷

iv. **Noncompetitive Awards to Consultants that Are on Retainer Contracts (44 C.F.R. § 13.36(c)(1)(iv))**

Noncompetitive awards to consultants on retainer contracts are restrictive of competition.¹⁵⁸ The term “retainer contract” is not defined in the regulations, but is basically a form of agreement for

¹⁵³ 44 C.F.R. § 13.36(c)(1)(iii).

¹⁵⁴ U.S. Department of Justice Anti-Trust Division, *Price Fixing, Bid Rigging, and Market Allocation Schemes: What They Are and What to Look For* (available at <http://www.justice.gov/atr/public/guidelines/211578.pdf>).

¹⁵⁵ *Id.* at 2.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ 44 C.F.R. § 13.36(c)(1)(iv).

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general, unspecified services entered into in advance of work to be done. Under such an agreement, the consultant remains available when the client needs services during a specific period or on a specified matter.¹⁵⁹ As applied here, the regulation is making clear that it would be restrictive of competition if a subgrantee simply made a noncompetitive award for work to be done under a Public Assistance award to a consultant that was already on retainer, specifically where the noncompetitive award was for property or services not specified for delivery under the retainer contract and where the retainer contract was not originally procured in a manner that met all of the conditions of 44 C.F.R. § 13.36(b)-(i).

Example of Situation Restrictive of Competition
Use of Architect-Engineering Firm on Retainer

Background: The President declares a major disaster for the State of Z as a result of a hurricane, and the declaration authorizes Public Assistance for all counties in the State. The hurricane damaged Town W's building and FEMA approves a project worksheet for the repair of the building. The scope of work under the project includes architectural and engineering services because of the complexity of project, with FEMA estimating the cost of these services using a cost curve. The Town has had the same architectural and engineering firm ("Firm") on a retainer contract that was originally awarded 20 years earlier and has used that firm for all "needed professional services related to construction." The retainer contract simply provides for the Firm to provide any and all architectural and engineering services needed by the Town, and the contract was not procured in compliance with the requirements at 44 C.F.R. § 13.36(b)-(i).

Following approval of the Public Assistance project, the Town orders the architectural and engineering services from Firm, and the services are subject to the same rates in the existing contract between the Firm and the Town.

Analysis: First, the Town did not conduct the original procurement through full and open competition and in compliance with 44 C.F.R. § 13.36(b)-(i). Second, the scope of work under the contract was not specifically for architectural and engineering services for building repairs, but instead for "all professional services related to construction." This type of practice is specifically enumerated as a situation that is restrictive of competition at 44 C.F.R. § 13.36(c)(1)(iv). The Town, therefore, has not met the required procurement standards under 44 C.F.R. pt. 13.

v. **Organizational Conflicts of Interest (44 C.F.R. § 13.36(c)(1)(v))**

¹⁵⁹ Within the legal services industry, a "retainer" means, among other things, an advance payment of fees for work that the lawyer will perform in the future or a fee that a client pays to a lawyer simply to be available when the client needs legal help during a specified period or on a specified matter. Black's Law Dictionary 1430 (9th ed. 2009).

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The regulation at 44 C.F.R. § 13.36(b)(3)—discussed earlier in this chapter—provides that “no employee, officer, or agent of the... subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.” In addition to personal conflicts of interest, it is also important to recognize that organizational conflicts of interest can also present issues under a subgrantee’s procurement. The regulation later discusses organizational conflicts of interest at 44 C.F.R. § 13.36(c)(1)(v), providing that an “organizational conflict of interest” is a situation considered “restrictive of competition.” The regulation, however, does not define or provide additional guidance as to the scope and meaning of “organizational conflict of interest.” It is, therefore, helpful to understand the meaning and scope of organizational conflicts of interest within the Federal Government’s procurement contracting rules and processes.

Subpart 9.5 of the FAR sets the regulatory guidance governing organizational conflicts of interest in the case of Federal acquisitions. Such a conflict arises where “because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the government, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.”¹⁶⁰ Federal contracting officers are to avoid, neutralize, or mitigate potential significant conflicts of interest so as to prevent unfair competitive advantage or the existence of conflicting roles that might impair a contractor’s objectivity.¹⁶¹

Because conflicts may arise in factual situations not expressly described in the relevant FAR sections, the regulation advises contracting officers to examine each situation individually and to exercise “common sense, good judgment, and sound discretion” in assessing whether a significant potential conflict exists and in developing an appropriate way to resolve it.¹⁶² The situations in which organizational conflicts of interest arise, as addressed in FAR subpart 9.5 and in the decisions of the Comptroller General, can be broadly categorized into the following three groups: *unequal access to information, biased ground rules, and impaired objectivity.*

a. *Unequal Access to Information*

The first group consists of situations where a firm has access to nonpublic information as part of its performance of a government contract and where that information may provide the firm a competitive advantage in a later competition for a government contract. In these “unequal access to information” cases, the concern is limited to the risk of the firm gaining a competitive advantage; there is no issue of bias.¹⁶³

¹⁶⁰ 48 C.F.R. § 9.501.

¹⁶¹ 48 C.F.R. §§ 9.504(a), 9.505.

¹⁶² 48 C.F.R. § 9.505.

¹⁶³ Cf. *Pragmatics Inc.*, B-407320.2, 2013 U.S. Comp. Gen. LEXIS 61 (Mar. 26, 2013); *Aetna Government Health Plans*, B-254397.15, 1995 Comp. Gen. LEXIS 502 (Jul. 27, 1995).

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b. Biased Ground Rules

The second group consists of situations in which a firm, as part of its performance of work of a government contract, has in some sense set the ground rules for another government contract by, for example, writing the statement of work or the specifications. In these “biased ground rules” cases, the primary concern is that the firm could skew the competition, whether intentionally or not, in favor of itself.¹⁶⁴ These situations may also involve a concern that the firm, by virtue of its special knowledge of the subgrantee’s future requirements, would have an unfair advantage in the completion for those requirements.¹⁶⁵ The rules apply to the firm later serving as a prime contractor or a subcontractor on the contract for which the firm has written the statement of work or specifications.¹⁶⁶

c. Impaired Objectivity

The third group comprises cases where a firm’s work under one government contract could entail its evaluating itself, either through an assessment of performance under another contract or an evaluation of proposals.¹⁶⁷ In these “impaired objectivity” cases, the concern is that the firm’s ability to render impartial advice to the government could appear to be undermined by its relationship with the entity whose work product is being evaluated.¹⁶⁸

Example – Organizational and Personal Conflict of Interest

Background. The President declares a major disaster for the State of Z as a result of severe storms and flooding, and the declaration authorizes the Public Assistance for all counties in the State. In the Town of Maple, the flooding severely damages 225 private homes and public infrastructure and deposits enormous and wide scale quantities of debris across the entire Town.

FEMA considers debris removal from private property and demolition of private structures as the responsibility of a private property owner, and does not generally provide funding for such activities. However, upon a written request from the local government, FEMA may provide financial assistance for the removal of debris from private property in areas where debris is so widespread that debris removal is in the public interest and to for the demolition of unsafe private structures that endanger the public under sections 407 and 403 of the Stafford Act,

¹⁶⁴ 48 C.F.R. §§ 9.505-1, 9.505-2.

¹⁶⁵ See *The Pragma Corporation*, B-255236, 1994 U.S. Comp. Gen. LEXIS 132 (Feb. 18, 1994).

¹⁶⁶ See, e.g. DHS Office of Inspector General, Report No. DD-11-15, *FEMA Public Assistance Grant Awarded to Saint Mary’s Academy (SMA), New Orleans, Louisiana*, p. 3 (Aug. 5, 2011) (identifying an organizational conflict of interest arising in a private nonprofit organization’s procurement; see *infra* note 397).

¹⁶⁷ 48 C.F.R. § 9.505-3.

¹⁶⁸ *Id.*

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respectively.

The Mayor of the Town requests FEMA approval for the private property debris removal and demolition of unsafe structures. FEMA, after working to obtain various information and certifications from the Mayor, approves the request. The City submits a proposed scope of work for the projects, FEMA approves them, and FEMA then awards Public Assistance projects for the private property demolition and debris removal.

The Town then publicizes a solicitation for the debris removal and demolition work on private property. The Mayor, who owns Debris Company, wants to take advantage of this contracting opportunity and resigns from his position. Following his resignation, he submits a bid on the solicitation on behalf of Debris Company and the Town awards the contract to Debris Company.

Analysis. This situation would comprise an actual or apparent organizational conflict of interest. In this case, the Mayor was individually involved in preparing the request for financial assistance to FEMA, preparing the project worksheet, and preparing the solicitation. He likely had access, therefore, to information that would have given him and his company an unfair competitive advantage over other companies. In addition, the Mayor was involved in preparing the scope of work for the project worksheet and solicitation, such that he could have, intentionally or not, skewed the solicitation in favor of his company.

vi. Specifying Only a Brand Name Product Instead of Allowing an Equal Product to Be Offered (44 C.F.R. § 13.36(c)(1)(vi))

It would be restrictive of competition for a subgrantee to specify only a “brand name” product instead of allowing “an equal” product to be offered.¹⁶⁹ This would include specifying only a “brand name” product without allowing offers of “an equal” product, or allowing “an equal” product without listing the salient characteristics that the “equal” product must meet to be acceptable for award.

When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property to be acquired, a “brand name or equal” description may be used to define the performance or other salient characteristics of the property sought. The specific features or salient characteristics of the named brand that must be met by offerors of “an equal” proposal should be clearly stated.¹⁷⁰

¹⁶⁹ 44 C.F.R. § 13.36(c)(1)(vi).

¹⁷⁰ Cf. DHS Office of Inspector General, Report No. DD-11-15, *FEMA Public Assistance Grant Awarded to Saint Mary's Academy (SMA), New Orleans, Louisiana*, p. 3 (Aug. 5, 2011) (Subgrantee gave a particular contractor an additional advantage on the same contract because it identified “[contractor name] or equal” in its request for bid documents but did not describe the specific technical requirements that would equal that contractor’s product.

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vii. **Any Arbitrary Action in the Procurement Process (44 C.F.R. § 13.36(c)(1)(vii))**

Any “arbitrary action” in the procurement process is also restrictive of competition.¹⁷¹ The term “arbitrary” means within the legal context that an action or decision was “founded on prejudice or preference rather than on reason or fact” and/or “depended on individual discretion.”¹⁷² It also means, as used in common parlance, something that is unreasonable or unsupported. Accordingly, an “arbitrary action” within the procurement context would include, among other things, a discretionary action that showed preference or prejudice to certain contractors in a manner not consistent with full and open competition. This would be the case, for example, where a subgrantee only solicits bids for a limited set of contractors for contracts exceeding \$150,000.

Arbitrary Procurement Not Consistent with the Full and Open Competition Standard

DHS Office of Inspector General Report No. 14-11-D (Dec. 2013)
FEMA Should Recover \$6.1 Million of Public Assistance Grant Funds to Orlando Utilities Commission under Hurricane Frances

Background. The Orlando Utilities Commission (“Utility”) received a Public Assistance award that included, among other things, \$6.1 million for debris removal and permanent electrical repair work necessitated by damage resulting from Hurricane Frances. The Utility solicited bids for the work only from contractors that it had used before the storm or ones that it believed had the requisite knowledge, expertise, and work force to perform the required work. As part of the audit, Utility officials stated that the Utility procured the contracts under exigent circumstances.

General Summary of OIG Finding. The OIG found, in relevant part,¹⁷³ that the solicitation of bids from only a limited pool of contractors was not full and open competition. The OIG did not question about \$2.6 million in contract costs related to emergency restoration of power. However, the OIG disagreed that emergency conditions warranted the use of the noncompetitive contracts in question to perform \$6.1 million in debris removal and electrical repair work that the Utility completed after it restored emergency power to its customers.

Please note that this audit is applying 2 C.F.R. § 215.44(a)(3)(iii)-(iv), however, those provisions are substantively similar to those at 44 C.F.R. § 13.36(c)(1)(vi).

¹⁷¹ 44 C.F.R. § 13.36(c)(1)(vii).

¹⁷² *Black’s Law Dictionary* 119 (9th ed. 2009) (“Arbitrary, adj. (1) Depending on individual discretion; specif., determined by a judge rather than by fixed rules, procedures, or law. (2) (Of a judicial decision) founded on prejudice or preference rather than on reason or fact.”).

¹⁷³ The OIG made other findings concerning the Utility’s procurement that are not discussed here.

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2. Local Preferences in Contractor Selection (44 C.F.R. § 13.36(c)(2))

Subgrantees must, pursuant to 44 C.F.R. § 13.36(c)(2), conduct their procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals.¹⁷⁴ Such geographic preferences may come in a variety of forms, such as the following examples.

Examples of In-State and Local Preferences

Price Matching Policies: A price matching policy is where a local jurisdiction will give an opportunity for a local vendor—within a certain percentage of the lowest bid to the solicitation—to match the lowest bid. If the local vendor does not match the bid, then the jurisdiction awards the contract to the original low bidder.

Reducing Bids During Sealed Bidding Evaluation. A jurisdiction may reduce by a certain percentage a bid submitted by a local vendor during the evaluation of bids submitted during a sealed bid process. For example, a local preference may provide that “the jurisdiction shall deem a bid submitted by a resident business to be five percent lower than the bid actually submitted.”

Adding Weight to Evaluation Factor Score During Procurement by Competitive Proposals. A jurisdiction may add weight on all evaluation factors to a resident business during procurement by competitive proposals. For example, a local preference may provide that “The jurisdiction shall award an additional five percent of total weight on all evaluation factors to a resident business.”

Set Asides. A local jurisdiction may simply set aside certain contracts for only resident companies.

There are, however, several exceptions to geographic preferences set forth in the regulation concerning licensing, architectural and engineering services, and Federal statutes.

- **State Licensing Requirements.** The regulation provides that subgrantees are permitted to require their contractors to be licensed in accordance with state licensing requirements.¹⁷⁵
- **Preference for Local Architectural and Engineering Services.** When contracting for architectural and engineering services, geographic location may be used as a selection criterion, provided there are an appropriate number of qualified firms for consideration

¹⁷⁴ 44 C.F.R. § 13.36(c)(2).

¹⁷⁵ 44 C.F.R. § 13.36(c)(2) (“Nothing in this section preempts State licensing laws.”).

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given the nature and size of the project.¹⁷⁶

- **Geographic Preferences Mandated or Encouraged by Federal Statute.** The regulation provides that a subgrantee may impose a state or local geographic preference when such a preference is expressly mandated or encouraged by Federal statute.¹⁷⁷

Example – Use of Prohibited In-State Geographical Preference

Scenario: The President declares a major disaster for the State of Z as a result of a hurricane, and the declaration authorizes Public Assistance for all counties in the State. The hurricane damaged Town X's building. Following approval of a Project Worksheet to repair the damaged building, the Town solicits bids for the work to repair the building. The Town, when evaluating the bids for the work, uses a state statutorily imposed geographic preference that results in an award to a local contractor.

Answer: The use of the geographic preference was not permissible. The Federal regulation at 44 C.F.R. § 13.36(c)(2) provides that "grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in the evaluation of bids or proposals," except in those cases where "applicable Federal statutes expressly mandate or encourage geographic preference." In this case, no Federal statute authorized the preference. The Town, therefore, has violated the Federal procurement standards at 44 C.F.R. § 13.36, even though the geographic preference was required by State law.

As it relates to the exception described above for geographic preference mandated or encouraged by Federal statute, subgrantees frequently inquire as to whether two particular Federal statutes provide the required basis to impose a geographic preference, each of which is discussed below.

i. **Section 307 of the Stafford Act**

Section 307 of the Stafford Act requires that, in the "expenditure of funds for debris clearance, distribution of supplies, reconstruction, or other major disaster or emergency assistance activities," which may be carried out by contract or agreement with private organizations, firms, and individuals, "preference shall be given" to the extent "practicable and feasible" to those organizations, firms, and individuals "residing or doing business primarily in the area affected by such major disaster or emergency."¹⁷⁸ In carrying out this authority, a contract or agreement

¹⁷⁶ 44 C.F.R. § 13.36(c)(2) ("When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.").

¹⁷⁷ *Id.*

¹⁷⁸ Stafford Act, *supra* note 76, § 307 (codified as amended at 42 U.S.C. § 5150); 44 C.F.R. § 206.10.

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may be set aside for award based on a specific geographic area.¹⁷⁹ The statute also provides that the “head of a Federal agency, as feasible and practicable, shall formulate requirements to facilitate compliance with this section.”¹⁸⁰

For direct expenditures of the Federal Government, FEMA regulations implement Section 307 at 44 C.F.R. § 206.10 and the Federal Acquisition Regulations implement Section 307 for Federal procurement at 48 C.F.R. § 26.200. FEMA has interpreted Section 307 as not applying to grantee and subgrantee procurements.

ii. **Tribal Self-Determination and Education Assistance Act**

Tribal preferences may be permissible if certain requirements are met under the Indian Self-Determination and Education Assistance Act.¹⁸¹ The Indian Self-Determination and Education Assistance Act sets forth the broad Federal policy to respond to the:

“... [S]trong expression of the Indian people for self-determination by assuring maximum participation in the direction of... Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.”¹⁸²

As it relates to tribal preferences, Section 7(b) (entitled “Wage and Labor Standards”) of the Indian Self-Determination and Education Assistance Act provides, in relevant part, the following:

“(b) Preference requirements for wages and grants. Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, *or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians*, shall *require* that to the greatest extent feasible—

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to *Indian organizations* and to *Indian-owned economic enterprises* as defined in section 3 of the Indian Financing Act of 1974...¹⁸³

¹⁷⁹ Stafford Act, *supra* note 76, § 307(a)(3) (codified as amended at 42 U.S.C. § 5150(a)(3)).

¹⁸⁰ *Id.* § 307(b)(3) (codified as amended at 42 U.S.C. § 5150(b)(3)).

¹⁸¹ Indian Self-Determination and Education Assistance Act, Pub. L. No. 93-638, 88 Stat. 2205 (1975) (codified as amended at 25 U.S.C. § 450 *et seq.*).

¹⁸² *Id.* § 3 (codified as amended at 25 U.S.C. § 450a).

¹⁸³ *Id.* § 7 (codified as amended at 25 U.S.C. § 450e).

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Applying Section 7(b) to the Public Assistance grant program, an Indian tribal government acting as either a grantee or subgrantee may give a preference in the award of contracts funded in whole or in part with Public Assistance funding to businesses falling within the meaning of “Indian organizations” or “Indian-owned economic enterprises” under the Indian Self-Determination and Education Assistance Act.

An “*Indian-owned economic enterprise*” is defined by Section 3 of the Indian Financing Act of 1974 as “any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit” provided that “such Indian ownership shall constitute not less than 51 per centum of the enterprise.”¹⁸⁴ The term “*organization*” is defined by Section 3 of the Indian Financing Act of 1974 as “unless otherwise specified, ... the governing body of any Indian tribe ... or entity established or recognized by such governing body for the purpose of this [Indian Financing Act of 1974].”¹⁸⁵

3. Contract Award Selection Procedures (44 C.F.R. § 13.36(c)(3))

The regulation at 44 C.F.R. § 13.36(b)(3) requires grantees to have written selection procedures for procurement transactions.¹⁸⁶ This requirement would apply, therefore, to Indian tribal governments when serving as a Public Assistance grantee, but would not apply to Indian tribal or local governments serving as a subgrantee. The requirements under the regulation are aimed at not only ensuring competition, but also avoiding dishonest and unfair practices. These written selection procedures must have the following features.

i. Clear and Accurate Description of Requirements (44 C.F.R. § 13.36(c)(3)(i))

Solicitations must have clear and accurate descriptions of the technical requirements for the materials, products, or services to be procured.¹⁸⁷ The purpose of these descriptions is to enable vendors to understand the requirements and prepare sound proposals to satisfy those requirements. The description of requirements may include a statement of the qualitative nature

¹⁸⁴ Indian Financing Act of 1974, Pub. L. No. 93-262, § 2(e), 88 Stat. 77 (codified as amended at 25 U.S.C. § 1452(e)) (“‘Economic enterprise’ means any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit: Provided, That such Indian ownership shall constitute not less than 51 per centum of the enterprise.”); see also 25 C.F.R. § 276.2(d) (which is part of the Secretary of Interior’s Uniform Administrative Requirements for Grants) (“(d) ‘Economic enterprise’ means any commercial, industrial, agricultural or business activity that is at least 51 percent Indian owned, established or organized for the purpose of profit.”).

¹⁸⁵ Id. § 2(f) (codified as amended at 25 U.S.C. § 1452(f)) (“‘Organization,’ unless otherwise specified, shall be the governing body of any Indian tribe, as defined in subsection (c) hereof, or entity established or recognized by such governing body for the purpose of this Act.”). The statute does not, however, define the term “*Indian organization*,” but separately defines the words “organization” and “Indian.”

¹⁸⁶ 44 C.F.R. § 13.36(c)(3) (“Grantees will have written selection procedures for procurement transactions.”).

¹⁸⁷ 44 C.F.R. § 13.36(c)(3)(i).

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of the material, product, or service to be procured and, when necessary, must set forth the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.¹⁸⁸

Grantees should avoid detailed product specifications “if at all possible.”¹⁸⁹ When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement.¹⁹⁰ The specific features of a name brand, which must be met by offerors, must be clearly stated.¹⁹¹ The description of requirements must not, in competitive procurements, contain features that unduly restrict competition.¹⁹²

This regulation notably expresses a preference for performance or functional specifications, but does not prohibit the use of detailed technical specifications when appropriate. A performance specification describes an end result, an objective, or standard to be achieved, and leaves the determination of how to reach the result to the contractor.¹⁹³ Using such a model, the grantee should describe what the product should be able to do or the services to accomplish without imposing unnecessarily detailed requirements on how to accomplish the tasks.

ii. Identification of Requirements and Evaluation Factors (44 C.F.R. § 13.36(c)(3)(ii))

The solicitation must identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals (called “evaluation factors”).¹⁹⁴ FEMA does not mandate or dictate any specific evaluation factors, except that the evaluation factors must support the purposes and scope of work of the Public Assistance project award.

4. Use of Prequalified Lists (44 C.F.R. § 13.36(c)(4))

A subgrantee may use a prequalified list of persons, firms, and products among which to

¹⁸⁸ Id.

¹⁸⁹ Id.

¹⁹⁰ Id.

¹⁹¹ Id.

¹⁹² 44 C.F.R. § 13.36(c)(3)(i). A list of some of the features considered to be restrictive of competition are set forth at 44 C.F.R. § 13.36(c)(1) and discussed in supra section IV(B)(1) of this Field Manual.

¹⁹³ See Stuyvesant Dredging Co. v. United States, 834 F.2d 1576 (Fed. Cir. 1987). Design specifications, on other hand, set forth in detail the materials to be employed and the manner in which the work is to be performed, and the contractor is required to follow them as one would a road map and without deviation. See L.L. Simmons Co. v. United States, 412 F.2d 1360 (Ct. Cl. 1969).

¹⁹⁴ 44 C.F.R. § 13.36(b)(3)(ii); cf. 48 C.F.R. subpart 15.3 (Source Selection).

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compete a future procurement for services or goods.¹⁹⁵ There are, however, several conditions precedent that must be met in using such a list. First, the subgrantee will ensure that all prequalified lists of persons, firms, or products used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition.¹⁹⁶ Second, subgrantees must not preclude potential bidders from qualifying during the solicitation period.¹⁹⁷ In addition, the subgrantee should take care to ensure prequalification procedures are not used to restrict full and open competition and should document its justification for the use of such a list in procurement using federal funds.¹⁹⁸

Some subgrantees may have different policies as to either bids offering services where the contractor has not been pre-qualified before the solicitation or bids offering products where the products have not been prequalified before the solicitation. When using nonfederal funds, it may be the case that the subgrantee may not allow a non-qualified contractor to submit a proposal for services or products, such that vendors must obtain pre-qualification independent of any solicitation. *However, when using Public Assistance funds, subgrantees must allow vendors an opportunity to qualify during the solicitation period*, although FEMA does not expect a subgrantee to delay a proposed award (extend the solicitation period) in order to afford a vendor the opportunity to demonstrate that its product or services meet the pre-qualification requirements (*e.g.*, technical capability, management capability, prior experience, and past performance).¹⁹⁹

FEMA encourages applicants to pre-qualify debris removal contractors before an event and then conduct full and open competition among that list. In that case, the solicitation for pre-qualifying contractors must adequately define in the proposed scope of work all potential debris types, anticipated haul distances, and size of events. It is important to recognize, however, that only soliciting bids from members of that list and not allowing other vendors to qualify for that

¹⁹⁵ 44 C.F.R. § 13.36(c)(4); *cf.* 48 C.F.R. subpart 9.2 (Qualifications Requirements).

¹⁹⁶ *Id.* The regulation does not provide any amplification of what makes a pre-qualified list “current.” In the absence of any regulatory guidance, FEMA generally evaluates the currency of a list based on an amalgamation of various factors, to include whether the subgrantee updates the list with enough frequency to: (1) ensure vendors on the list continue to possess the required qualifications; (2) ensure the pre-qualification criteria apply to the current requirement being solicited; and (3) ensure that enough vendors remain on the list to ensure full and open competition.

¹⁹⁷ *Id.*

¹⁹⁸ *Cf.* 44 C.F.R. § 13.36(c)(1)(i); 48 C.F.R. § 9.202 (directing a federal agency to prepare a written justification before establishing a qualification requirement).

¹⁹⁹ *Cf.* 48 C.F.R. § 9.202(e) (which provides that a federal contracting officer need not delay a proposed award in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification).

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list during the solicitation period would violate the regulation.²⁰⁰

Example – Use of a Pre-Qualified List

Scenario: The Town of Z, following a public solicitation for a Request for Qualifications, pre-qualifies five contractors to perform debris removal in the jurisdiction in the case of a disaster. A year later, the President declares a major disaster as a result of a hurricane and the declaration authorizes Public Assistance in the county in which the Town is located. The hurricane generated large quantities of debris. The Town solicits sealed bids for debris removal services only from the list of pre-qualified contractors and does not allow other contractors to qualify to be on the list during the solicitation period. The FEMA Disaster Recovery Manager (“DRM”) asks whether this procurement met the requirements of full and open competition under 44 C.F.R. § 13.36(c).

Analysis: The answer is no, the procurement did not meet the requirements of full and open competition. In this case, the Town used a pre-qualified list and did not allow other contractors to qualify to be on the list during the solicitation period. This is an express violation of 44 C.F.R. § 13.36(c)(4).

That being said, it may be the case that awarding a short-term, non-competitive debris removal work contract to one of the contractors on the pre-qualified list as described above may be permissible if the requirements of 44 C.F.R. § 13.36(d)(4) have been met, such as where the work was so time-sensitive so as to make full and open competition infeasible. However, if the contract is for a long-term operation lasting weeks or months, the contract should be competitively bid in a manner that complies with full and open competition as soon as possible.

C. METHODS OF PROCUREMENT (44 C.F.R. § 13.36(d))

The regulation at 44 C.F.R. § 13.36(d) sets forth four methods of procurement to be followed by a subgrantee. A subgrantee should use competitive procedures appropriate for the acquisition undertaken, and the procurement method must comply with state and local laws, regulations, and

²⁰⁰ See, e.g. DHS Office of Inspector General, Report No. 14-49-D, *FEMA Should Recover \$8.2 Million of the \$14.9 Million of Public Assistance Grant Funds Awarded to the Harrison County School District, Mississippi - Hurricane Katrina*, pp. 4-5 (Mar. 13, 2014) (subgrantee circumvented full and open competition when it sent bid invitations (based on qualifications) to nine sources but did not advertise publicly to allow other qualified parties the opportunity to bid); DHS Office of Inspector General, Report No. DS-13-14, *FEMA Should Recover \$4.2 Million of Public Assistance Grant Funds Awarded to the Department of Design and Construction, Honolulu, Hawaii*, p. 6 (Sep. 24, 2013) (subgrantee circumvented full and open competition and invited four *specific* contractors—with whom they were familiar—to bid on roadwork repairs); DHS Office of Inspector General, Report No. DA-13-17, *FEMA Should Recover \$3.5 Million of Public Assistance Grant Funds Awarded to the City of Gautier, Mississippi - Hurricane Katrina*, p. 3 (Jun. 7, 2013) (the subgrantee hired a debris removal contractor from a list of contractors it had contacted for price quotes approximately 1 month prior to the disaster instead of openly competing the work).

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procedures, so long as the methods of procurement at least comply with the minimum requirements of 44 C.F.R. § 13.36(d).

1. Procurement by Small Purchase Procedures (44 C.F.R. § 13.36(d)(1))

“Small purchase procedures” are those relatively simple and informal procurement methods for securing services, supplies, or other property. The regulation at 44 C.F.R. § 13.36(d)(1) authorizes such procedures for the acquisition of services, supplies, or other property valued at less than the Federal simplified acquisition threshold fixed at 41 U.S.C. § 134, and which is currently set at \$150,000.²⁰¹ A subgrantee may set lower thresholds for small purchase procedures in compliance with state or local law.

This type of procurement is often accomplished by inviting vendors to submit quotes, which the buyer then evaluates and makes an offer.²⁰² When using these procedures, a subgrantee must ensure the following:

- **Competition.** The subgrantee must obtain price or rate quotations from an “adequate number of sources,”²⁰³ which FEMA has interpreted as at least three sources.²⁰⁴
- **Prohibited Divisions.** The subgrantee may not divide or reduce the size of its procurement so as to avoid the additional procurement requirements applicable to larger acquisitions.²⁰⁵

2. Procurement by Sealed Bids (Formal Advertising) (44 C.F.R. § 13.36(d)(2))

The regulation at 44 C.F.R. § 13.36(d)(2) recognizes sealed bidding as a generally accepted method of procurement by a subgrantee. Under this method, bids are publicly solicited and a firm-fixed price contract (lump sum or unit price²⁰⁶) is awarded to the responsible offeror whose

²⁰¹ On August 30, 2010, the Civilian Agency Acquisition Council published an updated simplified acquisition threshold of \$150,000 in the Federal Register. 75 Fed. Reg. 53,129 (Aug. 30, 2010). This adjusted dollar threshold took effect on the date of publication. See Ronald Reagan National Defense Authorization Act for FY 2005, Pub. L. No. 108-375, § 807 (2005).

²⁰² Cf. 48 C.F.R. pt. 13 (Simplified Acquisition Procedures), subpart 13.1 (Procedures). In the Federal contracting context, the basis of an award can be on lowest price and/or quality. See 48 C.F.R. § 13.106-2 (Evaluation of Quotations or Offers).

²⁰³ 44 C.F.R. § 13.36(d)(1).

²⁰⁴ FEMA Recovery Fact Sheet No. 9580.212, *supra* note 91, ¶ 3.

²⁰⁵ DHS Office of Inspector General, Report No. DD-11-22, *FEMA Public Assistance Grant Awarded to Henderson County, Illinois*, pp. 3-4 (Sep. 27, 2011) (“The Federal Acquisition Regulation prohibits breaking down a proposed large purchase into multiple small purchases merely to permit use of simplified acquisition procedures. Further, although 44 CFR 13.36 does not include a specific prohibition against such circumvention, *we believe that any action specifically designed to circumvent a Federal regulation is not allowable* [emphasis added].”).

²⁰⁶ A “lump sum” is the entire contract price, and a “unit price” is the cost of one unit.

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bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.²⁰⁷ The steps in sealed bidding involve preparation of the invitation for bids; publicizing the invitation for bids; submission of bids; evaluation of bids; and contract award.

i. **When Sealed Bidding Is Appropriate (44 C.F.R. § 13.36(d)(2)(i))**

The regulation states that, in order for sealed bidding to be feasible, the following conditions should be present:

- ***Precise Specifications.*** A complete, adequate, and realistic specification or purchase description is available.²⁰⁸ As such, a vendor can simply bid a price in response to the solicitation.
- ***Adequate Sources.*** Two or more responsible bidders are willing and able to compete effectively for the business.²⁰⁹
- ***Fixed Price Contract.*** The procurement generally lends itself to a firm fixed-price contract.²¹⁰
- ***Price Determinative.*** The successful bidder can be selected on the basis of price.²¹¹ This would include price-related factors listed in the solicitation, such as transportation costs, discounts, etc. Apart from the responsibility determination discussed earlier in this Field Manual, contractor selection is not determined on the basis of other factors whose costs cannot be measured at the time of award.
- ***Discussions Unnecessary.*** Although not discussed in the regulation, another factor to be considered in determining whether sealed bidding is feasible is whether discussions with one or more bidders are expected to be unnecessary, because award can be based on price and price-related factors alone. However, this does not include pre-bid conferences with prospective bidders, which can often be useful.

The regulation also states that, for procuring construction, sealed bidding is the preferred method of procurement when it is feasible, which FEMA has reiterated in policy.²¹²

²⁰⁷ 44 C.F.R. § 13.36(d)(2). Cf. 48 C.F.R. § 14.103-2 (“An award is made to the responsible bidder [] whose bid is responsive to the terms of the invitation for bids and is most advantageous to the government, considering only price and the price-related factors included in the invitation...”).

²⁰⁸ 44 C.F.R. § 13.36(d)(2)(i)(A).

²⁰⁹ 44 C.F.R. § 13.36(d)(2)(i)(B).

²¹⁰ 44 C.F.R. § 13.36(d)(2)(i)(C).

²¹¹ *Id.*

²¹² FEMA Recovery Fact Sheet No. 9580.212, *supra* note 91, ¶ 5.

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ii. Requirements for Sealed Bidding (44 C.F.R. § 13.36(d)(2)(ii))

If a subgrantee uses sealed bid procedures, the regulation sets forth the following requirements.

Publicity. The subgrantee must publicly advertise the invitation for bids.²¹³ There is, however, no detailed discussion or set of guidelines in the regulation, such as the method of advertising (e.g., internet, trade journals, newspapers and other periodicals), the number of times the notice must be published, the target circulation of any advertising, and the number of days before the receipt of bids that it must be published. Therefore, the precise manner of the advertising is at the subgrantee's discretion and subject to state and local requirements.

Adequate Sources. The subgrantee must solicit bids from an adequate number of known suppliers.²¹⁴ There is, however, no detailed discussion or set of guidelines in the regulation, such as the method for soliciting bids (e.g., e-mail or letters), how many suppliers must be solicited, and the number of days before the receipt of bids a supplier must receive the solicitation. Therefore, the precise manner of such solicitations is at the subgrantee's discretion and subject to state and local requirements. As a best practice, FEMA recommends a subgrantee develop, manage, and use a solicitation mailing/e-mail list as a critical part of the procurement process. This list should include all eligible and qualified vendors that have expressed interest in receiving solicitations for the type of work, or that the subgrantee considers capable of filling the requirements of a particular procurement. The subgrantee should manage this list to ensure it is kept current and that firms expressing an interest or desire in an upcoming procurements are added. This list will also serve as the record detailing which firms received the solicitation so as to enable the subgrantee to demonstrate that it met the regulatory requirement.

Adequate Specifications. The invitation for bids, including any specifications and pertinent attachments, must describe the property or services sought in sufficient detail that a prospective bidder will be able to submit a proper bid.²¹⁵ FEMA has held that soliciting bids on a scope of work that a subgrantee intentionally misrepresents violates this requirement.²¹⁶

²¹³ 44 C.F.R. § 13.36(d)(2)(ii)(A).

²¹⁴ *Id.*

²¹⁵ 44 C.F.R. § 13.36(c)(2)(ii)(B).

²¹⁶ See Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Mark Schouten, Iowa Homeland Security and Emergency Management Division *re: Second Appeal—City of Cedar Rapids, PA ID 113-12000-00, Regulated Asbestos Material (RACM) Demolition and Debris Removal, FEMA-1763-DR-IA, Projects Worksheets (PW) 10433, 10523, 10524, 10525, and 10445*, Enclosed Analysis (Dec. 19, 2013):

“The Applicant then re-bid the project; however, this procurement action indicated that the estimated quantity of demolition debris was 65,000 tons as opposed to the original estimate of 100,000 tons. The Applicant intentionally bid the project at almost half the estimated debris quantity in order to allow contractors to avoid acquiring performance and payment bonds for the higher contract cost of the higher quantity of debris... Soliciting bids on a scope of work intentionally represented as approximately half of the estimated quantity does

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Sufficient Time. The invitation for bids must provide bidders sufficient time to prepare and submit bids before the date set for opening the bids and must comport with state and local requirements.²¹⁷ For comparative purposes, the Federal Acquisition Regulation identifies a variety of factors to analyze when determining the length of time to submit a bid, including the degree of urgency, complexity of the requirement, anticipated extent of subcontracting, whether use was made of pre-solicitation notices, geographic distribution of bidders, and normal transmission time for both invitations and bids.²¹⁸

Public Opening. The subgrantee must open all bids at the time and place prescribed in the invitation for bids.²¹⁹

Fixed Price Contract. A firm fixed price contract is awarded in writing to the lowest responsive and responsible bidder.²²⁰ When specified in the bidding documents, other price factors such as transportation costs and life cycle costs affect the determination of the lowest bid; payment discounts are used to determine the low bid only when prior experience indicates that such discounts are typically taken.²²¹ The subgrantee may reject any and all bids if there is a sound, documented business reason.²²² Although not provided in the regulations, the following provide some examples of circumstances under which a subgrantee may reject individual bids:

- A bid fails to conform to the essential requirements or applicable specifications of the invitation for bids.
- A bid fails to conform to the delivery schedule in the invitation for bids.
- A bid imposes conditions that would modify the requirements of the invitation for bids (since allowing the bidder to impose such conditions would be prejudicial to other bidders).
- Subgrantee determines that the bid is unreasonable as to price.
- A bid is from an entity that is suspended or debarred.

not fulfill the requirements to provide a complete, adequate and realistic specification and does not properly define the services to be procured.”

²¹⁷ 44 C.F.R. § 13.36(c)(2)(ii)(A).

²¹⁸ 48 C.F.R. § 14.202-1(b).

²¹⁹ 44 C.F.R. § 13.36(d)(2)(ii)(C).

²²⁰ 44 C.F.R. § 13.36(d)(2)(ii)(D). Although not mentioned in the regulation, a fixed price incentive contract or inclusion of an economic price adjustment provision can sometimes be appropriate.

²²¹ *Id.*

²²² 44 C.F.R. § 13.36(d)(2)(E).

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- A bidder fails to furnish a bid guarantee (when a bid guarantee is required).²²³

3. Procurement by Competitive Proposals (44 C.F.R. § 13.36(d)(3))

The regulation at 44 C.F.R. § 13.36(d)(3) recognizes the use of competitive proposals to be a generally accepted procurement method when the nature of the procurement does not lend itself to sealed bidding and the subgrantee expects that more than one source will be willing and able to submit an offer or proposal. Under this method, a fixed-price or cost-reimbursement contract is awarded to the responsible firm whose proposal is most advantageous to the subgrantee, with price and other factors considered.²²⁴ This is the method of procurement most often used for professional services in connection with construction, such as program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services. But, it is not the method commonly used for actual construction, alteration, or repair to real property, as the regulations require sealed bidding to be used for these types of services (unless it would be infeasible to do so).

i. When Procurement by Competitive Proposals Is Appropriate (44 C.F.R. § 13.36(d)(3))

Procurement through competitive proposals (also known as “negotiation”) is the appropriate method when more than one source is expected to submit an offer and either a fixed-price or cost-reimbursement contract is appropriate.²²⁵ In addition to these two factors set forth in the regulation, the following comprise additional circumstances when procurement by competitive proposals should be used:

- ***Type of Specifications.*** Property or services to be acquired are performance or functional based—or, even if described in technical specifications, other circumstances such as the need for discussions or other factors for basing the contract award on something other than price are present.
- ***Price Is Not Determinative.*** Due to the nature of the service or good to be acquired, the subgrantee cannot base the contract award exclusively on price or price-related factors. In different types of procurements through competitive proposals, the relative importance of cost or price may vary. When the subgrantee’s material requirements are clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirements, the more development work required, or the greater the performance risk, the more technical or

²²³ Cf. 48 C.F.R. § 14.404-2 (Rejection of Individual Bids) (which sets forth the grounds for a Federal contracting officer to reject bids for sealed bidding for Federal procurements).

²²⁴ 44 C.F.R. § 13.36(d)(3).

²²⁵ *Id.*

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past performance considerations may play a dominant role in source selection and supersede low price.

- ***Discussions Needed or Expected.*** Separate discussions with individual offeror(s) are expected to be necessary after they have submitted proposals. This is a key distinction from sealed bidding, in which discussions with individual bidders are not permitted and the award of the contract will be made based on price and price-related factors alone

ii. Requirements for Competitive Proposals (44 C.F.R. § 13.36(d)(3)(i)-(iv))

If a subgrantee uses procurement through competitive proposals, the regulation sets forth the following requirements:

Public Announcement. The subgrantee must publicly advertise the request for proposals.²²⁶ There is, however, no detailed discussion or set of guidelines in the regulation, such as the method of advertising (*e.g.*, internet, trade journals, newspapers and other periodicals), the number of times the notice must be published, the target circulation of any advertising, and the number of days before the receipt of bids that it must be published. Therefore, the precise manner of the advertising is at the subgrantee's discretion and subject to state and local requirements.

Adequate Sources. The subgrantee must solicit proposals from an adequate number of qualified sources.²²⁷ There is, however, no detailed discussion or set of guidelines in the regulation, such as the method for soliciting bids (*e.g.*, e-mail or letters), how many sources must be solicited, and the number of days before the receipt of bids a source must receive the solicitation. Therefore, the precise manner of such solicitations is at the subgrantee's discretion and subject to state and local requirements. As a best practice, FEMA recommends a subgrantee develop, manage, and use a solicitation mailing/e-mail list as a critical part of the procurement process as discussed above in the sealed bidding section above.

Disclosure of Evaluation Factors and Their Relative Importance. The request for proposals must identify all evaluation factors and their relative importance.²²⁸ Although FEMA does not mandate or dictate any specific evaluation factors, a best practice for the subgrantee is to have the evaluation factors for a specific procurement reflect the subject matter and the elements that are most important to the subgrantee. Evaluation factors could include, for example, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan. Another best practice would be for the request for

²²⁶ 44 C.F.R. § 13.36(d)(3)(i).

²²⁷ 44 C.F.R. § 13.36(d)(3)(ii).

²²⁸ 44 C.F.R. § 13.36(d)(3)(i); *cf.* 48 C.F.R. § 15.203(a).

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proposals to set forth the basis for the award (e.g., “tradeoff”²²⁹ or “technically qualified/low price”²³⁰). Although all evaluation factors and their relative importance must be specified in the solicitation, the numerical or percentage ratings or weights need not be disclosed. Solicitations, in other words, must provide offerors enough information to compete equally and intelligently, but they need not give precise details of the subgrantee’s evaluation plan.²³¹

Technical Evaluation. The subgrantee must have a method for conducting technical evaluations of the proposals received and for selecting awardees.²³²

Consideration of Proposals. The subgrantee must honor, to the maximum extent practical, any response to a publicized request for proposals.²³³

Award. The subgrantee will make an award to the responsible firm whose proposal is most advantageous to the program (“best value”), with price and other factors considered.²³⁴ The award must be consistent with the publicized evaluation and award criteria.

iii. Architectural and Engineering Services (44 C.F.R. § 13.36(d)(3)(v))

One of the more common types of services that a subgrantee will procure through the competitive proposal method is architectural and engineering services. Notably, the regulation at 44 C.F.R. § 13.36(d)(3)(v) provides that subgrantees may use competitive proposal procedures for *qualifications-based* procurement of architectural/engineering professional services. The regulation does not define what is meant by “architectural/engineering professional services,” but FEMA has generally considered the term to refer to services subject to the “architect-engineering services” contracting procedures set forth in Subpart 36.6 of the Federal Acquisition Regulation, which include the following:

- Professional services of an architectural or engineering nature, as defined by applicable State law, and which the State law requires to be performed or approved by a registered

²²⁹ Under the Federal Acquisition Regulations, a “tradeoff process” is appropriate when it may be in the best interest of the Federal Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror. The process permits “tradeoffs” among cost or price and non-cost factors and allows the Federal Government to accept other than the lowest price proposal. The perceived benefits of the higher priced proposal must merit the additional cost. 48 C.F.R. § 15.101-1.

²³⁰ Under the Federal Acquisition Regulations, the lowest price technically acceptable source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price. Tradeoffs are not permitted, and proposals are evaluated for acceptability but not ranked using the non-cost/price factors. 48 C.F.R. § 15.101-2.

²³¹ Cf. *QualMed, Inc.*, B-254397, 73 Comp. Gen. 235 (Jul. 20, 1994).

²³² 44 C.F.R. § 13.36(d)(3)(iii).

²³³ 44 C.F.R. § 13.36(d)(3)(i).

²³⁴ 44 C.F.R. § 13.36(d)(3)(iv).

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- architect or engineer.
- Professional services of an architectural or engineering nature associated with design or construction of real property.
 - Other professional services of an architectural or engineering nature or services incidental thereto (including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that logically or justifiably require performance by registered architects or engineers or their employees.
 - Professional surveying and mapping services on an architectural or engineering nature.²³⁵

Under the qualifications based procurement described at 44 C.F.R. § 13.36(d)(3)(v), competitors' qualifications are evaluated and the most qualified competitor is selected, subject to fair and reasonable compensation.²³⁶ This method, where price is not used as a selection factor, can only be used in procurement of architectural/engineering services and cannot be used to purchase other types of services (even if an architectural/ engineering firm is the one providing those other types of services).²³⁷

The regulation does not, however, provide further detail as to the process for an architectural-engineering services' qualifications-based procurement. As such, the following provides some general guidance in the case where the subgrantee requests guidance for a process to be followed:²³⁸

- **Public Announcement.** The subgrantee publicly announces all requirements for architect-services, which will include all evaluation criteria.²³⁹

²³⁵ 48 C.F.R. § 36.601-4.

²³⁶ 44 C.F.R. § 13.36(d)(3)(v).

²³⁷ Id.; see, e.g. DHS Office of Inspector General, Report No. DA-12-22, *FEMA Public Assistance Grant Funds Awarded to the Long Beach Port Commission, Long Beach, Mississippi*, pp. 3-4 (Jul. 18, 2012) (The subgrantee solicited bids from A/E firms and selected one firm using a qualifications-based selection process, however, this method of contracting, where price is not used as a selection factor, may be used only in procurement of A/E professional services and may not be used to purchase other types of services, such as project management services, from A/E firms).

²³⁸ The process for Federal procurement of architect-engineering services is set forth in 48 C.F.R. pt. 36, subpart 36.6 (Architect-Engineer Services).

²³⁹ See, e.g. DHS Office of Inspector General, Report No. OIG-14-49-D, *FEMA Should Recover \$8.2 Million of the \$14.9 Million of Public Assistance Grant Funds Awarded to the Harrison County School District, Mississippi - Hurricane Katrina*, pp. 4-5 (Mar. 13, 2014) (Subgrantee circumvented full and open competition when it sent bid

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- **Evaluation of Qualifications.** The subgrantee evaluates all offerors' qualifications to determine the most qualified offeror, with price excluded as an evaluation factor. This evaluation is often completed by an evaluation board that reviews the responses to the solicitation, evaluates the firms in accordance with the evaluation criteria, holds discussions with the most highly qualified firms (usually the top three), and then prepares a report for the selection authority that summarizes the evaluations and provides recommendations.
- **Selection.** The subgrantee's selection authority makes a final decision.
- **Negotiations.** Negotiations are first conducted with the most qualified offeror.
- **Negotiations with the Next Most Qualified Offeror.** If failing to agree on a fair and reasonable price, the subgrantee may conduct negotiations with the next most qualified offeror. Then, if necessary, the subgrantee will conduct negotiations with successive offerors in descending order until contract award can be made to the offeror whose price the subgrantee believes is fair and reasonable.

4. Procurement by Noncompetitive Proposals (44 C.F.R. § 13.36(d)(4))

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source or where, after a solicitation of a number of sources, competition is determined inadequate. The regulations set forth various requirements that must be met in order for a subgrantee to use this procurement method. FEMA or the grantee may require the subgrantee to submit a proposed procurement for pre-award review.²⁴⁰ It is important to recognize that a subgrantee's noncompetitive procurement may meet the requirements of state and local procurement laws and regulations, but not meet the Federal procurement standards set forth at 44 C.F.R. § 13.36(d)(4)—such a procurement would not be compliant with 44 C.F.R. pt. 13.²⁴¹

There are several key requirements with which a subgrantee must comply when conducting a noncompetitive procurement. One of the requirements is that a subgrantee must conduct a cost analysis, under which the subgrantee verifies the proposed cost data, verifies the projections of the data, and evaluates the specific elements of costs and profits.²⁴² The subgrantee must also

invitations (based on qualifications) to nine sources, but did not advertise publicly to allow other qualified parties the opportunity to bid).

²⁴⁰ 44 C.F.R. § 13.36(d)(4)(iii) ("Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.").

²⁴¹ See Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Kristi Turman, Director, South Dakota Office of Emergency Management *re: Second Appeal—County (PA ID 015-99015-00), Embankment Erosion, FEMA-1915-DR-SD, Project Worksheet (PW) 847, Enclosed Analysis* (Jul. 25, 2012).

²⁴² 44 C.F.R. § 13.36(d)(4)(ii).

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negotiate profit as a separate element of price.²⁴³

Another requirement is that a subgrantee may use procurement by noncompetitive proposals only under two conditions precedent. The first condition precedent is that the award of a contract must be “*infeasible*” under small purchase procedures, sealed bids, or competitive proposals.²⁴⁴ The regulation does not define the term “infeasible,” but the term is generally defined as not feasible, impracticable, or not capable of being done, effected, or accomplished.²⁴⁵ Whether or not a form of competitive procurement is feasible includes an analysis of the facts and circumstances of a particular incident and is intertwined with the analysis of the second condition precedent. The subgrantee must, as with all other significant items in the history, document the basis and justification for procurement by noncompetitive proposals.²⁴⁶

The second condition precedent is that one of the following four circumstances applies, as detailed in the following four subsections.

i. The Item Is Only Available from a Single Source (44 C.F.R. § 13.36(d)(4)(i)(A))

A subgrantee may, pursuant to 44 C.F.R. § 13.36(d)(4)(i)(A), use the procurement through noncompetitive proposal method when it requires services or supplies that are available from only one responsible source and no other supplies or services will satisfy its requirements. When a subgrantee issues a change order to a contract that is beyond the scope of the contract, it has made a sole source award that must meet these requirements.

The regulations do not offer further detail as to when property or services are available from only one source so as to fall within the scope of the exception.²⁴⁷ The subgrantee may use its own judgment in determining whether this condition has been met, but it should contemporaneously

²⁴³ 44 C.F.R. § 13.36(f)(2).

²⁴⁴ 44 C.F.R. § 13.36(d)(4)(i).

²⁴⁵ “Infeasible.” Merriam-Webster.com. Accessed June 17, 2014. <http://www.merriam-webster.com/dictionary/infeasible> (defining “infeasible” as “not feasible; impracticable”). The term “impracticable” means something that is not capable of being done, effected, or accomplished. “Impracticable.” Merriam-Webster.com. Accessed June 17, 2014. <http://www.merriam-webster.com/dictionary/impracticable> (defining “impracticable” as “incapable of being performed or accomplished by the means employed or at command”).

²⁴⁶ See, e.g. DHS Office of Inspector General, Report No. DS-11-12, *FEMA Public Assistance Grant Awarded to City of Paso Robles, California*, p. 3 (Sep. 13, 2011) (“District officials did not solicit competitive bids in awarding contracts and services for Project 245. Further, they could not reasonably justify why full and open competition did not occur. For example, Federal regulations allow for flexible (e.g., noncompetitive) contracting under exigent circumstances. However, exigency was not a factor for this work; the work was permanent in nature and not emergency-oriented.”).

²⁴⁷ Cf. 48 C.F.R. § 6.302-1 (entitled “Only one responsible source and no other supplies or services will satisfy agency requirements), which is the Federal Acquisition Regulation’s equivalent to the exception at 44 C.F.R. § 13.36(d)(4)(i)(A).

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document its rationale in the procurement record. That being said, the following comprise a non-exhaustive list of when FEMA would consider property and services as available from only one source.

- **Patents or Restricted Data.** There are patent or data rights restrictions that would preclude competition.
- **Substantial Duplication of Costs.** In the case of a sole source award to an existing contractor already performing work before a major disaster, there would be a substantial duplication of costs that would not be expected to be recovered through competition. This situation would arise, for example, if a contractor was in the middle of constructing a facility when the facility was damaged by a major disaster, and the scope of work under the Public Assistance project was to repair the construction work completed as of the date of the incident.

A prior working relationship between the subgrantee and the contractor, or an assertion by the subgrantee that a particular contractor is familiar with the work, will be insufficient to meet the requirements of 44 C.F.R. § 13.36(d)(4)(i)(A).²⁴⁸ Nor is it sufficient to assert that the noncompetitive procurement was the most efficient and cost effective means of procuring the needed services.²⁴⁹

²⁴⁸ DHS Office of Inspector General, Report No. 14-63-D, *FEMA Should Recover \$1.7 Million of Public Assistance Grant Funds Awarded to the City of Waveland, Mississippi-Hurricane Katrina*, pp. 5-6 (Apr. 15, 2014) (subgrantee said that they did not seek competitive bids for A/E work because it had used a particular A/E firm since 1997 or 1998 and they were familiar with the firm's work); DHS Office of Inspector General, Report No. 14-44-D, *FEMA Should Recover \$5.3 Million of the \$52.1 Million of Public Assistance Grant Funds Awarded to the Bay St. Louis Waveland School District in Mississippi-Hurricane Katrina*, p. 5 (Feb. 25, 2014) (instead of seeking competitive bids for A/E work, the subgrantee hired an A/E firm it had previously employed, the subgrantee said they were familiar with the contractor's work and that other A/E firms did not have the capacity to meet their requirements, however, the subgrantee did not provide any evidence to support their assertion that no other qualified A/E firms were available for the project work); DHS Office of Inspector General, Report No. 14-08-D, *FEMA Should Recover \$615,613 of Public Assistance Grant Funds Awarded to Orlando Utilities Commission under Hurricane Jeanne*, p. 3 (Nov. 21, 2013) (subgrantee solicited bids only from contractors that it had used before or ones that it believed had the requisite knowledge, expertise, and work force to perform the required work); DHS Office of Inspector General, Report No. DA-13-18, *FEMA Should Recover \$4.1 Million of Public Assistance Grant Funds Awarded to Orlando Utilities Commission -Hurricane Charley*, p. 3 (Jun. 5, 2013) (subgrantee solicited bids only from contractors from which they already had secured services prior to the storm, or ones that they believed had the requisite knowledge, expertise, and workforce to perform the required work); DHS Office of Inspector General, Report No. DD-13-06, *FEMA Should Recover \$6.7 Million of Ineligible or Unused Public Assistance Funds Awarded to Cameron Parish, Louisiana, for Hurricane Rita*, p. 8 (subgrantee awarded a noncompetitive A/E contract a contractor that it had used before, this pre-existing contract was more than 2 decades old, and the subgrantee incorporated it by reference into at least 17 disaster-related construction contracts).

²⁴⁹ DHS Office of Inspector General, Report No. DA-13-13, *FEMA Should Recover \$3.2 Million of Public Assistance Grant Funds Awarded to the Moss Point School District Hurricane Katrina*, p. 5 (Mar. 15, 2013) (the subgrantee disagreed that FEMA should disallow costs because it procured the A/E services at issue in the most efficient and cost effective manner under the circumstances by procuring A/E services from the A/E firm that it had

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Example – Impermissible Sole Source Contract

Scenario: The City of X owns a wastewater treatment plant that provides secondary treatment to wastewater before discharging the water into the City River. Rather than operate the plant directly, the City has procured a 10-year contract with Safe Water to operate, maintain, repair, and manage the plant. The contract between the City and Safe Water provides that Safe Water is not responsible for major repairs to the plant necessitated by, among other things, acts of God.

Severe storms and flooding damage one of the major effluent pipes at the plant. The City replaces a temporary pipe in the days of the event that enables the plant to resume operations on a normal basis until permanent repairs can be effectuated. After performing an engineering study over the next several months, the City evaluates several options for repairing the pipe provided by its engineer and makes a decision on how to proceed. The City then issues a change order to the existing contract to have Safe Water make the repairs. Safe Water makes the repairs, which cost \$520,000, and City pays Safe Water for the work.

Analysis: The change order issued by the City comprised a sole source award. Pursuant to 44 C.F.R. § 13.36(d)(4), such a contract is only permissible if award of the contract was “infeasible” under small purchase procedures, sealed bids, or competitive proposals and one of the four circumstances outlined in 44 C.F.R. § 13.36(d)(4)(i)(A)-(D) has been met. In this case, there was nothing indicating that the repair of the pipe was a service only available from Safe Water, such that the City would not be able to rely upon the circumstance outlined at 44 C.F.R. § 13.36(d)(4)(i)(A) (the item is only available from a single source). There was also no information indicating that it was infeasible to award a contract through one of the competitive forms of procurement.

ii. **The Public Exigency or Emergency for the Requirement Will Not Permit Delay Resulting from Competitive Solicitation (44 C.F.R. § 13.36(d)(4)(i)(B))**

A subgrantee may use the procurement through the noncompetitive proposal method when the public *exigency* or *emergency* for the requirement will not permit delay resulting from competitive solicitation.²⁵⁰ The regulation does not provide any additional information or guidance about the use of this exception from full and open competition, and the subgrantee may use its own judgment in determining whether this condition has been met. The subgrantee

done business with since 1970 because it was satisfied with the firm’s performance and the A/E firm was familiar with its facilities and procedures).

²⁵⁰ 44 C.F.R. § 13.36(d)(4)(i)(B). The Federal Acquisition Regulation’s equivalent to this exception from full and open competition is 48 C.F.R. § 6.302-2, entitled “unusual and compelling urgency.”

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should, however, contemporaneously document its rationale in the procurement record. That being said, the following provides several key considerations in reviewing a subgrantee's procurement to determine whether it meets the "emergency" or "exigency" circumstance under 44 C.F.R. § 13.36(d)(4)(i)(B).

a. Exigency vs. Emergency

The term "exigency" is not necessarily the same as the term "emergency," although the terms are often used interchangeably. An "exigency" is generally defined as something that is necessary in a particular situation that requires or demands immediate aid or action.²⁵¹ By comparison, the term "emergency" means an unexpected and usually dangerous situation that calls for immediate action.²⁵² One of the key distinctions between the terms, accordingly, is that an emergency will typically involve a threat to the public or private property or some other form of dangerous situation, whereas an exigency is not necessarily limited.

Examples Illustrating the Meaning of Exigency and Emergency

Emergency. A tornado impacts the City of X and causes widespread and catastrophic damage, including loss of life, loss of power, damage to public and private structures, and millions of cubic yards of debris across the City, leaving almost the entire jurisdiction inaccessible. The City needs to begin debris clearance activities immediately to restore access to the community and support search and rescue operations and power restoration. This would be an example of an "emergency" for the purposes of 44 C.F.R. § 13.36(d)(4)(i)(B).

Exigency. A tornado impacts the City of X in June and causes widespread and catastrophic damage, including damage to a City school. The City wants to repair the school and have it ready for the beginning of the following school year in September. The City estimates, based on past experience, that the sealed bidding process will take at least 90 days, and the City's engineer estimates that the repair work would take another 60 days. This would bring the project completion to well after the beginning of the school year. Rather than going through sealed bidding, the City—in compliance with State and local law—wants to solicit bids from five contractors that have previously constructed schools in the State and award the contract to the lowest bidder among those five. This would be an example of an "exigency" for the purposes of 44 C.F.R. § 13.36(d)(4)(i)(B), such that sealed bidding would be infeasible under

²⁵¹ "Exigent." Merriam-Webster.com. Accessed June 17, 2014. <http://www.merriam-webster.com/dictionary/exigent>. (defining "exigent" as "(1) requiring immediate aid or action <exigent circumstances>; (2) requiring or calling for much; demanding <an exigent client>").

²⁵² "Emergency." Merriam-Webster.com. Accessed June 17, 2014. <http://www.merriam-webster.com/dictionary/emergency>. (defining "emergency" as "(1) an unforeseen combination of circumstances or the resulting state that calls for immediate action; (2) an urgent need for assistance or relief <the mayor declared a state of emergency after the flood>").

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the circumstances and the use of some other procurement method was necessary based on the particular situation.

b. Interplay between Infeasibility and Emergency/Exigency

The duration of “infeasibility” is not necessarily the same as the period of emergency or exigency. As stated above, in order to use the procurement through noncompetitive proposals, the award of the contract must be “infeasible” under small purchase procedures, sealed bids, or competitive proposals. And it may be the case that—while it may be infeasible in the short-term to pursue a competitive procurement process in light of an emergency or exigency that does not permit delay—it is possible for the subgrantee to proceed with a competitive procurement to transition the work into a contract that meets the full and open competition requirements of 44 C.F.R. § 13.36.²⁵³

Example – Transitioning into a Competitive Contract After the Period of Exigency or Emergency Has Ended

DHS Office of Inspector General Report No. 14-45-D (Feb. 2014)
New Jersey Complied with Applicable Federal and State Procurement Standards when Awarding Emergency Contracts for Hurricane Sandy Debris Removal Activities

Background. Hurricane Sandy impacted the State of New Jersey in October 2012 and caused historic devastation and substantial loss of life. The amount of debris generated throughout the State was unprecedented, leaving much of New Jersey inaccessible. Although the State had pre-storm debris removal contracts in place with four vendors, the contracts did not provide sufficient options to local entities given the extensive debris removal requirements. While one option available to local entities was to procure their own emergency contracts on a municipality-by-municipality basis, the State determined that the situation required a state-level option to municipalities for immediate use given the sheer volume of debris.

²⁵³ See DHS Office of Inspector General, Report No. 14-11-D, *FEMA Should Recover \$6.1 Million of Public Assistance Grant Funds Awarded to Orlando Utilities Commission under Hurricane Frances*, p. 3 (Dec. 3, 2013) (exigent circumstances no longer existed to warrant the use of noncompetitive contracts for work related to power restoration after power was restored to customer in the jurisdiction of the subgrantee, a public utility); DHS Office of Inspector General, Report No. DD-13-07, *FEMA Should Recover \$881,956 of Ineligible Public Assistance Funds and \$862,983 of Unused Funds Awarded to St. Charles Parish School Board, Luling, Louisiana*, p.4 (Feb. 27, 2013) (subgrantee continued to use noncompetitive contracts after the “danger” had passed, which in this instance was represented by the need to stabilize the school system); DHS Office of Inspector General, Report No. DA-13-08, *FEMA Should Recover \$470,244 of Public Assistance Grant Funds Awarded to the City of Lake Worth, Florida-Hurricanes Frances and Jeanne*, p.4 (Dec. 4, 2012) (the need to restore electrical power constituted exigent circumstances that warranted the use of noncompetitive contracts through September 29, 2004, because lives and property were at risk, however, the subgrantee should have openly competed the permanent repair work after that date because exigent circumstances no longer existed to justify the use of noncompetitive contracts).

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The State ultimately awarded a noncompetitive contract (permitted under state law during periods of public “exigency”) to a debris removal contractor, and then made this contractor available to local municipalities under the State’s cooperative purchasing program. After reviewing the State’s procurement process, FEMA notified the State that it would reimburse all eligible program costs under the noncompetitive contract for a period of 60 days.

General Summary of Relevant OIG Finding. The OIG concluded that that use of the debris removal contract by a municipality during FEMA’s 60-day authorization period would comply with State procurement standards and 44 C.F.R. § 13.36. However, the OIG also stated that a municipality would need to use a competitive process to award contracts for debris removal activities outside the 60-day period to comply with FEMA guidelines and 44 C.F.R. § 13.36.

c. “Emergency” and “Emergency Work” Are Distinguishable

The term “emergency” for the purposes of 44 C.F.R. § 13.36(d)(4)(i)(B) is separate and distinct from “emergency work” as that term is used in the Public Assistance context. “Emergency work” in the Public Assistance context means either Public Assistance Categories A (debris removal) or B (emergency protective measures) that is necessitated because of immediate threats to life, improved property, public health and safety. However, just because the subgrantee is performing “emergency work” does not relieve the subgrantee from the requirements of full and open competition, as not all emergency work is so time sensitive to the point where full and open competition is “infeasible.”

This situation will often arise within the context of debris removal performed after a major disaster or emergency. Under current FEMA policy, FEMA has stated that long-term debris removal lasting weeks or months generally requires competitive bidding to conform with the requirements of 44 C.F.R. § 13.36.²⁵⁴ FEMA guidance states that an applicant may use a noncompetitive contract for short-term debris removal, but should competitively bid the contract as soon as possible.²⁵⁵ This FEMA guidance is often quoted and applied by the Office of Inspector General (“OIG”) in various audits.²⁵⁶

²⁵⁴ FEMA Fact Sheet No. 9580.212, *supra* note 91, § 8.

²⁵⁵ *Id.*

²⁵⁶ See, e.g. DHS Office of Inspector General, Report No. 14-45-D, *New Jersey Complied with Applicable Federal and State Procurement Standards When Awarding Emergency Contracts for Hurricane Sandy Debris Removal Activities*, p. 6 (Feb. 27, 2014) (“Although considered ‘emergency work’ under FEMA’s Public Assistance program, FEMA has determined that long-term debris removal lasting weeks or months generally requires competitive bidding to conform with Federal law and procurement standards set forth in 44 CFR 13.36. FEMA guidance states that an applicant may use a noncompetitive contract for short-term debris removal, but should competitively bid the contract as soon as possible.”); DHS Office of Inspector General, Report No. DA-12-20, *FEMA Public Assistance Grant Funds Awarded to City of Miramar; Florida-Hurricane Wilma*, p. 4 (Jul. 15, 2012) (“the subgrantee said that exigent circumstances warranted the use of noncompetitive contracting and that they acted in the best interest of

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The other key principle to bear in mind is that an “emergency” or “exigency” circumstance under 44 C.F.R. § 13.36(d)(4)(i)(B) may apply to permanent work under a Public Assistance project. It is the nature of the exigency or emergency, not the category of work, upon which this circumstance depends. However, while not dispositive, the “permanent” versus “emergency” nature of the work is sometimes considered by the OIG in making the determination as to whether an exigency or emergency existed so as to warrant a noncompetitive procurement.²⁵⁷

iii. Awarding Agency Authorizes Noncompetitive Proposals (44 C.F.R. § 13.36(d)(4)(i)(C))

A subgrantee may use the procurement through the noncompetitive proposal method when the “awarding agency” authorizes noncompetitive proposals.²⁵⁸ The regulation at 44 C.F.R. § 13.3 defines an “awarding agency” to mean “(1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.” As applied to a non-state Public Assistance subgrantee, therefore, the “awarding agency” is the State.²⁵⁹ It should be reemphasized here that the Federal procurement standards at 44 C.F.R. § 13.36(a) require a State to follow the same policies and procedures it uses for procurements from its non-Federal funds when it procures property and services under a Public Assistance grant award.²⁶⁰ It should also be reemphasized that local and Indian tribal governments *must use their own procurement procedures that reflect applicable State and local law and regulations*, provided that the procurements conform to applicable Federal law and standards identified at 44 C.F.R. § 13.36(b)-(i).²⁶¹ The requirement of State, local, and Indian tribal governments to follow their

their citizens. However, the contracts in question were awarded for debris removal from the [subgrantee’s] rights-of-way. FEMA has determined that such activity is not a public exigency or emergency that relieves the applicant of competitive bidding (FEMA Policy 9580.4, Fact Sheet: *Debris Operations – Clarification: Emergency Contracting vs. Emergency Work*, January 2001).”).

²⁵⁷ See, e.g. DHS Office of Inspector General, Report No. DS-11-12, *FEMA Public Assistance Grant Awarded to City of Paso Robles, California*, p. 3 (Sep. 13, 2011) (“However, exigency was not a factor for this work; the work was permanent in nature and not emergency-oriented [emphasis added].”); DHS Office of Inspector General, Report No. DA-13-13, *FEMA Should Recover \$3.2 Million of Public Assistance Grant Funds Awarded to the Moss Point School District Hurricane Katrina*, p. 5 (Mar. 15, 2013) (“Although Federal regulation 44 CFR 13.36 (d)(4)(i)(B) allows procurements by noncompetitive proposals when the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, the contract work in question was for permanent work and not emergency work [emphasis added].”). But see DHS Office of Inspector General, Report No. DD-13-11, *FEMA Should Recover \$46.2 Million of Improper Contracting Costs from Federal Funds Awarded to the Administrators of the Tulane Educational Fund* (Aug. 15, 2013) (in this audit, the Inspector General found exigent circumstances warranting a noncompetitive contract for permanent work).

²⁵⁸ 44 C.F.R. § 13.36(d)(4)(i)(C).

²⁵⁹ Note, however, that competition must still be infeasible per 44 C.F.R. § 13.36(d)(4)(i) and otherwise comply with applicable state and local laws and regulations per 44 C.F.R. § 13.36(b).

²⁶⁰ 44 C.F.R. § 13.36(a).

²⁶¹ 44 C.F.R. § 13.36(b)(1); see also DHS Office of Inspector General, Report No. 14-46-D, *FEMA’s Dissemination of Procurement Advice Early in Disaster Response Periods*, p. 3 (Feb. 28, 2014) (“Federal Regulation 44 CFR

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own laws, regulations, policies, and procedures is not obviated by 44 C.F.R. § 13.36(d)(4)(i)(C), such that any noncompetitive action authorized under this section must still conform to the laws, regulations, policies, and procedures governing the procurements of the State, local, and Indian tribal grantee and subgrantee.

iv. **Competition Is Deemed Inadequate After the Solicitation of a Number of Sources (44 C.F.R. § 13.36(d)(4)(i)(D))**

A subgrantee may use the procurement through the noncompetitive proposal method when, after the solicitation of a number of sources, the subgrantee determines competition to be inadequate.²⁶² This situation could arise when, among other things, the subgrantee has advertised the invitation for bids or request for proposals and solicited a number of sources, but has received only a single bid or proposal; received only a single responsive bid or proposal; or received no responsive bids or proposals.

FEMA considers competition to be “inadequate” in the context of 44 C.F.R. § 13.36(d)(4)—and the procurement by noncompetitive proposal method thus legally available to a subgrantee—when a subgrantee has complied with all of the procurement standards and the receipt of a single offer or bid, single responsive offer or bid, or no responsive bids or proposals is caused by conditions outside the subgrantee’s control. FEMA will not, on other hand, consider competition inadequate where a subgrantee did not sufficiently publicize the requirement, solicited only a few sources that chose not to submit a proposal, set unduly restrictive specifications, and/or took arbitrary actions or failed to take other actions that resulted in the inadequate competition. In those cases, adequate competition may very well be possible, it is just that the subgrantee failed to take the proper steps and actions to ensure such competition.

It is important, therefore, for a subgrantee to document its justification for why there is inadequate competition and why it moved forward with a noncompetitive award without cancelling the solicitation and resoliciting offers or bids. In making this justification, it may be necessary for the subgrantee to evaluate whether or not it sufficiently publicized the invitation for bids or requests for proposals and/or solicited an adequate number of firms. It may also be necessary to speak to those firms solicited to find out why they did not submit offers or bids. If the reason is an overly restrictive specification or delivery requirement, then the subgrantee would need to evaluate whether it should cancel the solicitation, change that specification to allow for more bids or offers, and re-solicit bids or offers. If the subgrantee chooses to move forward with the award in light of the restrictive specification, then the subgrantee should document in the procurement file why the restrictive specification or delivery requirement was necessary and could not be modified so as to enable additional competition.

13.36(a) allows States, as grantees, to use their own procurement procedures. *Other grantees and subgrantees may also use their own procurement procedures, but those procedures must conform to Federal law and standards stated in 44 CFR 13.36(b) through (i) [emphasis added].*”)

²⁶² 44 C.F.R. § 13.36(d)(4)(i)(D).

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D. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR AREA SURPLUS FIRMS (44 C.F.R. § 13.36(e))

The regulation at 44 C.F.R. § 13.36(e)(1) requires that a subgrantee take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor area surplus firms are used when possible.²⁶³ Notably, this is not an authority to provide set-asides, but rather a requirement aimed at ensuring maximum participation of these types of firms.

I. Required Affirmative Steps to Assure Certain Firms Are Used (44 C.F.R. § 13.36(e)(2))

A subgrantee must, at a minimum, take the following six "affirmative steps" to assure that minority firms, women's business enterprises, and labor area surplus firms are used when possible:

- ***Solicitation Listing.*** The subgrantee must place qualified small and minority businesses and women's business enterprises on solicitation lists.²⁶⁴
- ***Soliciting.*** The subgrantee must assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.²⁶⁵
- ***Breaking Up Requirements.*** The subgrantee must divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises.²⁶⁶ In applying this requirement, it is important to recognize that dividing up a large requirement into smaller parts so as to fall beneath the small acquisition threshold is prohibited, as would the opposite technique of bundling requirements so that it precludes small businesses, minority firms, and women's business enterprises from being a prime contractor.²⁶⁷ Notwithstanding, dividing a bona fide large requirement into smaller components to facilitate participation by small businesses would be acceptable.
- ***Accommodating Delivery Schedules.*** The subgrantee must establish delivery schedules, where the requirement permits, which encourage participation by small and minority

²⁶³ 44 C.F.R. § 13.36(e).

²⁶⁴ 44 C.F.R. § 13.36(e)(1)(i).

²⁶⁵ 44 C.F.R. § 13.36(e)(1)(ii).

²⁶⁶ 44 C.F.R. § 13.36(e)(1)(iii).

²⁶⁷ See DHS Office of Inspector General, Report No. DD-11-22, *FEMA Public Assistance Grant Awarded to Henderson County, Illinois*, p. 3-4 (Sep. 27, 2011) ("The Federal Acquisition Regulation prohibits breaking down a proposed large purchase into multiple small purchases merely to permit use of simplified acquisition procedures. Further, although 44 CFR § 13.36 does not include a specific prohibition against such circumvention, we believe that any action specifically designed to circumvent a Federal regulation is not allowable [emphasis added].").

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business, and women's business enterprises.²⁶⁸

- **Using Federal Agencies.** Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.²⁶⁹
- **Affirmative Steps for Contractors.** The subgrantee must require the prime contractor, if subcontracts are to be let, to take the five affirmative steps described above.²⁷⁰

2. Meaning of Small Business, Minority Business, Labor Area Surplus Firm, and Women's Business Enterprise

The regulation at 44 C.F.R. § 13.36(e) does not, however, define the terms women's businesses enterprise, small business, minority business, or labor surplus area firm. In the absence of such definitions, FEMA applies the following meanings of those terms when evaluating compliance with the requirements of 44 C.F.R. § 13.36.

i. Labor Surplus Area Concern

A labor surplus area concern (*i.e.*, business)²⁷¹ is one that, together with its first tier subcontractors, will perform substantially in labor surplus areas.²⁷² "Performing substantially" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50% of contract price,²⁷³ and a labor surplus area is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rates for all States during the same 24-month reference period.²⁷⁴

²⁶⁸ 44 C.F.R. § 13.36(e)(1)(iv).

²⁶⁹ 44 C.F.R. § 13.36(e)(1)(v).

²⁷⁰ 44 C.F.R. § 13.36(e)(1)(vi).

²⁷¹ A "concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. 48 C.F.R. § 19.001.

²⁷² 48 C.F.R. § 2.101 (which defines the term "labor area surplus concern" for the purposes of the Federal Acquisition Regulations); *see also* Executive Order 12073, *Federal Procurement in Labor Surplus Areas* (Aug. 16, 1978) (which requires executive agencies to emphasize procurement set-asides in labor surplus areas).

²⁷³ 48 C.F.R. § 2.101.

²⁷⁴ 20 C.F.R. § 654.5; 48 C.F.R. § 2.101. The Secretary of Labor is responsible under Executive Order 12073 for classifying and designating labor surplus areas.

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ii. Small Business

FEMA will accept the meaning of a small business established under the applicable state, local, and Indian tribal laws and regulations. Where state, local, and Indian tribal laws and regulations do not provide a definition of small business, FEMA considers a business that is independently owned and operated, not dominant in the field of operation in which it is bidding on contracts, and qualified as a small business under the Small Business Administration criteria and size standards at 13 C.F.R. pt. 121.²⁷⁵

iii. Women's Business Enterprise

FEMA will accept the meaning of women's business enterprise established under the applicable state, local, and Indian tribal laws and regulations. Where state, local, and Indian tribal laws and regulations do not provide a definition of small business, FEMA considers a women's business enterprise as an enterprise that is: (a) at least 51 percent owned by one or more women or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women; and (b) whose management and daily operations are controlled by one or more women.

iv. Minority Business

FEMA will accept the meaning of a minority business established under the applicable state, local, and Indian tribal laws and regulations. Where state, local, and Indian tribal laws and regulations do not provide a definition of small business, FEMA considers a minority business as a business that is (a) at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority group members; and (b) whose management and daily operations are controlled by one or more minority group members.

3. Set Asides for Small Businesses, Minority Firms, and Women's Business Enterprises

A recurring issue within the context of subgrantee procurement is whether the subgrantee may set-aside a certain percentage of its contracting under a Public Assistance project award for small businesses, minority firms, and women's business enterprises. The regulation at 44 C.F.R. § 13.36(c) requires that a subgrantee conduct all procurements in a manner providing full and open competition, and makes no provision for specific exceptions to this requirement in the case of small businesses, minority firms, and women's business enterprises. Notably, the regulation at 44 C.F.R. § 13.36(e) does not provide an express authority to provide set-asides or quotas for these types of firms, but rather only for a subgrantee to take certain steps to ensure maximum participation of these types of firms. As such, FEMA views set-asides and other quotas as

²⁷⁵ 13 C.F.R. pt. 121 (Small Business Size Regulations).

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impermissible, unless specifically authorized by federal law.²⁷⁶

E. COST OR PRICE ANALYSIS (44 C.F.R. § 13.36(f))

1. General Requirement (44 C.F.R. § 13.36(f)(1))

The regulation at 44 C.F.R. § 13.36(f)(1) states that a subgrantee must perform a cost or price analysis in connection with every federally assisted procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation but, as a starting point, grantees must make and subgrantees should make independent cost estimates before receiving bids or proposals.²⁷⁷

i. Cost Analysis

The regulation requires a subgrantee to perform a cost analysis when the offeror is required to submit the elements of its estimated cost under professional, consulting, and architectural engineering services contracts.²⁷⁸ A subgrantee is also required to perform a cost analysis for sole source procurements when adequate price competition is lacking, including contract modifications or change orders. However, a subgrantee need not complete a cost analysis if it can establish price reasonableness on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.²⁷⁹

ii. Price Analysis

When a cost analysis is not necessary, the subgrantee must perform a price analysis in all other instances to determine the reasonableness of the proposed contract price.²⁸⁰ Price analysis is where the offeror's prices are compared to each other and/or established market or catalogue

²⁷⁶ See, e.g. Indian Self-Determination and Education Assistance Act, *supra* note 181.

²⁷⁷ 44 C.F.R. § 13.36(f)(1). This regulation provides, in relevant part, that "The method and degree of analysis is dependent on the facts surrounding the particular procurement situation but, as a starting point, *grantees* must make independent cost estimates before receiving bids or proposals." (emphasis added). By referencing only the "grantee" and not the "subgrantee," this means that the independent cost estimate is not a mandatory requirement for subgrantees. Although it may technically not be a mandatory requirement, FEMA recommends that subgrantees conduct an independent cost estimate. There are numerous benefits to such an estimate, to include ensuring a clear basis for the subgrantee's determination that the benefits of the procurement warrant the cost, provides a basis for cost and price analysis, ensuring that the subgrantee select the appropriate method of procurement (e.g., does not choose small purchase procedures when the estimate exceeds \$150,000), and ensures proper bonding requirements (which are different when exceeding the \$150,000 threshold).

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

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prices. Using this technique, a subgrantee compares the actual prices offered by various offerors to determine the reasonableness of the proposed price.

iii. Amplifying Guidance Concerning Cost and Price Analysis – Federal Acquisition Regulations

The regulation at 44 C.F.R. § 13.36(f) does not provide any additional detail about how to complete a price or cost analysis. Due to the lack of guiding information in the regulations, Public Assistance subgrantees may inquire as to what techniques or steps they must perform in order to meet the regulatory requirements to conduct a price or cost analysis outside the scope of what is provided in the regulations.

The first response to any inquiry about cost or price analysis techniques is that the subgrantee should use its own procurement procedures, which reflect applicable State, local, and Indian tribal laws and regulations, including the cost and price analysis requirements of those laws and regulations.²⁸¹

The second response to any inquiry is that FEMA has provided some guidance on “cost analysis” for debris removal contracts in FEMA Fact Sheet No. 9580.201. But, it is important to recognize that FEMA has not provided guidance on “price analysis” for debris removal contracts and not provided guidance for a cost or price analysis for any other type of contract.

The third response to any inquiry is that—in light of the lack of guidance for price and cost analysis in the regulations and in FEMA policy—FEMA will generally utilize guiding principles in the Federal Acquisition Regulations as a guide to analyze the cost or price analysis conducted by the Public Assistance subgrantee. The following sections provide an overview of the Federal Acquisition Regulation’s general pricing concepts and approach towards price and cost analysis.

iv. General Federal Acquisition Regulation Pricing Concepts

There are several general pricing concepts that one can extrapolate from the Federal Acquisition Regulations. The first concept is that the Federal Government’s policy is to purchase supplies and services at fair and reasonable prices.

The second concept is the Federal Government must obtain necessary information in the least burdensome manner possible, given the circumstances of each procurement. A Federal contracting officer must generally use the following order of precedence (to the extent certified cost or pricing data is not required by law) when requesting information to determine price reasonableness:

- Request no additional information if the agreed upon price is based upon adequate

²⁸¹ Similarly, nonprofit organizations should follow their own procedures for cost and price analysis in compliance with any applicable (if any) State, local, and/or Indian tribal government laws and regulations.

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price competition.

- If adequate price competition among competing offerors is not present, request additional price information from sources other than the offeror(s) to the maximum extent practicable.
- Request other than certified cost or pricing data if needed to determine fair and reasonable price.²⁸²

The third concept is that Federal contracting officers use a “proposal analysis” to determine if a proposed contract is fair and reasonable.²⁸³ In performing proposal analyses, Federal contracting officers use a variety of techniques, with some techniques being required under certain circumstances. The analytical techniques described in the FAR may be used, singly or in combination with others, to ensure that the final price is fair and reasonable, and the complexity and circumstances of each acquisition determines the level of details of the analysis required.²⁸⁴ Two of the four techniques are price analysis and cost analysis, which are further discussed below.²⁸⁵

a. Price Analysis under the Federal Acquisition Regulations

The Federal Acquisition Regulations describe price analysis as the process of examining and evaluating a proposed price²⁸⁶ without evaluating its separate cost elements and proposed profit.²⁸⁷ This is the minimum analysis a Federal contracting officer must use whenever acquiring commercial items,²⁸⁸ and is the analysis normally used in sealed bidding.²⁸⁹

The techniques for conducting a price analysis include, but are not limited to, the following:

- (1) Comparison of proposed prices received in response to the solicitation. *Normally,*

²⁸² 48 C.F.R. § 15.402(a)(2).

²⁸³ 48 C.F.R. § 15.404-1(a).

²⁸⁴ 48 C.F.R. § 15.404-1(a)(1).

²⁸⁵ The other two techniques not discussed here are the “cost-realism analysis” and “technical analysis...”.

²⁸⁶ “Price” means cost plus any fee or profit applicable to the contract type. 48 C.F.R. § 15.401. This definition is anachronistic because it treats the sum of the cost and fee on a cost-reimbursable contract as a “price” when the term is usually associated with a fixed-price contract, which calls for the payment of a negotiated amount, established at the outset or by redetermination, for satisfactorily completed work.

²⁸⁷ 48 C.F.R. § 15.404-1(b). “Profit” is the amount realized by a contractor after the costs of performance (both direct and indirect) are deducted from the amount to be paid under the terms of the contract. In procurement by negotiation where there is a cost-analysis, the government negotiates a projected amount of profit in accordance with 48 C.F.R. § 15.404-4.

²⁸⁸ 48 C.F.R. § 14.403-3(c).

²⁸⁹ 48 C.F.R. § 14-408.

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adequate price competition establishes a fair and reasonable price.

- (2) Comparison of the proposed prices to historical prices paid, whether by the government or other than the government, for the same or similar items.

Notably, the Federal Acquisition Regulation states that techniques (1) and (2) are the preferred techniques—but, if the Federal contracting officer determines that information on competitive proposed prices or previous contract prices is not available or is insufficient to determine that the price is fair and reasonable, the contracting officer may use the following techniques (3)-(7) as appropriate to the circumstances applicable to the acquisition.²⁹⁰

- (3) Use of parametric estimating methods/application of rough yardsticks (such as dollars per horsepower or other units) to highlight significant inconsistencies that warrant additional pricing inquiry.
- (4) Comparison with competitive published price lists, published market prices or commodities, similar indices, and discount or rebate arrangements.
- (5) Comparison of proposed prices with independent government cost estimates.
- (6) Comparison of proposed prices with prices obtained through market research for the same or similar items.
- (7) Analysis of data other than certified cost or pricing data²⁹¹ provided by the offeror.

b. Cost Analysis under the Federal Acquisition Regulations

The Federal Acquisition Regulation describes cost analysis as the review and evaluation of the separate cost elements and proposed profit or fee contained in an offeror's or contractor's proposal in order to determine a fair and reasonable price and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.²⁹² Cost analysis is used to establish the basis for negotiating contract prices when price competition is inadequate or lacking altogether and when price analysis, by itself, does not ensure price reasonableness.²⁹³ Cost analysis is also required

²⁹⁰ 48 C.F.R. § 15.404-1(b)(3).

²⁹¹ "Certified cost and pricing data" are cost or pricing data that are required to be submitted in accordance with 48 C.F.R. § 15.403-4 and 15.403-5 and have been required to be certified in accordance with § 15.406-2. This certification states that, to the best of the person's knowledge and belief, the cost and pricing data are accurate, complete, and current as of a date certain before contract award. Cost or pricing data are required to be certified in certain procurements, such as negotiated procurements expected to exceed \$700,000 (subject to exceptions).

²⁹² 48 C.F.R. § 15.404-1(c).

²⁹³ 48 C.F.R. § 16.104(c). One generally sees cost analysis in contracting by negotiation (which is equivalent to procurement through competitive proposals in the grant context).

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when the offeror is required to submit certified cost and pricing data.

The Federal contracting officer may use various cost analysis techniques and procedures to ensure a fair and reasonable price, given the circumstances of the acquisition. Such techniques and procedures include the following:

- (1) Verification of cost data or pricing data and evaluation of cost elements.
- (2) Evaluation of the effect of current practices on future costs.
- (3) Comparison of costs proposed for individual cost elements with previously incurred actual costs, previous cost estimates, independent government estimates, and forecasts.
- (4) Verification that the offeror's cost submissions are in compliance with FAR cost principles and cost accounting standards.
- (5) Identification of any cost or pricing data needed to make the proposal accurate, complete, and current.

2. Profit as a Separate Element of Price (44 C.F.R. § 13.36(f)(2))

An allowable cost under a Public Assistance project award includes reasonable fees or profit of the subgrantee's contractor, but not fee or profit of the subgrantee.²⁹⁴ The subgrantee is required to negotiate profit as a separate element of cost for each contract in which there has been no price competition, and in all acquisitions in which the subgrantee performs a cost analysis.

To establish a fair and reasonable profit, the subgrantee should consider the complexity of the work to be performed, the risk undertaken by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.²⁹⁵

3. Costs or Prices Based on Estimated Costs (44 C.F.R. § 13.36(f)(3))

Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.²⁹⁶

²⁹⁴ 44 C.F.R. § 13.36(f)(2); cf. 48 C.F.R. § 16.103 (Negotiating Contract Type) (“(a) The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance.”).

²⁹⁵ The geographic area served is the State, county, congressional district, and/or metropolitan statistical area where the vendor provides or delivers products and/or services.

²⁹⁶ 44 C.F.R. § 13.36(f)(3).

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4. Cost Plus a Percentage of Cost and Percentage of Construction Costs Contracts
(44 C.F.R. § 13.36(f)(4))

The regulation at 44 C.F.R. § 13.36(c)(4) prohibits subgrantees from using a cost plus percentage of cost or percentage of construction costs contract.²⁹⁷ The purpose for this prohibition is to prohibit contracts that incentivize a contractor to increase its profits by increasing costs of performance.²⁹⁸

A cost plus percentage of cost contract is a cost reimbursement contract containing some element that obligates the subgrantee to pay the contractor an amount (in the form of either profit or cost), undetermined at the time the contract was made and to be incurred in the future, based on a percentage of future costs.²⁹⁹ The following four-part test can be utilized to determine if a certain contract is a prohibited cost-plus-percentage-of-cost contract:

- Payment is on a pre-determined percentage rate;
- The pre-determined percentage rate is applied to actual performance costs;
- The contractor's entitlement is uncertain at the time of contracting; and
- The contractor's entitlement increased commensurately with increased performance costs.³⁰⁰

The prohibition applies to either a cost-reimbursement contract or a fixed-price contract if either contains any element that is paid as a percentage of other costs, thus permitting payment to increase if the contractor incurs greater costs.³⁰¹ The subgrantee must also apply the prohibition

²⁹⁷ A cost-plus-percentage-of-cost system of contracting is prohibited under Federal acquisition by 10 U.S.C. § 2306(a) and 41 U.S.C. § 3905(a). See 48 C.F.R. § 16.102(c).

²⁹⁸ Cf. *Decision of the Comptroller General*, B-119292, 1954 U.S. Comp. Gen. LEXIS 649 (Oct. 8, 1954) ("Section 4(B) of the Armed Services Procurement Act of 1947 prohibits the use of the cost-plus-a-percentage-of-cost system of contracting. The intent of Congress in opposing this system is clearly discernible in the legislative history of this and other acts regulating government procurement. Conditions which it sought to prevent are those which provide an incentive and an opportunity for a contractor or subcontractor to increase his profit by increasing his costs at the expense of the government.").

²⁹⁹ See *Muschany v. United States*, 324 U.S. 49, 61-62 (1944).

³⁰⁰ *Federal Aviation Administration—Request for Advance Decision*, B-195173, 58 Comp. Gen. 654 (1979); *Marketing Consultants International Limited*, B-183705, 55 Comp. Gen. 554 (1975).

³⁰¹ Letter from Deborah Ingram, Assistant Administrator, FEMA Recovery Directorate, to Mark Ghilarducci, Secretary, California Emergency Management Agency re: *Second Appeal—Spanish Flat Water District, PA ID 055-UP3ZT-00, Sewer Treatment Plant Effluent Pond, FEMA -1646 -DR -CA, Project Worksheet (PW) 173*, Enclosed Analysis (Mar 22, 2012) ("It is clear from the above-quoted references in the March 1, 2007 contract to "contractor's fee of 15 percent" and "plus an allowance of 15 percent" that this is a CPPC contract."); see also Letter from Carlos Castillo, Assistant Administrator, FEMA Disaster Assistance Directorate, to Colonel Thomas Kirkpatrick (Ret), State Coordinating Officer, Louisiana Office of Homeland Security and Emergency Preparedness, re: *Second Appeal—City of New Orleans, PAID # 071-55000-00, Cleaning Storm Drains, FEMA-1603-DR-LA*,

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to subcontracts in the case where the prime contract is a cost-reimbursement contract type or subject to price redetermination.³⁰² Lastly, the inclusion of a ceiling price does not make these forms of contracts acceptable.³⁰³

Example – Prohibited Cost-Plus-Percentage-of-Cost Contracts

DHS Office of Inspector General Report No. DD-13-11
FEMA Should Recover \$46.2 Million of Improper Contracting Costs from Federal Funds
Awarded to the Administrators of the Rule Educational Fund (Aug. 2013)

Background. Hurricane Katrina caused significant damage to Tulane University in August 2005 and, as a result, Tulane suspended most of its New Orleans-based activities and programs for the 2005 fall semester. Tulane placed great emphasis on reopening its main campus for the 2006 spring semester because it was concerned that its future would be imperiled if it could not quickly restore operations.

Tulane awarded a \$205.4 million contract to a contractor (primary contractor) using a noncompetitive, cost-plus-percentage-of-cost contract that included \$35.0 million in mark-up costs. As shown in the table below, the contractor added an average of 19.3 percent markups to hourly T&M billings for its own employees. These hourly rates were already fully burdened, which means they included profit and overhead. The primary contractor also added a 21 percent markup on pass-through costs for subcontractors and vendors that already included markups.

Description	Amounts Billed Before Markups	Markup Amounts	Mark up %	Amounts Billed After Markups	% of Total Billings
Time & Materials Billings	\$ 45,124,626	\$ 8,703,232	19.3%	\$ 53,827,858	26.2%
Subcontractors & Vendors	125,239,350	26,300,261	21.0%	151,539,611	73.8%
Totals	\$170,363,976	\$35,003,493	20.5%	\$205,367,469	100.0%

Project Worksheet (PW) 3715 (Feb. 5, 2008) (“The Applicant’s contract with MWH stated that the Applicant would pay MWH thirteen (13) percent of cost incurred on the project as profit. This meets the definition of the cost plus contract.”).

³⁰² Cf. *Comptroller General Warren to the Secretary of War*, B-23293, 21 Comp. Gen. 858 (Mar. 13, 1942).

³⁰³ *Id.*; see also *Secretary of the Air Force*, B-120546, 38 Comp. Gen. 38 (Jul. 21, 1958).

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Summary of OIG Findings. The OIG “did not fault” Tulane for awarding this contract without competition because exigent circumstances existed at the time. Generally, the OIG stated, it considers circumstances to be exigent when lives or property are at stake or, in this case, when a city or community needs to reopen its schools. Notwithstanding, the OIG did find that the 19% markups on the primary contractor’s T&M rates were not only prohibited, they also represented excessive profit because the T&M rates already included sufficient overhead and profit. The OIG also found that the 21% markup that the primary contractor added to the subcontractor costs represented duplicate costs and excessive profit because the primary contractor had already charged Tulane for managing subcontractors through its hourly rates. Based on these findings, the OIG recommended a disallowance of \$35.0 million as excessive and prohibited markups.

F. AWARDING AGENCY PREAWARD REVIEW OF SUBGRANTEE PROCUREMENTS (44 C.F.R. § 13.36(g))

1. Review of Technical Specifications on Proposed Procurements (44 C.F.R. § 13.36(g)(1))

A subgrantee must make available, upon request of the awarding agency, technical specifications on proposed procurements when the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase.³⁰⁴ An “awarding agency” means, with respect to a subgrant, the party that awarded the subgrant (which is the State or Indian tribal government in the case of the Public Assistance grant program).³⁰⁵ In any case, FEMA reserves the right to review a subgrantee’s technical specifications.³⁰⁶

This review will generally take place before the time when the specification is incorporated into a solicitation document.³⁰⁷ However, if the subgrantee desires to perform the review after a solicitation has been developed, the awarding agency may still review the specifications, with its review usually limited to the technical aspects of the proposed purchase.³⁰⁸

2. Review of Other Procurement Documents (44 C.F.R. § 13.36(g)(2))

Subgrantees must, on request, make available for awarding agency pre-award review

³⁰⁴ 44 C.F.R. § 13.36(g)(1).

³⁰⁵ 44 C.F.R. § 13.3.

³⁰⁶ See 44 C.F.R. § 13.42(e) (“(e) *Access to records—(1) Records of grantees and subgrantees.* The awarding agency...shall have right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.”).

³⁰⁷ 44 C.F.R. § 13.36(g)(1).

³⁰⁸ Id.

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procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

- A subgrantee's procurement procedures or operation fails to comply with the procurement standards in 44 C.F.R. § 13.36;
- The procurement is expected to exceed the simplified acquisition threshold (\$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;
- The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.³⁰⁹

A subgrantee may be exempt from the pre-award review above if the awarding agency determines that the subgrantee's procurement systems comply with the standards of 44 C.F.R. § 13.36.³¹⁰

- A subgrantee may request that the awarding agency review its procurement system to determine whether the system meets the standards of 44 C.F.R. § 13.36 for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and the subgrantee awards third-party contracts on a regular basis.³¹¹
- A subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the subgrantee that it is complying with these standards. A subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.³¹²

G. CONTRACTOR BONDING REQUIREMENTS (44 C.F.R. § 13.36(h))

The regulation at 44 C.F.R. § 13.36(h) sets forth various bonding requirements for a subgrantee's contractor for construction or facility improvement contracts or subcontracts exceeding the

³⁰⁹ 44 C.F.R. § 13.36(g)(2).

³¹⁰ 44 C.F.R. § 13.36(g)(3).

³¹¹ 44 C.F.R. § 13.36(g)(3)(i).

³¹² 44 C.F.R. § 13.36(g)(3)(ii).

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simplified acquisition threshold (\$150,000). As a preliminary matter, the awarding agency³¹³ may accept the bonding policy and requirements of a subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If the awarding agency has not made such a determination, then the subgrantee shall follow the following minimum requirements for a bid guarantee, performance bond, and payment bond.

1. Bid Guarantee (44 C.F.R. § 13.36(h)(1))

Each bidder must provide a bid guarantee equivalent of 5 percent of the bid price. The "bid guarantee" shall consist of a firm commitment, such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.³¹⁴ The existence of a bid guarantee provides a subgrantee with assurance that the bidder has the financial means to accept the job for the price quoted in the bid and that the bidder, should it be successful in its bid, will enter into the required contract and execute the required performance and payment bonds.

In the case where the contractor is awarded the contract but fails to enter into the contract, as agreed, then the purpose of the guarantee is to provide financial protection to the subgrantee by paying the difference between the contractor's offer and the next closest offer. Notably, requiring a bid guarantee helps keep contractors from submitting frivolous bids, because they will be obligated to either perform the job or pay (either itself or through a surety) compensation to the subgrantee.

2. Performance and Payment Bonds (44 C.F.R. § 13.36(h)(2) and (3))

The contractor must provide both a performance bond and a payment bond, each for 100 percent of the contract price.³¹⁵ A bond means a written instrument executed by a contractor (the "principal"), and a second party ("the surety" or "sureties") to assure fulfillment of the principal's obligations to a third party (the "obligee" which, in this case, is the subgrantee), identified in the bond. If the principal's obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligation.³¹⁶

³¹³ The "awarding agency" for a local government is a State. The same is true for an Indian tribal government when the state is serving as the grantee—however, when the Indian tribal government is serving as grantee, then it is the awarding agency for all subgrantees and FEMA is the awarding agency for the Indian tribal government.

³¹⁴ 44 C.F.R. § 13.36(h)(1); cf. 48 C.F.R. § 28.001 ("Bid guarantee means a form of security assuring that the bidder (1) will not withdraw a bid within the period specified for acceptance and (2) will execute a written contract and furnish required bonds, including any necessary coinsurance or reinsurance agreements, within the time specified in the bid, unless a longer time is allowed, after receipt of the specified forms.").

³¹⁵ 44 C.F.R. § 13.36(h)(2) and (3).

³¹⁶ See 48 C.F.R. § 28.001. The term "bond" is not defined in 44 C.F.R. pt. 13.

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A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.³¹⁷ A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

H. CONTRACT PROVISIONS (44 C.F.R. § 13.36(i))

A subgrantee’s contracts must contain the provisions set forth in 44 C.F.R. § 13.36(i).³¹⁸ Some of the provisions are based on sound contracting principles and others are required by Federal law, executive order, or regulation. FEMA is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy (“OFPP”), but has yet to ever submit such proposed modification to OFPP.³¹⁹

1. Provisions for Contractual Remedies (44 C.F.R. § 13.36(i)(1))

The subgrantee’s contract must contain provisions concerning administrative, contractual, or legal “remedies” in instances where contractors violate or breach contract terms, and provide for sanctions and penalties as may be appropriate.³²⁰ This requirement only applies in the case where a contract exceeds the simplified acquisition threshold of \$150,000.³²¹

By way of background, a “remedy” is the right of a contracting party when the other party does not fulfill its contractual obligations.³²² Parties may seek various judicial remedies for breach of contract, including damages, specific performance, and rescission or restitution.³²³ In Federal Government contracting, however, most of the remedies available to the parties are spelled out in contract clauses. For example, the Federal Government has remedies for nonperformance under the termination for default clause and for defective performance under the inspection clause of the contract, and the contractor’s remedies are generally for equitable adjustment or price adjustment under a variety of clauses.

³¹⁷ Id.

³¹⁸ In addition to these mandatory contract provisions, subgrantees would also be prudent to include additional contract provisions with respect to other legal requirements under federal laws, regulations, and executive orders that pass-through to their contractors. A list of many of the various federal laws with which subgrantees must comply can be found in the DHS Standard Terms and Conditions (see supra note 40) and also in the assurances under Standard Forms 424B and 424D.

³¹⁹ 44 C.F.R. § 13.36(i).

³²⁰ 44 C.F.R. § 13.36(i)(1).

³²¹ Id.

³²² Restatement (Second) of Contracts, ch. 16 (Remedies) (1981).

³²³ Id.

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In this case, the regulation at 44 C.F.R. § 13.36(i)(1) simply requires the subgrantee to spell out the remedies for breach of contract.

2. Provisions for Termination for Cause and Convenience (44 C.F.R. § 13.36(i)(2))

The subgrantee's contract must contain provisions concerning termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.³²⁴ This requirement only applies in the case of contracts in excess of \$10,000.³²⁵

"Termination for convenience" is the exercise of a subgrantee's right to completely or partially terminate the contractor's performance of work under a contract when it is in the subgrantee's interest.³²⁶ On the other hand, "termination for cause" (or "default") is the exercise of a party's right to completely or partially terminate a contract because of the other party's actual or anticipated failure to perform its contractual obligations.³²⁷

3. Compliance with Executive Order 11,246 (44 C.F.R. § 13.36(i)(3))

Except as otherwise provided under 41 C.F.R. pt. 60, the subgrantee's contract must include the equal opportunity clause at 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11,246, *Equal Employment Opportunity* (Sep. 24, 1965) (as amended) and Department of Labor implementing regulations at 41 C.F.R. ch. 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor).³²⁸ This requirement only applies in the case of construction³²⁹ contracts in excess of \$10,000.³³⁰

³²⁴ 44 C.F.R. § 13.36(i)(2).

³²⁵ *Id.*

³²⁶ The regulation does not define the phrase "termination for convenience," but *cf.* 48 C.F.R. § 2.101 ("Termination for convenience means the exercise of the Government's right to completely or partially terminate performance of work under a contract when it is in the Government's interest."). The Federal Government's process for termination for convenience is set forth at 48 C.F.R. subparts 49.1, 49.2, and 49.3. Notably, only the Federal Government—not the contractor—may terminate for convenience.

³²⁷ The regulation does not define the phrase "termination for cause;" *see* 48 C.F.R. § 2.101 ("Termination for default means the exercise of the Government's right to completely or partially terminate a contract because of the contractor's actual or anticipated failure to perform its contractual obligations."). In Federal Government procurement, a contractor cannot terminate a contract for an alleged breach by the Federal Government, but rather has to continue performing and has to keep performing at the direction of the Federal contracting officer while the dispute is resolved. The Federal Government's process for termination for cause is set forth at 48 C.F.R. subpart 49.4.

³²⁸ 44 C.F.R. § 13.36(i)(3).

³²⁹ 41 C.F.R. § 60-1.3 ("Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.").

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The regulation at 41 C.F.R. § 60-1.4(b) requires the insertion of the following contract clause:

“During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The 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.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of

³³⁰ 44 C.F.R. § 13.36(i)(3).

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September 24, 1965, and such other sanctions as 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.

- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

4. Compliance with Copeland Anti-Kickback Act (44 C.F.R. § 13.36(i)(4))

A subgrantee’s contract must include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. § 874³³¹ and 40 U.S.C. § 3145³³²), as supplemented by Department of Labor regulations at 29 C.F.R. pt. 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States).³³³ This requirement applies to all contracts for construction or repair.

By way of background, the Copeland Act provides that each contractor 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

³³¹ 18 U.S.C. § 874 (Kickbacks from Public Works Employees) (“Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.”).

³³² 40 U.S.C. § 3145 (Regulations Governing Contractors and Subcontractors):

- (a) *In General.*—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

- (b) *Application.*—Section 1001 of title 18 applies to the statements.

³³³ 44 C.F.R. § 13.36(i)(4).

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Department of Labor implementing regulations for the Copeland Act are at 29 C.F.R. pt. 3, and the regulation at 29 C.F.R. § 3.11 provides that:

“All contracts made with respect to the construction, prosecution, completion, or repair of any...work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see § 5.5(a) of this title.”

The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance grantees and subgrantees. As such, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Compliance with the Davis-Bacon Act (44 C.F.R. § 13.36(i)(5))

The regulation at 44 C.F.R. § 13.36(i)(5) requires that a subgrantee include a contract clause providing for the compliance with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations at 29 C.F.R. pt. 5. This requirement, however, only applies to construction contracts awarded by subgrantees in excess of \$2000 *when required by Federal grant program legislation*.³³⁴ In this case, the sections of the Stafford Act authorizing the Public Assistance grant program do not require compliance with the Davis-Bacon Act. As such, there is no requirement for a subgrantee to place any clauses into its contracts for compliance with the Davis-Bacon Act.

³³⁴ 44 C.F.R. § 13.36(i)(5).

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6. Compliance with the Contract Work Hours and Safety Standards Act (44 C.F.R. § 13.36(i)(6))

Subgrantees must include a provision into their contracts that requires compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act³³⁵ as supplemented by Department of Labor regulations at 29 C.F.R. pt 5.³³⁶ The Contract Work Hours and Safety Standards Act applies to subgrantee contracts and subcontracts “financed at least in part by loans or grants from...the [Federal] Government.”³³⁷ Although the original law required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 44 C.F.R. 13.36(i)(6)), the Contract Work Hours and Safety Standards Act no longer applies to any “contract in an amount that is not greater than \$100,000.”³³⁸

The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

³³⁵ Contract Work Hours and Safety Standards Act, Pub. L. No. 87-581, 76 Stat. 357, §§ 103 and 107 (1962) (codified as amended at 40 U.S.C. §§ 3701-3708).

³³⁶ 44 C.F.R. § 13.36(i)(6).

³³⁷ 40 U.S.C. § 3701(b)(1)(B)(iii) and (b)(2); 29 C.F.R. § 5.2(h).

³³⁸ 40 U.S.C. § 3701(b)(3)(A)(iii).

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- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

7. Notice of Awarding Agency Requirements and Regulations Pertaining to Reporting (44 C.F.R. § 13.36(i)(7))

A subgrantee’s contract must include notice of the awarding agency’s³³⁹ requirement and regulations pertaining to reporting.³⁴⁰ In the case of subgrantees that are local governments and Indian tribal governments, this means that the subgrantee must include notice of the state’s requirements and regulations for reporting. As such, the subgrantee should work with the state to identify the required contract clauses. FEMA recommends to states that their reporting requirements for subgrantees enable the state to meet FEMA’s reporting requirements, and FEMA also recommends that the State require subgrantees to include the “notice of FEMA reporting requirements and regulations” clause below. This clause is required for states to include in their contracts, whether acting as grantee or a subgrantee.

In the case of Indian tribal governments serving as grantees, the Indian tribal government must include notice of FEMA’s reporting requirements and regulations in its contracts and must require all of its subgrantees to include notice in the subgrantee’s contracts of the Indian tribal government’s reporting requirements and regulations. The following provides the clause required by FEMA for grantees as it relates to reporting:

“Notice of Federal Emergency Management Agency (FEMA) Reporting Requirements and Regulations

³³⁹ 44 C.F.R. § 13.3 (“Awarding agency means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.”).

³⁴⁰ 44 C.F.R. § 13.36(i)(7).

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- (1) General. The (name of state agency or the local or Indian tribal government entity) is using Public Assistance grant funding awarded by FEMA to the (insert name of grantee) to pay, in whole or in part, for the costs incurred under this contract. As a condition of Public Assistance funding under (major disaster or emergency) declaration FEMA-XXXX-XX, FEMA requires the (insert name of grantee) to provide various financial and performance reporting.
- a. It is important that the contractor is aware of these reporting requirements, as the (name of state agency or the local or Indian tribal government entity) may require the contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to (insert name of grantee) which, in turn, will enable (insert name of grantee) to satisfy reporting requirements to FEMA.
 - b. Failure of (insert name of grantee) to satisfy reporting requirements to FEMA is a material breach of the FEMA-State Agreement, and could result in loss of Federal financial assistance awarded to fund this contract.
- (2) Applicable Regulations and Policy. The applicable regulations, FEMA policy, and other sources setting forth these reporting requirements are as follows:
- a. 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance)
 - b. 44 C.F.R. § 13.41 (Financial Reporting)
 - c. 44 C.F.R. § 13.50(b) (Reports)
 - d. 44 C.F.R. § 206.204(f) (Progress Reports)
 - e. FEMA Standard Operating Procedure No. 9570.14, *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (Dec. 2013)
 - f. FEMA-State (or Tribal) Agreement
- (3) Financial Reporting. The (insert name of grantee) is required to submit to the following financial reports to FEMA:
- a. Initial Report. An initial Federal Financial Report (SF 425) no later than 30 days after FEMA has approved the first Public Assistance project under FEMA-XXXX-XX.
 - b. Quarterly Reports. Following submission of the initial report, quarterly Federal Financial Reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.

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- c. Final Report. A final Federal Financial Report within 90 days of the end of the period of performance for the Public Assistance grant.
- (4) Performance Reporting. The (insert name of grantee) is required to submit to the following financial reports to FEMA:
- a. Initial Report. An initial performance report no later than 30 days after FEMA has approved the first Public Assistance project under FEMA-XXXX-XX.
- b. Quarterly Reports. Following submission of the initial report, quarterly performance reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.
- c. Final Report. A final performance report within 90 days of the end of the period of performance for the Public Assistance grant.”
8. **Notice of Awarding Agency Requirements and Regulations Pertaining to Patent Rights, Copyrights, and Rights in Data (44 C.F.R. § 13.36(i)(8) and (9))**

The regulations require a subgrantee’s contract to include notice of the awarding agency’s³⁴¹ requirements and regulations pertaining to patent rights with respect to a discovery or invention which arises or is developed in the course of or under such contract.³⁴² Similarly, the regulations also require inclusion of the awarding agency’s requirements and regulations pertaining to copyrights and rights in data.³⁴³

Patents, copyrights, and rights in data requirements arise within the context of federally assisted projects, the purpose of which is to finance the development of a product or information. These requirements apply in the case of contracts involving experimental, development, or research work, and do not apply to capital projects or operating projects.³⁴⁴

The Public Assistance grant program does not authorize any work associated with experimental, developmental, or research work, such that patent rights, copyrights, and rights in data would be implicated. There are, therefore, no required contract clauses.

³⁴¹ 44 C.F.R. § 13.3 (“Awarding agency means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.”).

³⁴² 44 C.F.R. § 13.36(i)(8).

³⁴³ 44 C.F.R. § 13.36(i)(9).

³⁴⁴ Cf. 48 C.F.R. subparts 27.3 (Patent Rights under Government Contracts) and 27.4 (Rights in Data and Copyrights).

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Public Assistance Grantee and Subgrantee Procurement Requirements
 FEMA Office of Chief Counsel
 Procurement Disaster Assistance Team

9. Access to Records (44 C.F.R. § 13.36(i)(10))

The regulations require a subgrantee to include a contract clause that provides for access by the grantee, subgrantee, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audits, examinations, excerpts, and transcriptions.

The following provides the clause that a local government or Indian tribal government (acting as either subgrantee or grantee) must include in all contracts:

“Access to Records. The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of grantee), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

10. Retention of Records (44 C.F.R. § 13.36(i)(11))

The regulation at 44 C.F.R. § 13.36(i)(11) requires a subgrantee to include a contract clause pertaining to the retention of records for three years after the subgrantee makes final payment and all other pending matters are closed.³⁴⁵

The following provides the clause that a local government or Indian tribal government (acting as either subgrantee or grantee) must include in all contracts:

“Retention of Records. The contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the (name of the state agency or local or Indian tribal government), (name of grantee), the

³⁴⁵ 44 C.F.R. § 13.36(i)(11).

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Public Assistance Grantee and Subgrantee Procurement Requirements
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FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.”

11. Compliance with the Clean Air Act and Clean Water Act (44 C.F.R. § 13.36(i)(12))

The regulation at 44 C.F.R. § 13.36(i)(12) requires a subgrantee to include a clause in its contracts providing for compliance with all applicable standards, orders, or requirements 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). This requirement applies to all contracts in excess of \$100,000.

The following provides clauses that a local government or Indian tribal government (acting as either subgrantee or grantee) must include in all contracts exceeding \$100,000:

“Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of grantee), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of grantee), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.”

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12. Energy Efficiency (44 C.F.R. § 13.36(i)(13))

The regulation at 44 C.F.R. § 13.36(i)(13) requires the subgrantee to include a clause in its contracts concerning mandatory standards and policies related to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The local government or Indian tribal government (acting as either subgrantee or grantee) must include the following clause in all contracts:

“Energy Conservation. The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.”

13. Suspension and Debarment

The policy of the Federal Government is to do business with, or award assistance to, persons that are “presently responsible.”³⁴⁶ To further this policy, the Federal Government may exclude, disqualify, or declare ineligible non-Federal persons (which include organizations and specific individuals) from Federal assistance agreements and procurement contracts. Exclusion can be based on a person’s poor integrity, poor financial capability, violations of law and regulations, or poor performance.

The President has issued two executive orders addressing debarment and suspension, which are Executive Order 12,549, *Debarment and Suspension* (Feb. 18, 1986) and Executive Order 12,689, *Debarment and Suspension* (Aug. 16, 1989). The Office of Management and Budget has provided guidance for Federal agencies on the governmentwide debarment and suspension system for nonprocurement programs and activities at 2 C.F.R. pt. 180. This is often referred to as the “nonprocurement common rule.” The Department of Homeland Security has, in turn, issued regulations at 2 C.F.R. pt. 3000 that adopt the nonprocurement common rule and provide supplemental policies and procedures.³⁴⁷ The Department has also issued a directive and associated instruction on suspension and debarment.³⁴⁸

³⁴⁶ See 2 C.F.R. § 180.800(a)(4), (d).

³⁴⁷ See 2 C.F.R. § 3000.10 (“This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Homeland Security policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the Department of Homeland Security to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103-355, 108 Stat. 3327).”).

³⁴⁸ DHS Directive No. 146-01, *Suspension and Debarment Program* (May 31, 2012); DHS Instruction No. 146-01-001, *Suspension and Debarment Instruction* (May 31, 2012). One of the key items in the instruction is the DHS

Exhibit "B"
Hourly Rate Schedule

Position Title	Labor Rate/Hour	Hours per day
<i>Building Official</i>	89	1.5
<i>Plans Review</i>	79	2.5
<i>Inspector</i>	69	6

Exhibit "C"
Turnaround Time for
Plan Checks

Type of Job	Turnaround Time First Check	Turnaround Time Re- Check
Residential		
New Construction	10 working days or less	5 working days or less
Addition	5 working days or less	5 working days or less
Remodel	5 working days or less	5 working days or less
Type of Job	Turnaround Time First Check	Turnaround Time Re- Check
Non-Residential		
New Construction	10 working days or less	5 working days or less
Addition	5 working days or less	5 working days or less
Remodel	5 working days or less	5 working days or less

EXHIBIT "D"

INSURANCE

A. General

Before starting and until acceptance of the work by the City, the CONTRACTOR shall procure and maintain insurance of the types and to the limits specified in Section "B", paragraphs (1) to (4) inclusive below. All insurance policies herein required of the CONTRACTOR shall be written by company duly authorized and licensed to do business in the State of Florida and be executed by same agents, thereof, duly licensed as agents in said State.

The CONTRACTOR shall require each of his subcontractors to procure and maintain, until completion of that subcontractor's work, insurance of the types and to the limits specified in Section "B", paragraphs (1) to (4) inclusive below. It shall be the responsibility of the CONTRACTOR to ensure that all his subcontractors meet these requirements.

B. Coverage

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

1. Workers' Compensation – Coverage to apply for all employees at the STATUTORY limits in accordance with Florida law.
2. Commercial General Liability – Coverage must be afforded that includes bodily injury, including death and property damage, in an amount *not less than* \$1,000,000 combined single limit per occurrence. This policy must also cover premises and/or operations, independent contractors, products and/or completed operations.
3. Business Automobile Policy – Coverage must be afforded including coverage for all Owned vehicles, and Hired/Non-Owned vehicles that includes bodily injury and property damage in an amount *not less than* \$1,000,000 per accident and in the aggregate.
4. Professional Liability – Coverage must be afforded, under an "occurrence" form policy or "claims made" form in an amount *not less than* \$1,000,000/Architects and Engineers E&O. It is required that Professional Liability Insurance coverage be provided for all acts and omissions that occur during the term of the Agreement. If this coverage is written as a "claims made" form, proof of extended reporting period coverage is required.

C. Certificates of Insurance

The Contractor shall provide all Certificates of Insurance to the City with a thirty (30) day notice of cancellation, non-renewal, or reduction in coverage provision. Certificates of all insurance required from the CONTRACTOR shall be filed with the City of Green Cove Springs before operations are commenced. The insurance indicated on the Certificate shall be subject to its approval for adequacy and protection. The Certificate will state the types of coverage provided, limits of liability and expiration dates. The required Certificates of Insurance may refer specifically to this Agreement and Section and the above paragraphs in accordance with which such insurance is being furnished, and may state that such insurance is as required by such paragraphs of this Agreement.

The Certificate should also indicate if coverage is provided under a "claims made" or "per occurrence" form. If any coverage is provided under claims made form, the Certificate will show a retroactive date, which should be the same date of the Agreement (original if Agreement is renewed) or prior.

If the initial insurance expires prior to the completion of the work, renewal Certificates shall be furnished thirty (30) days prior to the date of their expiration.

EXHIBIT "E"

SAMPLE WORK ORDER

PROFESSIONAL ENGINEERING SERVICES AGREEMENT

WORK ORDER NO.: _____ (For tracking purposes only, to be assigned by the CONTRACTOR after execution).

PURCHASE ORDER NO.: _____ (For billing purposes only, to be assigned by the CITY after execution.)

PROJECT NAME: _____

CITY: CITY OF GREEN COVE SPRINGS, a political subdivision of the State of Florida

PROJECT MANAGER: _____

CONTRACTOR: _____

CONTRACTOR'S ADDRESS: _____

Execution of the Work Order by the CITY shall serve as authorization for the CONTRACTOR to provide for the above project, professional services as set out in the Scope of Services attached as Exhibit "A Section 1", to that certain Agreement dated _____ day of _____, 2019 between the CITY and the CONTRACTOR and further delineated in the specifications, conditions and requirements stated in the following listed documents which are attached hereto and made a part hereof.

ATTACHMENTS (Check all that apply):

- DRAWINGS/PLANS/SPECIFICATIONS
- DETAILED SERVICES AND TASKS FOR PROJECT OR STUDY
- SPECIAL CONDITIONS
- _____

The CONTRACTOR shall provide said services pursuant to this Work Order, its attachments and the above-referenced Agreement, which is incorporated herein by reference as if it had been set out in its entirety. Whenever the Work Order conflicts with said Agreement, the Agreement shall prevail.

TIME FOR COMPLETION: The work authorized by this Work Order shall be commenced upon receipt of a Purchase Order by the CONTRACTOR and shall be completed within (_____) calendar days from receipt of a Purchase Order by the CONTRACTOR.

METHOD OF COMPENSATION:

- (a) This Work Order is issued on a:
- "Lump Sum Basis"
 "Hourly Rate Basis" with a "Not-to-Exceed" amount
 "Hourly Rate Basis" with a "Limitation of Funds" amount
- (b) If the compensation is based on a "Lump Sum Basis," then the CONTRACTOR shall perform all work required by this Work Order for the sum of _____ DOLLARS (\$_____). In no event shall the CONTRACTOR be paid more than the "Lump Sum Fee" Amount.
- (c) If the compensation is based on an "Hourly Rate Basis" with a "Not-to-Exceed" Amount, then the CONTRACTOR shall perform all work required by this Work Order for a sum not exceeding _____ DOLLARS (\$_____). The CONTRACTOR'S compensation shall be based on the actual work required by this Work Order.
- (d) If the compensation is based on an "Hourly Rate Basis" with a "Limitation of Funds" Amount, then the CONTRACTOR is not authorized to exceed the "Limitation of Funds" amount of _____ DOLLARS (\$_____) without prior written approval of the CITY. Such approval, if given by the CITY, shall indicate a new "Limitation of Funds" amount. The CONTRACTOR shall advise the CITY whenever the CONTRACTOR has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the "Limitation of Funds" amount. The CITY shall compensate the CONTRACTOR for the actual work performed under this Work Order.

The CITY shall make payment to the CONTRACTOR in strict accordance with the payment terms of the above-referenced Agreement.

It is expressly understood by the CONTRACTOR that this Work Order, until executed by the CITY, does not authorize the performance of any services by the CONTRACTOR and that the CITY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONTRACTOR to perform the services called for under this Work Order if it is determined that to do so is in the best interest of the CITY.

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this ____ day of _____, 2011, for the purposes stated herein.

Charles Abbott and Associates

Witness

By: _____
Tim Inglis, CBO, Director

CITY OF GREEN COVE SPRINGS

Witness

By: _____
Steve Kennedy, City Manager

Date: _____

EXHIBIT "F"
Charles Abbot and Associates Proposal for
Building Official, Plan Review and Building Inspection Services



“Helping public agencies provide effective and efficient municipal services to improve communities since 1984”

Proposal for

**Building Official, Plan Review and Building
Inspection Services**

City of Green Cove Springs

321 Walnut Street
Green Cove Springs, FL 32043

Charles Abbott Associates, Inc.

3001 North Rocky Point Drive East, Suite 200
Tampa, FL 33607
Toll Free: (866) 530-4980

www.caaprofessionals.com

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LETTER OF INTEREST AND INTRODUCTION

Charles Abbott Associates, Inc. (**CAA**) is pleased to submit a proposal for **Building Official, Plan Review and Building Inspection Services** to the City of Green Cove Springs (City).

CAA is a professional services consulting firm specializing in providing Building & Safety, Fire Prevention, Engineering and Environmental Services. For more than 35 years, **CAA** has been fulfilling its mission in helping municipal governments and regional government agencies **deliver services more efficiently**. **CAA** is able to consistently achieve **high standards of service** as a direct result of the company's commitment to nurturing a team of professionals with an exceptional work attitude, mind-set, experience and skills that are unique to **CAA**. Each staff member is highly trained and extremely conscientious when it comes to carrying out the corporate mission of providing unsurpassed customer service.

CAA will provide the City with a team of **highly qualified, licensed, and certified individuals** to support your Building Services needs. We have daily pick-up and delivery or complimentary over-night mail service of plans available in addition to web based digital review throughout the life of the contract. This along with the availability of our local resources will allow us to respond quickly to the City's needs. Our staff is technically qualified, trained, properly licensed and certified to provide all services to meet your needs, including public or private project plan review, structural plan review, building code compliance review, and building inspections. Our business model will ensure that resources will always be available to the City, thereby ensuring **staff continuity and consistency** at the City.

We pledge the full resources and backing of our firm to assure that the City has the most efficient and cost effective Building Services strategy available. Our proposed team is comprised of highly qualified and customer-service oriented people able to handle all aspects of the City's residential and commercial plan review and inspections process. **CAA** employs only highly qualified licensed and registered professionals with extensive construction experience who are properly licensed by the State of Florida. Our staff is technically qualified, trained, properly licensed and certified to provide all anticipated inspection and plan review services in accordance with FEMA/NFIP Standards, Local Floodplain regulations, and the requirements outlined in the Florida Building Code. Our plan review staff works closely with engineers, architects, and designers, providing greater insight as to the constructability of design and the adherence to State and Federal codes, rules and regulations, Florida Land Development Regulations (LDRs) and acceptable building practices. Our staffing levels ensure that inspections and plan reviews are always conducted in an efficient and courteous manner, both responsive to the City and the public's needs. And when workload demands increase, **CAA** has the ability to add certified and qualified staff to meet that increase in workload.

Most of our plans examiners are cross-trained and also certified as inspectors, providing a very efficient use of personnel and expediting the process for the applicant. All work will be performed under the direction of a **Florida licensed Building Official** who will conduct inspections and review plans for compliance with all applicable codes, regulations, guidelines, and permits as required. We have experience in a full range of different types and sizes of developments, ranging from single family dwellings to rural

properties to master planned communities, mixed use developments, planned unit developments and industrial/commercial business parks.

Key Personnel

Mr. Tim Inglis, CBO, is the project manager selected to work with the City to ensure that our policies, procedures, and manpower will provide the level of service the City desires. He will supervise the project and maintain continuous communication with the City to ensure the City is **100% satisfied** with our staff, our turnaround times, the quality of our work, and the overall teamwork between our staff and yours.


Name and Title: Mr. Tim Inglis, CBO, Director
Phone: (470) 421-0046
Email: timinglis@caaprofessionals.com
Website: www.caaprofessionals.com

The **CAA** professional who will be assigned to the City, **Mr. Bill Golberg**, holds all required standard certifications in the inspection and plan examiner disciplines.

Authorized Signature

Should the City have any questions or require additional information, please contact Tim or myself.

Sincerely,


Rusty R. Reed, President

COMPANY PROFILE

“Providing the public sector with unsurpassed quality of service by investing in the development of our employees.”

This was the solid foundation Charles Abbott Associates, Inc. (**CAA**) was built on when its founder Charles Hugh Abbott, Jr. founded the company in 1984. More than 35 years after its launch as a contract service provider to state and local government agencies, CAA has not swayed from this foundation.

Increasingly, state and local governments are looking to leverage the flexibility, competency and efficiency of Public-Private Partnerships or Alternative Service Delivery, and with good reason. Considering that particularly building services often prove to be a major financial drain on budgets due to their inherently fluctuating nature, many cities now choose to outsource these services to a third party service provider like **CAA**. This often results in faster project completions and reduced delays which, combined with the **CAA's** level of expertise, quickly turns into **measurable ROI and efficiencies** for the City.

Over the years, the company has earned a reputation for consistently high standards of service as a direct result of nurturing a team of professionals with an exceptional work attitude, mind-set, experience and skills that are unique to **CAA**. Our staff regularly attends and sponsors training courses, seminars, and conferences to ensure staff is up-to-date on the most relevant issues in the industry. As an example of these advanced industry-training standards, the International Code Council (ICC) has recently recognized **CAA** as a **Preferred Provider**, only the 14th entity in the Country to receive such recognition.

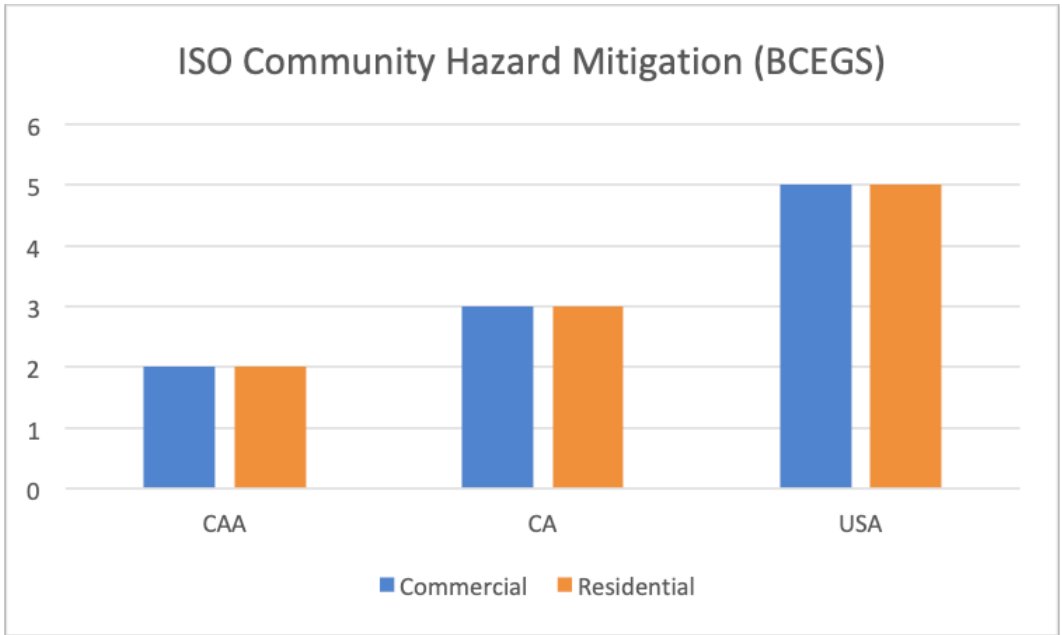


Charles Hugh Abbott, Jr
1941-1999

COMPANY QUICK FACTS

- Over 35 years experience in serving the public sector
- Worked on over 1,000 projects since 1984
- Proven capabilities in building and safety, engineering, public works, environmental and fire protection
- Offices in Florida, California, Nevada, Georgia, Arizona, Texas, Colorado, and South Carolina.
- More than 200 full-time, fully credentialed and trained staff
- Credibility, financial strength and resources of a fully-licensed firm that has been involved with BILLIONS of dollars worth of construction projects
- Projects in over 75 cities and counties

CAA's Certified Building Officials have also assisted jurisdictions in achieving high **Insured Services Office (ISO)** ratings. The ISO assesses each community on a scale of 1 to 10 with regards to the administration and enforcement of the building codes and mitigation of losses from natural hazards. In Georgia, for example, **CAA's** building departments are rated in the **top 1%** of Georgia's ISO ratings, whereas in California, **CAA** received a company rating of **"2"** for all of our California Cities, with "1" being the highest. These ISO ratings illustrate **CAA's** commitment to mitigating losses and enforcing codes to improve safety in our communities.



Legal Name and Information

Company Name: Charles Abbott Associates, Inc. (CAA)

Date of Incorporation: 1984

Years in Business: 35

Main Office: 27401 Los Altos, #220
Mission Viejo, CA 92691

Local Office: 3001 North Rocky Point Drive East, Suite 200
Tampa, FL 33607

Entity Type: Corporation

Federal Tax ID: 33-00753899

Number of Employees: 210

Certified Minority Business: No

Description of Business: CAA is a professional services consulting firm specializing in providing Building Safety Department, Fire Prevention Services, Engineering and Environmental Services.

Resources:

CAA employs a fully credentialed, cross-trained staff that effectively meets our engineering and building and safety commitments to our clients. Each one of our team members has worked on similar projects and has served the public sector for many years. CAA's proposed staff has many years of experience analyzing and reviewing plans and related submittal documents for compliance with state and local codes and amendments, and is properly licensed through the Florida Department of Business and Professional Regulation. Mr. Golberg will be the dedicated resource to the City, and will be available during designated business hours as needed. He will be supported by Mr. Tim Inglis, CBO, Regional Director, Allen Posey, CBO, MCP, and Steve Ahuna, PE, CBO, as needed.

EXPERIENCE AND SPECIFIC CAPABILITIES

Company History

Since 1984, CAA has been providing a growing number of cities and counties with outstanding Building Services. Over the years, our vast knowledge, experience, and proven ability to satisfy the needs of cities, towns, and counties of all sizes has earned us the reputation of being one of the most qualified firms in the industry. Our Project Team brings many years of related project experience together with an expertise in the development and management of similar services, making CAA exceptionally well qualified to provide the requested services to the City as described in our submittal. We will provide the City with a team of highly experienced, licensed, and certified individuals to support your Building Permitting and Inspection Service needs. Our staff is technically qualified, trained, properly licensed and certified to provide all anticipated services, including permitting, records management, and building inspections as well as plan review. Additionally, we are able to add qualified personnel at any time should workload demands increase.

CAA's concept of delivering high quality service is different than other companies who provide similar functions. CAA will provide on-site staff to bridge the disconnect that can occur between cities and contracted service providers. This method of service delivery has allowed us to retain our first client of 33 years, and we continue to be regularly commended for the staff's commitment to excellent customer service by our other clients, as well.

CAA has grown to a full-time staff of over 200 employees not only comprised of building & safety experts, but also highly trained professionals who are able to balance regulatory requirements, cost effectiveness, political considerations, and practicality when advising our clients. CAA always looks for creative solutions for our clients' needs, and we are committed to cost effectiveness without sacrificing quality. CAA maintains well qualified and educated inspectors and plan checkers who are properly licensed by the Florida Department of Business and Professional Regulation. The staff regularly attends training courses, seminars, and conferences to ensure they are up-to-date on the most relevant issues in the industry.

Qualifications and Experience

CAA employs a fully credentialed, cross-trained staff that effectively meets our engineering and building and safety commitments to our clients. Each one of our team members has worked on similar projects and served the public sector for many years. CAA's proposed staff has many years of experience analyzing and reviewing plans and related submittal documents for compliance with state and local codes and amendments. Our team of highly qualified engineers, inspectors and plan review staff are well trained, experienced and familiar with the adopted codes.

CAA has been a professional services consulting firm specializing in providing Building & Safety, Fire Prevention, Engineering and Environmental Services since 1984. Since then, CAA has been fulfilling its mission in helping municipal governments and regional government agencies deliver services more efficiently. Our sole business model is providing supplemental and full-service support to municipal

governments in the form of plan checking, inspections, and building code administration. Our Plan Review Service is provided by full-time and part-time plan reviewers, civil as well as structural and non- structural reviewers. CAA provides electronic plan review as well as daily pick-up and delivery of more complex plans and specifications via a shipping service at no additional cost to the City. Plans will be picked up and logged in the CAA plan review tracking system before being routed to the appropriate plan reviewer for review. The following table lists some of the services we provide to meet the needs of our clients:

SERVICE ROLES	SERVICES
<ul style="list-style-type: none"> • Building Official • Building Inspector • Code Compliance Officer • Public Counter Technician • Public Works Director • City Engineer • Plan Checker • Fire Prevention Specialist/Inspector • Map Check Surveyor • Certified Environmental Trainers • Project/Construction Engineer • Landscape Manager/Supervisor • Landscape Architect • Redevelopment Agency Engineer • Assessment Engineer • Traffic Engineer • CASP Certified Specialist 	<ul style="list-style-type: none"> • Building & Safety Administration • Plan Review • Building Inspections • Accessibility Assessments • Grading and Improvement Review • Environmental Assessments • Municipal NPDES Programs • NPDES Review • Public Works Administrative Services • Public Works Contracting • Work Management and Budgeting Systems • Organizational/Personnel Audits • Evaluation of Fee Structures • Grant/Funding Applications • AB 939 Implementation • Pavement Management • Asset Management

CAA’s concept of delivering high quality service is different than other companies who provide similar functions. CAA will provide on-site staff to bridge the disconnect that can occur between cities and contracted service providers. This method of service delivery has allowed us to retain our first client of 34 years, and we continue to be regularly commended for the staff’s commitment to excellent customer service by our other clients, as well.

Since our incorporation in 1984, CAA has grown to a full-time staff of over 200 employees. Our proposed team is not only comprised of building & safety experts, but also highly trained professionals who are able to balance regulatory requirements, cost effectiveness, political considerations, and practicality when advising our clients. CAA looks for creative solutions for our clients’ needs, and we are committed to assuring cost effectiveness without sacrificing quality.

Unique Strengths

Charles Abbott Associates, Inc. (CAA) has been a national contract service provider to local government agencies since 1984. We were founded to meet the needs of municipalities just like Green Cove Springs, and are highly skilled and experienced at

providing the right services at the right time to ensure the City's building services are operating smoothly and efficiently.

CAA is the most qualified municipal services provider for cities who want services above and beyond the industry standard. Our aim is to excel by providing unsurpassed customer service, and our exceptional customer service has given us the reputation of being one of the best in the industry. For the last 34 years, CAA has been selectively expanding its client base to cost conscious agencies that appreciate consultants who perform better than expected.

Many cities and counties share the problem that they do not have enough construction to justify a full-time staff. Others have a tough time adjusting to peak demand periods without unnecessary and inefficient staffing up. CAA is the answer. Our staff will provide prompt and professional service to the citizens of your community, and we are able to adjust our staffing based on the workload demand of the City.

Service Above and Beyond

CAA employees believe that just doing a "good" job is not always enough for our clients. Our aim is to excel. This means that we do not function simply by the language of our contract with the City, but that we constantly look out for the general good of the City, local neighborhoods, and its residents.

Customer Service

Our employees are passionate about customer service. In performing our duties we are always willing to meet with clients for pre-design meetings, pre-submittal meetings, or as needed to resolve complex code related plan review issues in the most efficient manner possible. In addition, the staff at CAA brings a can-do attitude to their work - always focused on efficiency and project success.

Responsive Project Management

By providing a cooperative work environment with all of the entities responsible for project approval, we form a collaborative working relationship that centers on successful project processing. We have the know-how to work closely with other City departments and outside agencies, resulting in a timely, seamless and efficient development approval process. We minimize surprises that can lead to costly delays due to plan revisions late in the approval process by beginning work early with the project design team involved with major construction projects.

Availability to Meet with the City

If required, CAA staff will be available to meet with City staff, the design team, applicants, and/or contractors at the City's request to discuss and resolve plan review and code related issues. Our staff can be available to meet with the City's staff within 24 hours of notice. Those meetings will be attended by our staff at no additional cost.

Project Staff

CAA's organizational culture empowers our project managers to act on the client's behalf immediately, without interference from a larger organizational structure. Empowering our project managers allows us to provide clients with the individual attention that only a small organization can deliver. At the same time, we maintain the advantages of a larger organization because we have the expertise needed when a situation requires special attention. Every member of the Project Team assigned to work

with the City is licensed in the State of Florida and able to perform the requested work. Bill Golberg, the designated Building Official for the City, is a CBO, CFM, MCP, and MCEP with many years of experience in working with Florida municipalities. He has previously served as Building Official for The Cities of Crystal River, Brooksville and, Weeki Wachee, as well as the Building and Zoning Official for the City of Port Richey.

Innovations in Service Delivery

CAA continuously strives for innovations to improve public services. Government must be more accessible to the citizens, more convenient, timelier in responses, more cost effective, and performance oriented. Accountability in government has never been higher than it is today. We want to be your partner in delivering exceptional public service and promoting the City. We pledge the full resources and backing of our firm to ensure that the City is able to deliver outstanding, cost-effective public service of the highest quality. CAA believes that embracing technology improves efficiency, provides a more comprehensive level of customer service, and is the key for success both now and in the future. As part of that effort, CAA offers to provide the following to the City:

- ✓ Our standard version of 84Works, a customized Permit Issuance and Inspection Tracking tool with a user- friendly software system that allows for an efficient and accountable level of service to be delivered to the City and contractors.
- ✓ Ability to utilize drones for physically difficult inspections
- ✓ Ability to employ electronic plan review to shorten turn around times and improve communication

Technology

CAA believes that embracing new technologies improves efficiency, provides a more comprehensive level of customer service, and is the key for success both now and in the future. Investing in new technology generates excitement, fosters growth and ideas, enhances communication and ultimately lowers the cost of service delivery.

Staff Training

Maintaining high quality services is what has made CAA as successful as we are today. CAA becoming an ICC Preferred Provider underscores our commitment to outstanding quality. We understand that having experienced and qualified personnel is a fundamental requirement of being able to delivery quality service to our clients, and we place considerable effort in attracting and retaining our highly trained staff.

Integration Plan

CAA prides itself on being a “team player” in each municipal service engagement. We train our staff to recognize that citizens of the community, City staff and other consultants are our customers and, as such, deserve our best efforts to respond, assist, support, and work hand-in-hand.

CAA assures you that our team members will learn and keep up to date on City policies and procedures as we commence the engagement. CAA staff will strictly adhere to your policies and procedures regarding confidentiality, public release of information, and communications with media. CAA values each client and our staff conducts themselves in a manner not to bring attention to CAA but rather to always put the City in favorable public light.

Permitting Software

CAA offers to provide the City with a standard version of CityTech Solutions software, our own customized Permit Issuance and Inspection Tracking tool with a user-friendly software system that allows for an efficient and accountable level of service to be delivered to the City and contractors. Modifications beyond the standard system can be provided at an additional charge, if desired. This standard system will be provided at no cost to the City, and includes:



- Access to Contractor State license records.
- Ability to use iPads or comparable field tablets for technological efficiencies.
- iPads are provided to all inspectors.
- Ability to attach PDF and photos to permit file.
- Searchable database by any field.
- Report types include at minimum:
 - Daily inspection and plan review logs.
 - Inspection/plan review turnaround times.
 - Pass/fail status.
 - Revenue stream by permit type.

Date	Inspector	Permit #	Address	Inspection	Result	AM/PM	Notes	Expired date	Status	Sort
12/14/2018	Danny Oliver	2018-4466	2723 RADLUM SPRINGS RD LOCATION: DOUGHERTY COUNTY	Gas Test				+6 Months Final 6/9/2019	Issued	
12/14/2018	Danny Oliver	2018-2853	2701 OLIVIA ST LOCATION: CITY	Rough Plumbing				+6 Months Final 3/31/2019	Issued	
12/14/2018	Danny Oliver	2018-2854	2713 OLIVIA ST LOCATION: CITY	Rough Plumbing				+6 Months Final 3/31/2019	Issued	
12/14/2018	Jeremy Head	2018-4436	2303 HABERSHAM RD LOCATION: CITY	Final Building	Pass			+6 Months Final	Finalized	
12/14/2018	Jeremy Head	2018-4481	1322 MCKENZIE RD LOCATION: DOUGHERTY COUNTY	Re-Roof Final	Pass			+6 Months Final	Finalized	
12/14/2018	Jeremy Head	2018-3836	3112 WAR EAGLE DR LOCATION: DOUGHERTY COUNTY	Final Building	Pass			+6 Months Final	Finalized	
12/14/2018	Jeremy Head	2018-3836	3112 WAR EAGLE DR LOCATION: DOUGHERTY COUNTY	Final Electrical	Pass			+6 Months Final	Finalized	
12/14/2018	Jeremy Head	2018-4063	2804 W. DOUBLEGATE DR. LOCATION: CITY	Rough Framing			Greg 869.4207	+6 Months Final 5/18/2019	Issued	
12/14/2018	Jeremy Head	2018-4495	125 PINE AVE LOCATION: CITY	Final Building			Larry 344.1611	+6 Months Final 6/10/2019	Issued	
12/14/2018	Danny Oliver	2018-1131	112 PINE AVE LOCATION: CITY	Other		AM	Light test @ shop	+6 Months Final 5/15/2019	Issued	
12/14/2018	Danny Oliver	2018-1336	3512 MOULTRIE RD LOCATION: DOUGHERTY COUNTY	Final Mechanical		PM	2 pm	+6 Months Final 6/12/2019	Issued	
12/14/2018	Danny Oliver	2018-1336	3512 MOULTRIE RD LOCATION: DOUGHERTY COUNTY	Final Plumbing		PM	2 pm	+6 Months Final 6/12/2019	Issued	
12/14/2018	Jeremy Head	2018-1336	3512 MOULTRIE RD LOCATION: DOUGHERTY COUNTY	Final Electrical		PM	2 pm	+6 Months Final 6/12/2019	Issued	
12/14/2018	Jeremy Head	2018-1336	3512 MOULTRIE RD LOCATION: DOUGHERTY COUNTY	Final Building		PM	2 pm	+6 Months Final 6/12/2019	Issued	

Personnel

We have assembled a project team with the skills and qualifications necessary to serve the City successfully. This team of highly qualified and experienced staff has provided similar services to many cities and counties, and brings numerous combined years of related experience to the table.

Rusty R. Reed, P.E

Principal-in-charge/ Chief Executive Officer/President

Years of Experience

42+

Education

B.S., Civil Engineering, University of Illinois

Registration

Civil Engineer in California, Arizona, Florida, Georgia, Texas, Utah, Colorado, and South Carolina

License

General Contractor "A" – California

Mr Reed is the President of Charles Abbott Associates, Inc. He directs the firm's business affairs and oversees all client services. Mr Reed is involved in all aspects of Environmental Services, Building and Safety, City Engineering, Planning, Public Works, Capital Improvement Programs and Redevelopment for CAA's municipal clients. He is directly accessible to all our clients to ensure that performance standards, schedule and budget targets are met.

Previous Project Experience

- Wrote and identified codes, ordinances, and resolutions for implementation.
- Administered city design services for preparation of plans, specifications, and construction; managed and administered engineering and public works permit procedures, inspection services and records.
- Administered the implementation of Public Works Maintenance Contracts.
- Developed short and long-range capital improvement programs, and coordinated and identified methods of funding.
- Served as Town Engineer for the Town of Apple Valley for over 15 years.

KEY QUALIFICATIONS

- Registered Civil Engineer
- Municipal Background
- Hands-on Engineering Experience
- Project Oversight
- Project Commitment

Tim Inglis, CBO

Regional Director

Years of Experience

20+

Education

M.P.A. in Public Administration, Georgia Southern University
B.S. in Construction Management, Georgia Southern University

Certifications

ICC Certified Building Official
ICC Certified Building Code Specialist
ICC Certified Zoning Inspector
ICC Certified Building Inspector
ICC Certified Housing Code Official
ICC Certified Building Code Official
ICC/AACE Property Maintenance and Housing Inspector
ICC Certified Residential Combination Inspector
ICC Certified Accessibility Inspector/Plans Examiner
ICC Certified Building Plans Examiner
NAHB Certified Green Professional
AEE Building Analyst Professional

Professional Memberships

National Contract Management Association
International Code Council (ICC)
Association of Energy Engineers
Greater Atlanta Home Builders Association

KEY QUALIFICATIONS

- Extensive Building & Community Development Experience
- Public Works Management Experience
- Very Strong Project and Program Management Capabilities
- Planning/Organizational Development

Mr. Inglis has worked in the building and community development profession for over 20 years. He has been employed in the private sector since 2006, successfully bringing a modern approach to building inspection programs to cities and counties across the State of Georgia. Specifically, he worked to successfully lead the transition of the newly incorporated cities in North Fulton as well as the City of South Fulton from the traditional county model to a more efficient and effective privatized model. During his career, he has been involved with several large projects such as the KIA Manufacturing Plant in WestPoint, the Performing Arts Center in Newnan, the JCB Manufacturing Plant in Pooler, and the Recreation and Athletic Complex in Young Harris.

Ron Grider, PE, CBO, OSD

Regional Director

Certified Building Official/Plans Examiner/Inspector

Years of Experience

35+

Education

B.S., Civil Engineering, California State University, Los Angeles

Professional Licenses

Professional Engineer GA, CA, CO, FL, NV

Certifications

CALBO Certified Building Official
 ICC Certified Building Official (0878901-CB)
 IAEI Certified Electrical Inspector
 ICC Certified Building Inspector (0878901-B5,K1,10)
 ICC Certified Electrical Inspector (0878901-K2,E5)
 ICC Certified Mechanical Inspector (0878901-M5,K4,44)
 ICC Certified Plumbing Inspector (0878901-P5,K3,34)
 ICC Certified Plans Examiner (878901-K6)
 ICC Certified Combination Inspector (0878901-K8,K4,C8,50)
 ICC Certified Combination Dwelling Inspector (0878901-R5,56)
 OES/CALEMA DISASTER SERVICE WORKER (61525)
 Level II Certified Design Professional

KEY QUALIFICATIONS

- Extensive Project Management Experience
- Registered Civil Engineer in CO, NV, CA, FL, and TX
- Municipal Experience
- Hands-on Public Works Experience
- Extensive Plans Review Experience
- Multiple Certifications

Mr Grider has over 35 years of construction, public works, and building & safety experience. He has held the position of Building Official, County Engineer, Sr. Engineering Manager as well as numerous other key positions in the field. Well known in the public sector as a compassionate leader focused on customer service, he is routinely involved in the presentation of building code, engineering principles and advancing the cause of preventing life loss and protecting property in Georgia, Nevada and California. As Director for CAA, he directs the services CAA provides in building and safety, engineering, and fire prevention. He is also responsible for quality control and evaluation.

Professional Memberships & Affiliations

Services Office (ISO) Compliance Member American Society of Civil Engineer
 Member Structural Engineers Association of Southern California (SEAOSC)
 Member Structural Engineers Institute (SEI)
 Member California Building Officials (CALBO)
 Member International Code Council (ICC)
 Safety Assessment Emergency Services – State of California SAPC61525

Bill Golberg, CBO, CFM, MCP, MCEP

Inspector/Plans Examiner

Years of Experience

30+

Education

A.A.S in Engineering
Extensive trade and technical schooling

License

Plumbing Contractor (RF0066416)
Florida Standard Inspector (BN3173)
Florida Standard Plans Examiner (PX1387)
Florida Standard Building Code Administrator (BU1685)
GSWCC Levels 1a, 1b and 2 (54550)

Professional Affiliations

ICC, BOAF, FFMA, ASFPM, AACE, FAPMGI

Certifications

ICC Accessibility Inspector/Plans Examiner
ICC Building Inspector
ICC Building Plans Examiner
ICC Certified Building Code Official
ICC Certified Building Official
ICC Certified Housing Code Official
ICC Certified Mechanical Code Official
ICC Certified Plumbing Code Official
ICC Coastal and Floodplain Construction Inspector
ICC Combination Inspector
ICC Commercial Combination Inspector
ICC Commercial Electrical Inspector
ICC Disaster Response Inspector
ICC Electrical Inspector
ICC Residential Energy Inspector/Plans Examiner
ICC Mechanical Inspector
ICC Electrical Plans Examiner
ICC Master Code Professional
CC Electrical Code Official

KEY QUALIFICATIONS

- Multiple Certifications
- Hands-On Contractor Experience
- Plumbing Contractor
- Supervisory Experience
- Extensive knowledge of building codes, regulations and construction industry standards
- Excellent Interpersonal Skills
- Code Enforcement Experience

ICC Combination Plans Examiner
ICC Residential Plans Examiner
ICC Fuel Gas Inspector
ICC Mechanical Plans Examiner
ICC Plumbing Inspector
ICC Plumbing Plans Examiner
ICC Residential Combination Inspector
ICC Residential Electrical Inspector
ICC Residential Energy Inspector/Plans Examiner
ICC/AACE Code Enforcement Officer
ICC/AACE Code Enforcement Administrator
ICC/AACE Master Code Enforcement Professional
ICC/AACE Property Maintenance and Housing Inspector
ICC/AACE Zoning Inspector
FDEP Storm Water Management Inspector (#25939)
Certified Floodplain Manager (US-12-06545)

Mr. Golberg has over 20 years of Building & Safety and contractor experience. In the past, he has supervised the daily operations of the Building, Zoning and Licensing Department as well as performed inspections and plan reviews for multiple cities in Florida. He has extensive experience performing inspections and reviewing plans for all

residential, commercial and industrial buildings and structures. He also has experience with Building and Life Safety Departments, Code Enforcement and Licensing Departments. Additionally, he has conducted inspector training.

Recent Project Experience

- Interim Building Official, Commercial Building Inspector and Plans Reviewer for the City of Forest Park, GA
- Disaster Recovery, Commercial Building Inspector for the City of Wheat Ridge, CO
- Commercial Building Inspector multiple jurisdictions Ventura and Orange County, CA
- Overflow Commercial Plan Reviewer
- Building and Zoning Official for the City of Port Richey, FL
- Building Official for the Cities of Crystal River, Brooksville and Weeki Wachee, FL
- Building Official for the City of Lagrange, GA
- Chief Plumbing Inspector/Examiner for Pasco County, FL
- Plumbing/Combination Inspector/Examiner for Pasco County, FL

Verified Candidate



[Search Again](#)

Customer Name:

William Golberg

Account Number:

5179424

Certifications:

Expires:

03/28/2022	Combination Plans Examiner
03/28/2022	Electrical Inspector
05/05/2022	Commercial Energy Inspector
03/28/2022	Residential Mechanical Inspector
09/10/2021	Mechanical Plans Examiner
03/28/2022	Plumbing Code Official
03/28/2022	Residential Electrical Inspector
03/28/2022	Combination Inspector
03/28/2022	Commercial Electrical Inspector
03/28/2022	Disaster Response Inspector
09/10/2021	Mechanical Code Official
09/10/2021	Housing Code Official
03/28/2022	Residential Building Inspector
03/28/2022	Electrical Plans Examiner
09/10/2021	Commercial Combination Inspector
03/28/2022	Residential Combination Inspector
03/28/2022	Coastal and Floodplain Construction Inspector
03/28/2022	Fuel Gas Inspector
03/28/2022	Residential Plumbing Inspector
03/28/2022	Mechanical Inspector
03/28/2022	Building Plans Examiner
03/28/2022	Certified Building Official
03/28/2022	Electrical Code Official
09/10/2021	Building Code Official
09/10/2021	Plumbing Inspector
09/10/2021	Building Inspector
09/10/2021	ICC/AACE Code Enforcement Officer
03/28/2022	ICC / AACE Property Maintenance and Housing Inspector
03/28/2022	Residential Energy Inspector/Plans Examiner
03/28/2022	Residential Plans Examiner
03/28/2022	Residential Fire Sprinkler Inspector/Plans Examiner
09/10/2021	ICC/AACE Code Enforcement Administrator
09/10/2021	Zoning Inspector
03/28/2022	Master Code Professional
05/05/2022	Commercial Energy Plans Examiner
03/28/2022	Plumbing Plans Examiner
03/28/2022	Accessibility Inspector/Plans Examiner
05/07/2021	Building Code Specialist
06/12/2021	Plumbing Code Specialist
06/18/2021	Electrical Code Specialist
06/18/2021	Mechanical Code Specialist
08/24/2021	Housing and Zoning Code Specialist



Log On

Home

9:55:42 AM 2/14/2018

- Search for a Licensee
- Apply for a License
- View Application Status
- Find Exam Information
- File a Complaint
- AB&T Delinquent
- Invoice & Activity
- List Search

Licensee Details

Licensee Information

Name: **GOLBERG, WILLIAM JOSEPH (Primary Name)**
 Main Address: ***Private Address* *Private Address***
Private Address
Private Address
Private Address

License Mailing:

LicenseLocation:

License Information

License Type: **Standard Inspector**
 Rank: **Inspector**
 License Number: **BN3173**
 Status: **Current,Active**
 Licensure Date: **04/03/1998**
 Expires: **11/30/2019**

Special Qualifications

Qualification Effective

Coastal Construction	02/22/2016
Electrical Inspector	04/05/2011
1&2 Family Dw	04/20/2010
Mechanical	04/05/2011
Plumbing	

Alternate Names

ALL PLUMBING INC

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Log On Home 9:56:40 AM 2/14/2018

- Search for a Licensee
- Apply for a License
- View Application Status
- Find Exam Information
- File a Complaint
- AB&T Delinquent
- Invoice & Activity
- List Search

Licensee Details

Licensee Information	
Name:	GOLBERG, WILLIAM JOSEPH (Primary Name)
Main Address:	*Private Address* *Private Address* *Private Address* *Private Address* *Private Address*
License Mailing:	
LicenseLocation:	

License Information	
License Type:	Building Code Administrator
Rank:	Building Code A
License Number:	BU1685
Status:	Current,Active
Licensure Date:	12/07/2009
Expires:	11/30/2019

Special Qualifications	Qualification Effective

Alternate Names
ALL PLUMBING INC

[View Related License Information](#)
[View License Complaint](#)

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Home

9:56:58 AM 2/14/2018

- Search for a Licensee
- Apply for a License
- View Application Status
- Find Exam Information
- File a Complaint
- AB&T Delinquent
- Invoice & Activity
- List Search

Licensee Details

Licensee Information

Name: **GOLBERG, WILLIAM JOSEPH (Primary Name)**

Main Address: ***Private Address* *Private Address***
Private Address
Private Address
Private Address

License Mailing:

LicenseLocation: ***Private Address* *Private Address***
Private Address
Private Address
Private Address

License Information

License Type: **Standard Plans Examiner**

Rank: **Plans Examiner**

License Number: **PX1387**

Status: **Current,Active**

Licensure Date: **04/03/1998**

Expires: **11/30/2019**

Special Qualifications

Qualification Effective

Mechanical **04/05/2011**

Plumbing

Alternate Names

ALL PLUMBING INC

[View Related License Information](#)

[View License Complaint](#)

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Log On

Home

9:57:31 AM 2/14/2018

- Search for a Licensee
- Apply for a License
- View Application Status
- Find Exam Information
- File a Complaint
- AB&T Delinquent
- Invoice & Activity
- List Search

Licensee Details

Licensee Information

Name: **GOLBERG, WILLIAM JOSEPH (Primary Name)**
 Main Address: ***Private Address* *Private Address***
Private Address
Private Address
Private Address

License Mailing:

LicenseLocation:

License Information

License Type: **Standard 1 and 2 Family Dwelling Plans SFP**
 Rank: **Std 1&2 Fam Exa**
 License Number: **SFP261**
 Status: **Current,Active**
 Licensure Date: **02/22/2016**
 Expires: **11/30/2019**

Special Qualifications

Qualification Effective

Alternate Names

ALL PLUMBING INC

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Steve Ahuna, PE, CBO

Registered Civil Engineer/Certified Plans Examiner

Years of Experience

30+

Education

M.S., Applied Economics, Santa Clara University, Santa Clara, CA

B.S., Architectural Engineering, California State University, San Luis Obispo

Professional Memberships

ICC, CALBO, SEAOSC

Certifications

ICC Certified Building Official (1036330-CB)

ICC Certified Plans Examiner (1036330-B3)

ICC Certified Plans Examiner UBC (1036330-60)

OES/CALEMA Disaster Service Worker

KEY QUALIFICATIONS

- Licensed and Certified
- Certified Building Official
- Building Plans Examiner
- PE License CA, NV, FL and AZ
- Municipal Experience
- Structural and Architectural Review
- Extensive Plans Review Experience

Registration

Civil Engineer in California (C 34264), Nevada, Florida and Arizona

Mr. Ahuna has over 30 years of experience in architectural and structural review of residential and non-residential plans. He has plan review experience working for both private and municipal entities. Prior to working as a plan checker, he worked for a private consulting structural engineering firm as a design engineer for residential and non-residential buildings. He will oversee the plan review staff in the review of plans and calculations for compliance with adopted codes and any adopted amendments.

Allen Posey, CBO, MCP

Certified Fire Marshall/Building Official/Plans Examiner/Inspector/Master Code Professional

Years of Experience

37+

Education

A.S., Columbus Technical College,
Mechanical Engineering Technology

License

Florida Building Code Administrator
Florida Building Plans Examiner
Florida Electrical Plans Examiner
Florida Mechanical Plans Examiner
Florida Plumbing Plans Examiner

KEY QUALIFICATIONS

- Multiple Certifications
- Municipal Background
- Proven Conflict Resolution Skills
- Hands-On Experience with Design and Construction
- Extensive Knowledge of Codes & Regulations

Professional License

Georgia Electrical Non-Restricted Electrical Contractor
Alabama Electrical Non-Restricted Electrical Contractor
Colorado Electrical Contractor/Master Electrician
Georgia Certified Fire Marshal
Part 107 Licensed Drone Pilot

Instructor Electrical Master and Journeyman Program Independent Electrification Council

Professional Memberships

ICC, IAEI Georgia, IAEI Colorado, ICC Colorado, WGIA Georgia, MIAI Georgia, AEC Georgia

Certifications

Building Inspector	Fire inspector I
Building Plans Examiner	Property Maintenance and Housing Inspector
Building Code Official	Zoning Inspector
Certified Building Official (CBO)	Master Code Professional
Electrical Code Official	Mechanical Plans Examiner
Housing Code Official	Mechanical Inspector
Mechanical Code Official	Permit Technician
Plumbing Code Official	Plumbing Plans Examiner
Combination Inspector	Plumbing Inspector
Commercial Combination Inspector	Residential Combination Inspector
Commercial Electrical Inspector	Residential Electrical Inspector
Electrical Inspector	
Electrical Plans Examiner	

ICC/AACE Code Enforcement Administrator
 ICC/AACE Code Enforcement Officer
 Fire Inspector II
 Combination Plans Examiner
 Fire Plans Examiner
 Disaster Response Inspector
 AACE Master Code Enforcement Professional
 Commercial Energy Plans Examiner

Residential Energy Inspector/Plans Examiner
 Residential Plans Examiner
 Accessibility Inspector/Plans Examiner
 Residential Building Inspector
 Residential Mechanical Inspector
 Certified Fire Marshall
 Residential Plumbing Inspector
 Soil Erosion Inspector

Mr. Posey has over 37 years of construction, building and safety experience, with 30 years of code administration, problem solving, and material work force management experience. He has held the positions of Chief Electrical Inspector, Plans Examiner, and Building Official. He was responsible for all electrical plans examining, electrical inspections assignments, and all field inspections. Duties also included management of Permitting and Inspection Software System. Allen has inspected and plan reviewed projects including residential, commercial, education and industrial structures. He is also experienced in the implementation and training of CAA's permitting software, CityTech Solutions.

The screenshot shows the Florida DBPR Online Services interface. The header includes the Florida DBPR logo and the text 'DBPR ONLINE SERVICES'. A navigation menu on the left lists various actions like 'Search for a Licensee', 'Apply for a License', and 'File a Complaint'. The main content area displays 'Licensee Details' for 'POSEY, GLENN ALLEN (Primary Name)'. It lists personal information such as Name, Main Address (redacted with *Private Address*), License Mailing, and License Location. Below this, it shows 'License Information' including License Type (Building Code Administrator), Rank (Building Code A), License Number (BU1925), Status (Current, Active), Licensure Date (04/06/2016), and Expires (11/30/2019). There are also sections for 'Special Qualifications', 'Alternate Names', and 'View Related License Information'.

The screenshot displays the Florida DBPR Online Services interface. The header includes the Florida DBPR logo and the text 'DBPR ONLINE SERVICES'. A navigation menu on the left lists options such as 'Log On', 'Search for a Licensee', 'Apply for a License', 'View Application Status', 'Find Exam Information', 'File a Complaint', 'AB&T Delinquent', 'Invoice & Activity', and 'List Search'. The main content area is titled 'Licensee Details' and contains three sections:

- Licensee Information:**

Name:	POSEY, GLENN ALLEN (Primary Name)
Main Address:	*Private Address* *Private Address* *Private Address* *Private Address* *Private Address*
License Mailing:	
LicenseLocation:	
- License Information:**

License Type:	Standard Plans Examiner
Rank:	Plans Examiner
License Number:	PX3781
Status:	Current_Active
Licensure Date:	10/26/2016
Expires:	11/30/2019
- Special Qualifications:**

Special Qualifications	Qualification Effective
Building	12/15/2017
Electrical	10/26/2016
Mechanical	04/06/2018
Plumbing	04/07/2018

Below these sections are 'Alternate Names' (empty), a 'View Related License Information' link, and a 'View License Complaint' link.

Past Experience

CAA has over 35 years of experience providing contract services to cities and towns. The case studies below illustrate our ability to respond quickly to any increase in workload, whether caused by a spike in building activity or a natural disaster.

City of Wheat Ridge, Colorado

A western suburb of Denver, Wheat Ridge is an expansive community with an interesting mix of old and new. Although primarily a residential city, Wheat Ridge's convenient location and easy access to major thoroughfares has much to offer to the business community. In addition, the City is taking progressive steps to promote its commercial corridors, and already features several retail centers along with a large number of parks and outdoor recreation spaces.

With this growing development activity, the City started looking at alternatives to provide its building department services. In April 2017, CAA was selected to support the City with as-needed inspections to assist with any increase in building activity. Shortly thereafter, the area was hit by Colorado's most destructive hailstorm to date, with hailstones as big as baseballs pelting areas west of the Denver metro area, including Wheat Ridge, and causing a record of \$1.4 billion in damage to vehicles, buildings, and infrastructure.

One of the many advantages of utilizing a private provider for building department services is the ability of those providers to meet any sudden changes in workload with

additional staff. Immediately following the storm, inspections at the City skyrocketed from an average of 30 per day to well over 100 per day, but CAA was able to handle this increase smoothly and efficiently by bringing in up to 7 additional staff members during peak times, minimizing wait times and allowing residents to get back to normal as quickly as possible. "CAA was able to identify necessary resources from as far away as California, Nevada and Georgia so that we could meet the volume of work that was created by the storm", said Ken Johnstone, Community Development Director of the City. "By the end of the year we had issued and inspected over 7,000 residential roofs alone – over half of the single family homes in the City. We are all proud to say that we never stopped our longstanding practice of honoring next day inspections and maintained our best practice of completing mid-roof inspections in addition to final inspections".

One year after the storm, this business model has proven highly beneficial to Wheat Ridge, and CAA was hired to run the City's entire building department. Says Ken Johnstone: "We were able to negotiate an attractive pricing strategy whereby CAA retains only a portion of our various building permit and plan review revenues, and that percentage share back goes down as work volume goes up, which was very attractive to the City. We have now officially been using CAA in this full-service model since early March, 2018 and couldn't be more pleased with how CAAs commitment to customer service and professionalism is delivering on the needs of the City, its citizens and our contractor community!"

City of Albany, GA

Located on the Flint River with a population of approximately 95,000, the City of Albany is the seat of Dougherty County and the eighth-largest city in the State of Georgia. The City prides itself on being a City of Excellence and is known as the "Good Life City." Historically, the City used to provide its own Development Services for both the City and the County. But following the excessive building damage caused by tornadoes in early 2017 and the departure of the City's Building Official, the City found itself backlogged and unable to manage the additional workload effectively. Through an official RFP process, CAA was selected over the competition to provide contract Building and Safety Services to the City and County. CAA now provides the City with a permit technician, three building inspectors, and a Building Official to cover the service area of approximately 300 square miles. CAA also provides the City with its own permit and inspection software, 84Works, which has been customized to fulfill the exact needs of the City.

CAA provided a smooth transition within a matter of days of being selected as the City's contractor, and was able to quickly achieve significant process improvements. In the words of Phil Roberson, Assistant City Manager:

"The City of Albany has been extremely impressed with how quickly CAA was able to step in and provide us with complete Building & Safety Services. Following the January 2017 storms, Albany was left with hundreds of houses in need of repair or rebuilding. CAA was able to bring a CBO and inspectors with years of experience to help Albany and it's citizens in the rebuilding process. One of our major industries, Proctor and Gamble, lost their distribution warehouse as a result of the Jan 22 tornadoes. On the one-year anniversary of the storm, P&G held a ribbon cutting at their new ultra-modern distribution warehouse, which replaced the one destroyed by the tornadoes. At the

ribbon cutting, the CEO of the Albany P&G plant credited the contractors, P&G staff, and the work by the Inspection and Development Services staff of the City (including CAA) for making the one year build out possible. This type of high level recognition is a testament to the benefits derived from the partnership between CAA and the City of Albany.”

Within the first 3 months, CAA has processed 752 permits and conducted 896 inspections for the City of Albany.

Town of Lyons, CO

Lyons, Colorado is nestled in the foothills of the Rocky Mountains, and is well known for its art, music, culture, and natural beauty. Visitors flock to Lyons to attend its annual music festivals, visits its shops and restaurants, and enjoy the numerous parks and amenities.

As a small town, Lyons is no stranger to the concept of public private partnerships and has outsourced its building department services for a number of years. CAA has been the provider of choice since 2017 and operates the Town’s whole building department, including building plan review, building inspections, software system administration, and building official services.

CAA prides itself in bridging the disconnect that often occurs between municipalities and contracted service providers by providing a consistent presence and availability of highly trained personnel. CAA keeps regular office hours at the Town, conducts inspections the very next day, and is always available by phone and email, thus guaranteeing the public crucial access to building services right when they are needed. In addition, CAA provides the Town with its own permit issuance and tracking system.

According to Victoria Simonsen, Town Administrator: “Lyons is still in recovery from a nationally-declared disaster in 2013. CAA was able to address our increased needs and is providing excellent services to our community. The staff have been responsive, timely and have great customer service skills! We are very satisfied with the building inspection and plan review services that we are receiving from them.”

CAA personnel is highly trained and continuously keeps up on current regulations and codes, ensuring quality, compliance and the highest level of safety for residents. As such, CAA is assisting the Town with ordinance and code adoption, as well.

City of Brookhaven, GA

Located in the northeast suburbs of Atlanta in western DeKalb County with a population of approximately 50,000, the City of Brookhaven officially became a city in 2012 and operates Parks & Recreation, Police, Public Works and Community Development Departments.

The City’s economic outlook is fantastic, with lots of building activities currently in progress and on the horizon. One example is the new \$1 billion hospital and pediatric campus of Children’s Healthcare of Atlanta, which is to be built in Brookhaven through 2025. The new campus will include a 446-bed hospital, support buildings, a physical plant, more than 20 acres of green space, as well as a 260,000-square-foot ambulatory care center – making this campus the single largest health-care project in Georgia’s

history. It will create 16,500 construction jobs through 2025 and 3,600 permanent net jobs upon its opening.

As the Building & Safety Services provider for the City, Charles Abbott Associates, Inc. (CAA) will be intimately involved with all phases of the construction of the project. CAA has been providing municipal services for the City since 2015. The services provided include the front permit counter, building plan review, building inspections, code enforcement, software system administration, and arborist services.

Scope of Work

CAA's Services for the City will include the provision of Certified Building Official Services, Plans Review Services, and Building Inspection Services for compliance with Florida Building Code and other applicable statutes. CAA will provide the following services, as outlined by the City:

1. CAA will provide inspection services for commercial, single, as well as multi-family structures. Inspections include mechanical, electrical, plumbing, fire, gas, building, energy, accessibility, and threshold inspections. CAA assures the highest degree of compliance with safety and zoning codes. Our proposed inspector meets the standard certification requirements of Florida Statute Chapter 468, is thoroughly trained on the codes, masters the local amendments of each code, and is able to conduct inspections in accordance with jurisdictional standards.

The inspector assigned to the City will perform periodic construction inspections to verify that the work of construction is in conformance with the approved project plans, as well as identify issues of non-compliance with applicable codes. The inspector will also conduct inspections of alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with all applicable codes.

We assure the City that all inspection turn-around times are met or improved, all inspections are conducted when requested, and emergency response is timely and effective. CAA will perform all inspections called in before 4pm no later than the end of the following business day. In addition, a CAA Building Inspector will be available to conduct urgent building inspections, should they arise.

2. CAA will provide plans review services for commercial and residential projects, including structural, mechanical, electrical, plumbing, fire, gas and building. Plans will be reviewed for conformance to FEMA/NFIP Standards, Local Floodplain regulations, and all other applicable codes and regulations as well as submittal requirements.

CAA thoroughly and promptly checks all plans for compliance with all local ordinances and state and federal laws pertaining to the Florida Building Codes, and for compliance with the adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Disabled Access requirements, Energy requirements, and/or Fire Code. CAA will perform most plan reviews at the City Building Department. For plans requiring additional expertise, CAA will take charge of transporting and handling of plans.

Our approach to plan checking ensures that plans submitted to CAA for review are properly tracked and processed. Our system ensures that each plan or permit is assigned, returned, and handled on time and within budget. The status of any plan can easily be determined at any point in time.

Our registered professionals and certified plan examiners check all plans and calculations, thus assuring that the technical components and all code items are thoroughly reviewed. Plan reviews will be performed under the supervision and authority of the building official.

CAA plan reviewers are always willing to meet with clients for pre-design meetings, pre-submittal meetings or as needed to resolve complex code related plan review issues in the most efficient manner possible; this is just part of the facilitative approach to plan review which emphasizes building safety while allowing for innovation to resolve complicated building design issues.

Most of our plans examiners are cross-trained and also certified as inspectors. This provides for a very efficient use of personnel and expedites the process for the applicant. We provide timely turnaround of plan checks and rechecks based on guaranteed turnaround times. Our staff also handles any coordination required as part of the review.

Our staff is well-versed in the Florida Building Code in each of the following categories:

✓ **Architectural**

CAA staff is certified and experienced in all phases of architectural review, including construction types, occupancies, separations, heights, areas, egress means, and fire/life safety. CAA staff will bring many years of experience to the City's review and inspection process with respect to size, shape, and use of buildings with varying complexities. Many of CAA's staff are active in non structural and architectural code promulgation at the state and national level and several sit on International Code Council (ICC) committees.

✓ **Structural**

CAA's plan review structural engineers have reviewed structural plans with varying degrees of construction complexity from single-family homes to high-rise multi-use facilities. CAA's plan review engineers maintain Florida registration with an average experience of over 30 years in structural and design plan review.

✓ **Mechanical**

CAA staff is experienced in plan review and inspection of mechanical installations for compliance with the Florida Building Code, Mechanical, including piping, duct layouts, and sizing for HVAC systems, mechanical equipment approval listings, and mechanical fixture locations, sizing, and counts. CAA staff will bring such knowledge, experience, and understanding to City reviews and inspections.

✓ **Plumbing**

CAA staff is trained to review plans for compliance with all aspects of the Florida Plumbing Code, including piping layouts and isometrics, plumbing fixture locations and approval listings, pipe size calculations, and accessibility details. CAA staff is well knowledgeable and experienced in the review and inspection of plumbing plans and installations, including applications from the simple to the complex. Since many of our

staff has worked in the field, they can draw on their own expertise and experiences as the designer, developer, and inspector.

✓ **Electrical**

CAA staff is experienced in the plan review and the inspection of various electrical installations, both residential and commercial. CAA staff will review plans for compliance with the Florida Electrical Code, including the review of schematics, diagrams, panel schedules, load calculations, fixture approval listings, Title 24 Energy compliance calculations, and accessibility data.

✓ **Floodplain Management**

CAA staff strictly adheres to local floodplain ordinances in the course of our plan review and inspections. Our staff is familiar with the substantial improvement rule and how to regulate major additions and other improvements to buildings in the floodplain, as well as the substantial damage rule and how to regulate reconstruction and repairs to buildings that have been severely damaged.

✓ **Energy**

CAA staff is well versed in Florida Building Code Energy Conservation Codes for Residential and Non-Residential Buildings. CAA staff receives extensive annual training to ensure that each is aware of the specifics of these state programs.

✓ **Accessibility**

CAA staff attends state and locally sponsored training relative to disabled access. CAA staff takes disabled access very seriously and has been proactive on CALBO's Accessibility Compliance Committee. CAA provides CASp staff members in order to meet State accessibility requirements.

✓ **LEED**

CAA recognizes the importance of and pursues environmentally conscious design and development procedures consistent with the U.S. Green Building Council (USGBC), Leadership in Energy & Environmental Design (LEED) certification standards. CAA has staff certified through the LEED process that are available to review development projects that are required to have LEED Certification(s).

✓ **Green Building Code Review**

CAA can and will provide staff that is aware and up to date on Green Building Standards Code revisions. As with LEED certification, CAA seeks to enhance and improve development projects through cooperation and collaboration with stakeholders. CAA has several staff members who are green certified plan examiners and building inspectors.

3. CAA's certified Building Official will be responsible for the administration and enforcement of the City's various codes and ordinances related to building safety while ensuring that the health and safety of the public are maintained through adherence to the requirements established by law for the construction, alteration or use of new and existing buildings. Through cooperation with other City departments, CAA is able to assist in protecting the economic interests of the community with the ultimate goal of ensuring the development of safe and sustainable buildings for subsequent generations.

The Building Official assigned to the City will be responsible for signing off on permits, certificates of occupancy, final inspections, and other related tasks.

4. CAA and its staff are licensed and certified in accordance with all applicable laws and statutes.
5. Our staff maintains a close working relationship with planning, code enforcement and public works personnel, and knows how to work effectively and respectfully with elected officials as well.
6. CAA will ensure smooth inter-agency coordination as needed.
7. CAA will attend City Council, Planning and Zoning Review Board, and Code Enforcement meetings as needed. CAA will present statistics and recommendations to the City Council on a quarterly basis.
8. CAA allows submittals in digital format so they can be made available to the public.
9. CAA will maintain records relating to inspections and work performed under the scope of this project in accordance with local, State, and Federal public records retention requirements.
10. CAA will provide support to CDBG and Code Enforcement as needed.
11. CAA will ensure all work is in compliance with the Florida Building Code.
12. In the event of a local or regional disaster, all on-site CAA assigned staff will be accessible, available and prepared to respond to emergency calls regarding building related issues. We create rotational schedules to service emergencies as they occur, with a calling order to ensure no issues are left unaddressed. CAA provides and ensures disaster service kits are maintained to respond to disasters. CAA employees are required to be Disaster Service Worker certified in within 6 months of hire date.
In addition, CAA will provide additional Building and/or Engineering Staff for emergency situations.
13. CAA will maintain an office within City Hall with regular established agreed upon business hours.
14. CAA will provide all materials, resources, tools and training required for our professionals to perform their assigned duties, including cell phones, iPads, and other technology devices that enhance our service. CAA will also provide and maintain all vehicles and equipment required or necessary to carry out inspections and duties assigned to CAA.
15. CAA staff will be familiar with the City's Comprehensive Plan and Land Development Regulations to ensure decisions are made in accordance with both documents.
16. CAA agrees to comply with all applicable public records law per section 119.0701, Florida Statutes.
17. CAA understands that this bid may be utilized for FEMA projects.

Quality Control

In an effort to provide quality assurance, CAA proposes to use our "best service guarantee" program. This program assures the City that all turn around times are met or improved, all inspections are conducted when requested, and emergency response is timely and effective.

A client's direct communication with corporate and division managers is recommended and encouraged. Through open dialogue and communication, CAA seeks to always improve on its already outstanding services. CAA's Project Manager for this project, Tim Inglis, CBO, Director, will maintain continuous communication with the City. He is an ICC Certified Building Official, and brings over 30 years of experience to this project. He will ensure that the City is 100% satisfied with our staff, our turnaround times, the quality of our work, and the overall teamwork between our staff and yours. Any shortcomings of our staff from the City's perspective will be dealt with promptly.

As part of our services, we assure the following to the City:

- Key personnel will be available to the extent proposed for the duration of the project, and no person designated "key" to the project will be removed or replaced without the prior written consent of the City.
- Should we wish to make any permanent staffing changes, we will discuss these changes with the City at least 30 days in advance; and
- If the City requests staffing changes, we will make them in a timely manner.

Financial Stability

CAA is a privately owned company functioning as an "S" corporation. CAA has been financially stable and viable since its inception in 1984. To respect the page limit of this proposal, audited financial statements will be provided separately upon request. As an indication of financial stability, please find below CAA's gross revenue for the last five fiscal years:

2017 - \$24,570,319

2016 - \$21,677,040

2015 - \$19,556,982

2014 - \$16,961,582

2013 - \$16,050,489

CAA's bank references are as follows:

Jason Pfeiffer
 Bank of America
 520 Newport Center Dr., Suite 1000
 Newport Beach, CA 92660
 (949) 413-7358
 Jason.pfeiffer@baml.com

Alfred Villalobos
 American Business Bank
 Vice President & Senior Relationship Manager
 970 W. 190th Street, Ste 301
 Torrance CA 90502
 (310) 808-1200
 avillalobos@americanbusinessbank.com

CAA has never filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization receivership, moratorium, or assignment for the benefit of creditors, or otherwise sought relief from creditors in its 35-year history. CAA has also never had a contract terminated due to the quality of our work or been cited by any governmental agency.

Litigation

The following is a list of cases filed and settled within the last 5 years. There are no filed, pending or threatened claims of litigations that would impede our ability to provide our services to the City.

Ostrow vs. Hidden Hills (City tendered the case to us for defense on 3/17/17) and the case is still pending. Homeowner is suing over a faulty foundation on their remodel.

Top Rank Builders vs. County of Nye, Pahrump, NV settled out of court September 2018

Miller vs. City of Twentynine Palms, CA, case still pending. CAA didn't perform any of the work on the crosswalk that is the basis for the lawsuit, which is most likely going to be dismissed.

Boar Inc. vs. County of Nye, et. al.
 Case Reported: 4/22/2010
 Case Dismissed: 1/16/2014

Victor Ambrosio and Linda Martinez vs. City of Hawaiian Gardens, CA, et. al.
 Case Reported: 12/2/2013
 Case Dismissed: 2/9/2016

Schlickman vs. City of Palos Verdes Estates, CA, et. al.
 No court case was filed in this matter
 Plaintiff's claim was settled on 4/22/2013

Wilson vs. City of Laguna Niguel, CA, et. al.
 Case Reported: 2/14/2015
 Case against Charles Abbott Associates was dismissed on 1/7/2016

CAA is not debarred, suspended or otherwise declared ineligible to contract with any other federal, state or local public agency.

REFERENCES

CAA is exceptionally well qualified to provide Building Services to the City. We have the experience, organization, and size to ensure success in delivering the highest quality services. Because of our long history serving other similar dynamic cities and our broad-based experience, we fully understand the technical, cultural, and political nature of the services to be performed.

Founded in California in 1984, CAA's business model has been based on the philosophy of providing exceptional service and value. We do this by hiring and training exceptional personnel, and expanding our client base selectively and incrementally to ensure continuous growth while providing the highest levels of service in the industry. In 1998, CAA successfully expanded into the State of Nevada, where we now work with most major municipalities, and in 2012 added the State of Georgia. The key personnel proposed for the City has been an integral part of this growth, and has extensive experience in entering and developing new geographic markets. Upon contract award, this team of highly experienced key personnel will be responsible for commencing the City's Building Services, and will be on-site until all processes and procedures have been implemented successfully. Being new to the State of Florida and having grown the company to one of the biggest and most successful building & safety firms mainly through word of mouth advertising, the City would be a very important customer and, as such, receive the highest level of care and service at the best possible price.

The following list shows a few related projects for CAA with an outline of services provided to each client, as well as the period of time that we have been performing the referenced service. We are extremely proud of our track record and the length of time we have continuously provided services to our clients. We invite you to contact any of our clients to obtain their opinion of the services we provide for them.

REFERENCES	SERVICES	SINCE
Leon County Doug Maples, Director of Building Plan Review & Inspections (805) 606-1377 435 N. Macomb Street, 2nd Floor, Tallahassee, FL 32301	Plan Review	2019
City of Emerson Todd Heath, Assistant City Manager (770) 382-9819 700 Highway 293, Emerson, GA 30137	Building & Safety	2019
Spalding County Chad Jacobs, Community Development Director (770) 467-4254 119 E. Solomon Street, Griffin, GA 30223	Building & Safety	2019
City of Conroe Paul Virgadamo, City Manager (936) 522-3003 505 West Davis Street, Conroe TX 77305	Engineering Plan Review	2018

City of Covington Scott Gaither, Planning & Zoning Director (770) 385-2178 2116 Stallings Street, Covington, GA 30014	Building & Safety	2018
City of Albany/Daugherty County Paul Forgey, Director Planning, Development Services & Code Enforcement (229) 438-3901 240 Pine Avenue, Suite 300, Albany, GA 31702	Building & Safety	2017
Town of Bennett Deb Merkle, Community Development Manager (303) 644-3249 401 S First Street, Bennett, CO 80102	Building & Safety Electrical Inspection	2017 2018
City of Jackson Kay Pippin, Mayor (770) 775-7535 134 South Oak Street, Jackson, GA 30233	Building & Safety	2017
City of Peachtree City Dave Borkowski, City Engineer (770) 631-2538 153 Willowbend Rd., Peachtree City, GA 30269	City Engineering Plan Review	2017
City of Stockbridge Camilla J. Moore, Community Development Director (678) 833-3354 4640 North Henry Boulevard, Stockbridge, GA 30281	Building & Safety	2017
City of South Fulton Shayla Reed, Community Development Director (470) 809-7700 Industrial Blvd. Atlanta, GA 30336	Building & Safety	2017
City of Wheat Ridge Kenneth Johnstone, Community Development Director (303) 235-2844 7500 W. 29 th Ave., Wheat Ridge, CO 80033	Building & Safety	2016
Town of Lyons Victoria Simonsen, Town Administrator (303) 823-6622 432 5th Avenue, Lyons, CO 80540	Building & Safety	2016
City of Ojai Steve McClary, City Manager (805) 646-5581 401 S. Ventura Street, Ojai, CA 93023	Building & Safety Code Enforcement	2016
City of Cleveland Connie Tracas, City Administrator (706) 865-2017 85 South Main Street, Cleveland, GA 30528	Building & Safety	2016
City of Dahlonega Bill Schmid, City Manager (706) 864-6133 465 Riley Road, Dahlonega, GA 30533	Building & Safety	2016

City of Rancho Palos Verdes Lauren Ramezani, Sr. Administrative Analyst- Public Works (310) 544-5245 30940 Hawthorne Blvd., Rancho Palos Verdes, CA 90275	Building Plan Check Environmental/NPDES	1984 2016
City of Lake Forest Angela Redding, City Manager (949) 461-3575 25550 Commercentre Drive, Suite 100 Lake Forest, CA 92630	Street Maintenance	2016
City of Hogansville Lisa Kelly, City Clerk (706) 637-8629 400 East Main Street, Hogansville, GA 30230	Building & Safety	2016
City of Avalon Jordan Monroe, Management Aide (310) 510-0220 x 128 410 Avalon Canyon Rd., Avalon, CA 90704	Environmental/NPDES	2015
City of Banning Patty Nevins, Community Development Director (951) 922-3120 99 E. Ramsey St., Banning, CA 92220	Building & Safety City Engineering As Needed	2015
City of Brookhaven Patrice Ruffin, Director of Community Development (404) 637-0500 4362 Peachtree Road, Brookhaven, GA 30319	Building & Safety Code Enforcement	2015
City of Moreno Valley Ahmad Ansari, Director of Public Works (951) 413-3000 14177 Frederick Street, Moreno Valley, CA 92552	Environmental/NPDES	2014
City of Pico Rivera Gladis Deras, Associate Engineer (562) 801-4332 6615 Parsons Boulevard, Pico Rivera, CA 90660	Environmental/NPDES	2014
City of Calimesa Bonnie Johnson, City Manager (909) 795-9801 908 Park Avenue, Calimesa, CA 92320	Building & Safety Full Service Planning Public Works Code Enforcement	2014
City of Carson City Lee Plemel, Director Community Development (775) 283-7075 108 E. Proctor St., Carson City, NV 89701	Building & Safety Full Service	2014
City of San Dimas Krishna Patel, Community Dev. Director (909) 394-6200 245 E Bonita Ave, San Dimas, CA 91773	Environmental/NPDES	2014

City of Forest Park Angela Redding, City Manager (404) 608-2300 785 Forest Parkway, Forest Park, GA 30297	Building & Safety	2014
City of Manchester Doug Westberry, City Manager (706) 846-3141 P.O. Box 366, Manchester, GA 31816	Building & Safety Code Enforcement	2014
City of Griffin Kenny Smith, City Manager (770) 229-6406 100 South Hill Street, Griffin, GA 30223	Building & Safety	2014
City of Duarte Craig Hensley, Community Dev. Director (626) 386-6835 1600 Huntington Dr, Duarte, CA 91010	Building & Safety Inspection & Plan Check, Code Administration	2013
City of Redondo Beach Geraldine Trivedi, Project Manager (310) 372-1171 415 Diamond Street Redondo Beach, CA 135277	Environmental/NPDES	2013
City of Riverdale Scott Wood, City Manager (770) 909-5480 971 Wilson Road, Riverdale, GA 30296	Building & Safety City Engineering Public Works	2012
City of Palmetto William Shell, City Administrator (770) 463-3377 509 Toombs Street, Palmetto, GA 30268	Building & Safety City Engineering	2012
City of La Palma Laurie Murray, City Manager (714) 690-3334 7822 Walker Street, La Palma, CA 90623	Building & Safety Environmental/NPDES	2012
City of Laguna Hills Ken Rosenfield, Assist. City Manager (949) 707-2655 24035 El Toro Road, Laguna Hills, CA 92653	Street Maintenance	2012
City of Laguna Woods Chris Macon, City Manager (949) 639-0500 24264 El Toro Road, Laguna Woods, CA 92637	Environmental/NPDES	2010
City of Los Alamitos Les Johnson, Community Dev. Director (562) 431-3538 3191 Katella Avenue, Los Alamitos, CA 90270	Building & Safety Environmental/NPDES	2010
City of Pomona Julie Carver Environmental Programs Supervisor (909) 620-2261 505 South Garey Ave, Pomona, CA 91766	Environmental/NPDES	2010

City of Cypress Douglas Dancs, Director of Public Works (714) 229-6752 5257 Orange Avenue, Cypress, CA 90630	Plan Check Building Inspection NPDES Inspection and Plan Review	2008
City of Rancho Santa Margarita Cheryl Kuta, Development Services Director (949) 635-1800, ext. 6707 22122 El Paseo, Rancho Santa Margarita, CA 92688	Building & Safety Environmental Public Works Code Enforcement	2007
City of Fountain Valley Brian James, Planning & Building Director (714) 593-4426 10200 Slater Ave. Fountain Valley, CA 92708	Building & Safety	2004
City of Stanton Kelly Hart, Community Dev. Director (714) 890-4213 7800 Katella Avenue, Stanton, CA 90680	Building & Safety	2004
City of Aliso Viejo David Doyle, City Manager (949) 425-2500 12 Journey, Suite 100, Aliso Viejo, CA 92656	Building & Safety Engineering Support Code Enforcement Environmental	2002
Town of Pahrump Pam Webster, County Manager (775) 751-7075 400 N. Highway 160, Pahrump, NV 89060	Building & Safety Environmental County Engineering	1998
City of Mission Viejo Elaine Lister, Community Dev. Director (949) 470-3000 200 Civic Center, Mission Viejo, CA 92691	Building & Safety Public Works Plan Check Public Works Inspection	1995
City of Camarillo Dave Norman, City Manager (805) 388-5307 601 Carmen Drive, Camarillo, CA 93010	Building & Safety Public Works Inspections Environmental/NPDES	1994
City of Yucaipa Ray Casey, City Manager (909) 797-2489 34272 Yucaipa Boulevard, Yucaipa, CA 92399	Building & Safety Engineering Support Fire Marshall Services	1993
City of Twentynine Palms Frank Luckino, City Manager (760) 367-6799 6136 Adobe Road, Twentynine Palms, CA 92277	Building & Safety City Engineering Traffic Engineering	1993
Town of Yucca Valley Shane Steuckle, Community Dev. Director (760) 369-7207 57090 Twentynine Palms Highway, Yucca Valley, CA 92284	Building & Safety	1992
Town of Apple Valley	Building & Safety	1990

Lori Lamson, Assistant Town Manager (760) 240-7000 14955 Dale Evans Parkway, Apple Valley, CA 92307	Public Work Administration Town Engineering	
City of Hidden Hills Kerry Kallman, City Manager (818) 888-9281 6165 Spring Valley Road, Hidden Hills, CA 91302	Building & Safety City Engineering	1990
City of Moorpark Troy Brown, City Manager (805) 517-6221 799 Moorpark Avenue, Moorpark, CA 93021	Building & Safety Environmental/NPDES	1988



CERTIFICATE OF LIABILITY INSURANCE

DATE: 3/1/14 Item #8.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Dealey, Renton & Associates License #0020739 600 Anton Blvd., #100 Costa Mesa CA 92626	CONTACT NAME: Dani Schulze PHONE (A/C. No. Ext): 714-427-6810 E-MAIL ADDRESS:	FAX (A/C. No.): 714-427-6818													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : Travelers Casualty & Surety Co. America</td> <td>31194</td> </tr> <tr> <td>INSURER B : Hartford Fire Ins. Co.</td> <td>19682</td> </tr> <tr> <td>INSURER C : Twin City Fire Ins. Co.</td> <td>29459</td> </tr> <tr> <td>INSURER D : Hartford Casualty Insurance Co.</td> <td>29424</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Casualty & Surety Co. America	31194	INSURER B : Hartford Fire Ins. Co.	19682	INSURER C : Twin City Fire Ins. Co.	29459	INSURER D : Hartford Casualty Insurance Co.	29424	INSURER E :		INSURER F :
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INSURER F :															
INSURED CHARLABBO Charles Abbott Associates, Inc. 27401 Los Altos Suite 220 Mission Viejo CA 92691															

COVERAGES **CERTIFICATE NUMBER:** 183452665 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	57UUNFM3479	3/31/2019	3/31/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	Y	57UUNFM3479	3/31/2019	3/31/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	57XHUFM3069	3/31/2019	3/31/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	57WERT0674	3/31/2019	3/31/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Claims Made			106484363	3/31/2019	3/31/2020	\$1,000,000 per claim \$1,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Umbrella policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability
Re: Procurement Agreement #10381-103817114401 - 10381-CH2M Hill Engineers, Inc. and Client are named as additional insureds as respects general and auto liability for claims arising from the operations of the named insured as required per written contract or agreement. Coverage afforded the additional insured is primary and non-contributory as respects to general liability coverage. Coverage afforded the additional insured is primary as respects to auto liability coverage. Insurance coverage includes waiver of subrogation per the attached endorsement(s). SEE CANCELLATION SECTION of Certificate for 30 Day Notice of Cancellation /10 Day for Non-Payment of Premium. Primary and Non-Contributing coverage applies to Auto Liability as required by written contract

CERTIFICATE HOLDER	CANCELLATION 30 Day Notice of Cancellation
For Proposal Use Only	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Karin Thorp</i>

REQUIRED FORMS

Please find below the required forms as outlined in the City's RFP.

Conflict of Interest

CAA certifies that to the best of its knowledge, no circumstances exist which shall cause a conflict of interest in performing services for the City of Green Cove Springs, and that no company or person other than bona fide employees working solely for our firm has been employed or retained to solicit or secure a contract resulting from this Request for Proposals.



XII. ANTI-COLLUSION REQUIREMENT:

Under no circumstances shall any prospective proposer, or any person or persons acting for or on behalf of any said prospective proposer, seek to influence or gain the support of any member of the City Council or the City Staff favorable to the interest of any prospective proposer or seek to influence or gain the support of any member of the City Council or City Staff against the interest of any prospective proposer. Any such activities shall result in the exclusion of the prospective proposer from consideration by the City.

XIII. PUBLIC ENTITY CRIMES REQUIREMENT:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, and may not transact business with any public entity in excess of the threshold amount provided in SECTION 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON ENTITY CRIMES**

1. This sworn statement is submitted to City of Green Cove Springs
(print name of the public entity)

by Rusty R. Reed, President
(print individual's name and title)

for Charles Abbott Associates, Inc. (CAA)
(print name of entity submitting sworn statement)

whose business address is
27401 Los Altos #220
Mission Viejo, CA 92691

and (if applicable) its Federal Employer Identification Number (FEIN) is:
33-0053899

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision or any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
 - c. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
 - d. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies.)**

X Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

 The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

 The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **(attach a copy of the final order)**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT HIS FORM IS VALID THOROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.


(Signature)

Sworn to an subscribed before me this 10 day of July , 20 19

Personally known _____

OR produced identification _____ Notary Public - State of _____

(Type of identification) My commission expires _____

(Printed typed or stamped commissioned name of notary public)

RFP LC No 2019-05

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

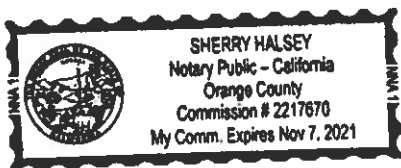
Signature of Document Signer No. 1 _____

Signature of Document Signer No. 2 (if any) _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
 County of Orange

Subscribed and sworn to (or affirmed) before me
 on this 10th day of July, 2019.
 by _____
 Date Month Year
 (1) Rusty R. Beed
 (and (2) NA),
 Name(s) of Signer(s)



proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Sherry Halsey
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: City of Greencove Springs Agreement Document Date: July 10th 2019

Number of Pages: _____ Signer(s) Other Than Named Above: NA

DRUG-FREE WORKPLACE COMPLIANCE FORM

In order to have a drug-free workplace program, a business shall abide as follows:

The undersigned vendor/contractor in accordance with Florida Statue 287.087 hereby certifies

that Charles Abbott Associates, Inc. (CAA) (name of business) does:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the company’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees or drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under proposal a copy of the statement specified in item 1, above.
4. In the statement specified in item 1, notify the employees that as a condition of working on the commodities or contractual services which are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that, _____

Charles Abbott Associates, Inc. (CAA) (name of business) fully complies/ does not comply with the above requirements.

Rusty Q. Reed
Vendor/Contractor Signature

07/10/2019
Date

STANDARD ADDENDUM
TO ALL
CITY CONTRACTS AND AGREEMENTS

Any other provisions of the Contract or Agreement to which this Standard Addendum is attached to the contrary notwithstanding, the parties specifically agree that the provisions hereinafter set forth will apply exclusively with respect to the matters addressed, whether addressed in said Contract or Agreement or not, and shall be deemed an integral part of said Contract or Agreement as if duly set out therein, having a force and effect of equal or superior dignity, as applicable, with the provisions thereof; provided, that if the provisions of the Contract or Agreement address a particular matter in a manner which results in a lower cost to the City than this Standard Addendum, then such provisions of the Contract or Agreement shall control and supersede the applicable provisions hereof (as used herein, the term "Contractor" means the vendor or other party in the Contract or Agreement providing construction, labor, materials, professional services, and/or equipment to the City thereunder; the term "City" means Green Cove Springs, a municipal corporation of the State of Florida, its City Council, or any other name or label set forth in the Contract or Agreement indentifying such entity).

1. All payments for services rendered, or supplies, materials, equipment and the like constructed, delivered or installed under the Contract or Agreement (the Work) shall be made by the City in accordance with the Local Government Prompt Payment Act (the Act). Upon receipt of a proper statement, invoice or draw request, the City shall have the number of days provided in the Act in which to make payment.
2. Any work or professional services sub-contracted for by the Contractor for which the City has agreed to reimburse the Contractor shall not be marked up, but shall be payable by the City only in the exact amount reasonably incurred by the Contractor. No other such sub-contracted services shall be reimbursed.
3. In the event the Contract or Agreement is for professional services, charged on a time basis, the City shall not be billed or invoiced for time spent traveling to and from the Contractor's offices or other points of dispatch of its sub-contractors, employees, officers, or agents in connection with the services being rendered.
4. The City shall not be liable to reimburse the Contractor for any courier service, telephone, facsimile, or postage charges incurred by the Contractor, except as follows, and then only in the exact amount incurred by the Contractor [if the space below is left blank, then "NONE" is deemed to have been inserted therein]:
5. The City shall not be liable to reimburse the Contractor for any copying expenses incurred by the Contractor, except as follows, and then only at \$0.05 per page [if the space below is left blank, then "NONE" is deemed to have been inserted therein]:
6. If and only if travel and per diem expenses are addressed in the Contract or Agreement in a manner which expressly provides for the City to reimburse the Contractor for the same, then the City shall reimburse the Contractor only for those travel and per diem expenses reasonably incurred and only in accordance with the provisions of Section 112.061, Florida Statutes or as otherwise limited by Florida law. In the event the Contractor has need to utilize hotel accommodations or common carrier services,

RFP LC No 2019-05

19

the City shall reimburse the Contractor for his, her, or its reasonable expense incurred thereby provided prior written approval of the City Manager of the City or his or her designee is obtained.

7. With respect to drawings and/or plans prepared on behalf of the City by the Contractor under the Contract or Agreement, unless specifically provided otherwise therein, complete sets of such drawings and/or plans shall be reproduced by the Contractor without cost to the City for all bidders requesting the same, and five (5) complete sets of such drawings and/or plans shall be reproduced and delivered to the City without cost.
8. With respect to any indemnification by the City provided under the Contract or Agreement, any such indemnification shall be subject to and within the limits set forth in Section 768.28, Florida Statutes, and shall otherwise be limited as provided by law.
9. In that the City is a governmental agency exempt from sales tax, the City shall pay no such taxes, any other provisions of the Contract or Agreement to the contrary notwithstanding. The City shall provide proof of its exempt status upon reasonable request.
10. Any pre-printed provisions of the Contract or Agreement to the contrary notwithstanding, the same shall not automatically be renewed but shall be renewed only upon subsequent agreement of the parties.
11. The Contractor acknowledges that in the budget for each fiscal year of the City during which the term of the Contract or Agreement is in effect, a limited amount of funds are appropriated which are available to make payments arising under the Contract or Agreement. Any other provisions of the Contract or Agreement to the contrary notwithstanding, and pursuant to applicable Florida Statutes, the maximum payment that the City is obligated to make under the Contract or Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.
12. The Contractor shall comply with applicable provisions of Section 119.0701, Florida Statutes and any contract between the parties shall fully comply with such section.

CITY OF GREEN COVE SPRINGS

CONTRACTOR/FIRM/INDIVIDUAL

By: _____
Steven Kelley, Mayor

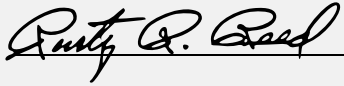
By: Rusty R. Reed
(Printed Name and Title)
Rusty R. Reed, President

ATTEST:

By: _____
Erin West, City Clerk

ACKNOWLEDGEMENT OF ADDENDUM

I acknowledge the receipt of 1 Addendums to the original RFP.



Company Representative Signature

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned Contractor certifies, to the best of his or her knowledge, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, , certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

NAME OF FIRM: Charles Abbott Associates, Inc. (CAA)


Signature of Contractor's Authorized Official

Rusty R. Reed, President
Name and Title of Contractor's Authorized Official

July 10, 2019
Date

**Certification Regarding
Debarment, Suspension,
Ineligibility and Voluntary
Exclusion**

Contractor Covered Transactions

- (1) The prospective contractor of the Recipient, Charles Abbott Associates, Inc. (CAA) certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Recipient's contractor is unable to certify to the above statement, the prospective contractor shall attach an explanation to this form.

CONTRACTOR NAME: Charles Abbott Associates, Inc. (CAA)

By: Rusty R. Reed
Printed Name


Signature

Date: July 10, 2019

Title: President

27401 Los Altos #220
Mission Viejo, CA 92691

Street Address, City, State, Zip

Recipient's Name

Division Contract Number

FEMA Project Number

ANTI-COLLUSION CLAUSE

Firm certifies that their response is made without prior understanding, agreement or connection with any Corporation, Firm or person submitting a response for the same services and is in all respects fair and without collusion or fraud.

Name of Firm: Charles Abbott Associates, Inc. (CAA)

Authorized Signature: *Rusty R. Reed*

Printed Name: Rusty R. Reed

Title: President

Date: July 10, 2019

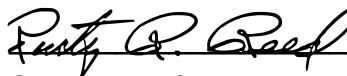
NON-COLLUSION AFFIDAVIT

The undersigned declares, states and certifies that:

1. This Proposal is not made in the interest of, or on behalf of any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. I have not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and I have not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. I have not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City _____ or of anyone interested in the proposed contract.
5. All statements contained in the Proposal and related documents are true.
6. I have not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. I have not entered into any arrangement or agreement with any City _____ public officer in connection with this proposal.
8. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of Florida and the United States that the foregoing facts are true and correct.

Executed this 10 day of July, 2019, at Mission Viejo California.



Signature of Authorized Representative

Rusty R. Reed

Name of Authorized Representative

President

Title of Authorized Representative

TURNAROUND TIME FOR PLAN CHECKS

CAA will provide the appropriate personnel and back-up staff as needed to perform the services based on the workload of the City. All of CAA's employees are cross-trained and able to perform multiple functions, which is cost effective to the City

The assigned Building Official, Mr. Bill Golberg, will perform all Building Official services as well as plans review and inspections. For structural plans review or review requiring additional expertise, CAA will take charge of transportation and handling of plans to the corporate office, where Mr. Steve Ahuna as well as numerous additional resources will be available to the City. All initial reviews will be returned within 5 business days for single family residential, small and large commercial projects, and improvement plans. Rechecks will be returned within 5 working days. These are maximum times, and we typically are able to turn around simple plan checks in less than half the time. CAA provides accelerated plan review for an additional cost. Plans are turned around in 48 hours for first plan check and rechecks from day of submittal.

Type of Job	Turnaround Time First Check	Turnaround Time Re-Check
Residential		
New Construction	10 working days or less	5 working days or less
Addition	5 working days or less	5 working days or less
Remodel	5 working days or less	5 working days or less

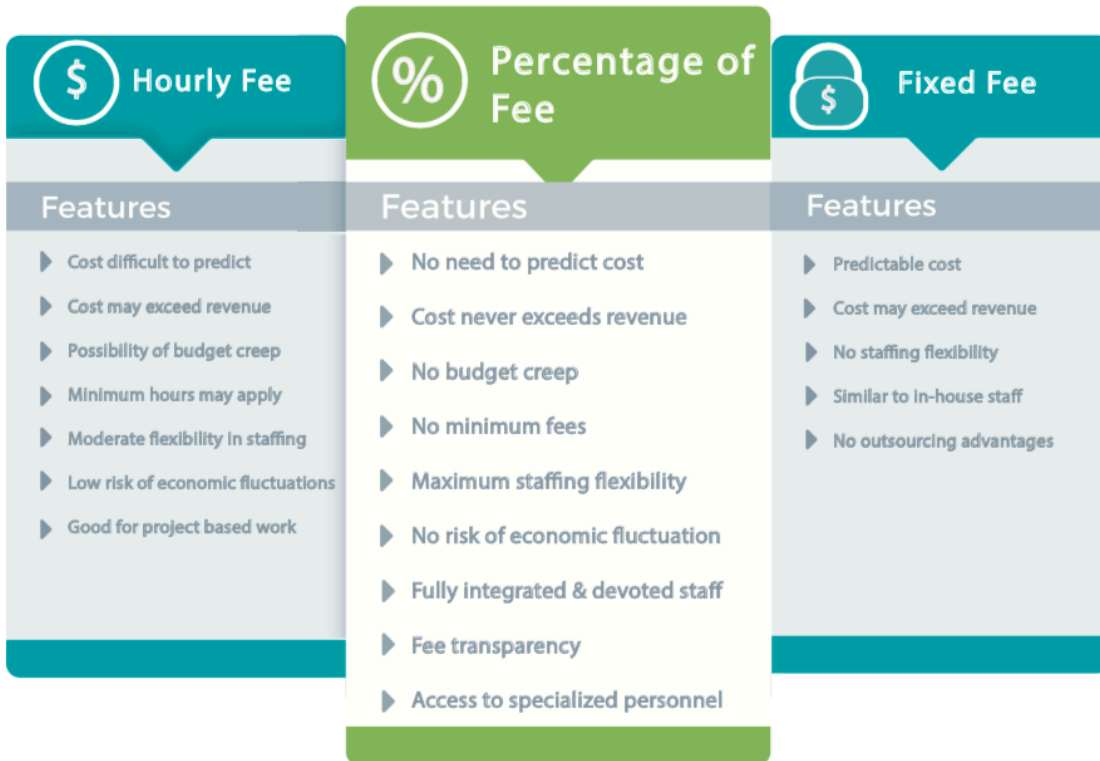
Type of Job	Turnaround Time First Check	Turnaround Time Re-Check
Non-Residential		
New Construction	10 working days or less	5 working days or less
Addition	5 working days or less	5 working days or less
Remodel	5 working days or less	5 working days or less

Inspections will be performed the following business day, if notification is received by 4pm.

FEE STRUCTURE

CAA offers to provide full-service department functions for a percentage of the cost of the construction work to be performed, i.e. the fees collected for permits by the City.

Fee Model Comparison



In the percentage of fees model, the percentage itself varies from contract to contract based on the services provided, the City’s existing fee schedule, and the amount of resources required to meet the service needs adequately. As construction activity increases and there is more work to be performed, the amount collected by CAA only increases as the revenue to the City increases also. Conversely, the amount collected by CAA decreases when the amount of work drops and the City collects less permit fees as a result. This minimizes the financial risk for the City and shifts the responsibility for economic fluctuations and construction activity entirely to CAA.

By using the percentage of the fee model, CAA helps customers reduces fixed costs and overhead, and ensures that building department costs will not exceed revenues. And by sharing in the City’s revenue, CAA has a vested interest in becoming an integrated part of the City’s community, as well as improving operational systems and processes where needed to serve the City as efficiently as possible.

Additionally, it has become increasingly hard to find qualified building staff, and CAA can help eliminate the recruiting challenges for these vitally important positions. At the same

time, CAA is able to quickly increase staffing as needed when there are changes in workload.



CAA proposes to provide the following services:

- Act as City Building Official
- Conduct all plan reviews
- Conduct all inspections the next business day
- Provide Building Code related code enforcement
- Consult with office staff on building department and permit issues
- Consult with residents and contractors as needed for permit, submittal and building code requirement needs

Fees below are inclusive of all costs, including general and administrative, training, materials, supplies, and other items necessary to complete the project.

Option A: Percentage of Fees

CAA will provide highly qualified staff to perform the duties of Building Official, Plan Reviewer, and Building Inspector outlined in this proposal. The proposed staff will be at the City as needed. Fees listed are inclusive of all costs, including general and administrative, travel, per diem, training, materials, supplies, and other items necessary to fulfill the scope of work outlined in this proposal.

Based on the information provided by the City, CAA will provide building official services, inspection services and plan review services for the following percentage of building permit and plan check fees collected:

Monthly Fees Collected*	CAA's % of Fees
Permit and Plan Check Fees Collected	69%

* cumulative

Option B: Hourly Rate Fee

Optionally, CAA offers to provide these services for the following all-inclusive hourly rate fees:

Proposed Service	Hourly Rate
Building Official	\$89
Plan Reviewer	\$79
Inspector	\$69



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** December 8, 2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: City Council approval for funding to Cummins Southeast in the amount of \$30,675.90 for purchase of a generator for Lift Station #3, utilizing Sourcewell Cooperative Bid ID# 103544. This is part of the HMGP Project # 4337-294-R, from which we have received an advance payment of \$23,006.92 (75%)

BACKGROUND

On 8/21/2018 Council ratified the submittal by staff for an HMGP grant application for installation of a generator and other improvements at Lift Station #3. The total estimated cost of the project was \$175,150.00. The City has received a grant amount of \$112,096.00, or 64% of the project cost. This project must be complete by February 28, 2022.

On 2/4/2020 Council approved of and authorized the mayor to execute the actual contract.

This agenda item is for approval to purchase the generator. The city has received a cash advance for 75% of the purchase price.

FISCAL IMPACT

\$7,668.98 to the wastewater CIP budget

RECOMMENDATION

Approve funding to Cummins Southeast in the amount of \$30,675.90 for purchase of a generator for Lift Station #3, utilizing Sourcewell Cooperative Bid ID# 103544.

Scott Schultz

From: John Duddy <john.duddy@cummins.com>
Sent: Thursday, November 12, 2020 10:38 AM
To: Scott Schultz
Subject: FW: Permanent Generators
Attachments: City of GCS Station 303 Q-03213-20201001-1132.docx; City of GCS Station 306 Q-03252-20201001-1157.docx; City of GCS Stations 314 315 319 Q-03264-20201001-1301.docx

CAUTION: This email originated from outside of the organization. . Do not click links or open attachments unless you recognize the sender and know the content is safe.

Scott,

Pricing is confirmed per sourcewell purchasing cooperative ID#103544.

John Duddy
 Cummins Inc.
 904-838-6532

From: Scott Schultz [mailto:sschultz@greencovesprings.com]
Sent: Thursday, November 12, 2020 10:15 AM
To: John Duddy <john.duddy@cummins.com>
Subject: Permanent Generators

External Sender

From: Greg Bauer [mailto:gbauer@greencovesprings.com]
Sent: Wednesday, September 30, 2020 10:48 AM
To: John Duddy <john.duddy@cummins.com>
Cc: Scott Schultz <sschultz@greencovesprings.com>
Subject: Permanent Generators

External Sender

John,

Good morning, we apologize in advance for all the back and forth on the generators. After discussion with FEMA, we have landed on purchasing 5 permanent generator packages from Cummings. The list of generators is attached. Also, we made an error on the generator for lift station 303. LS# 303 is a **3ph 480 V**. I apologize for the inconvenience. Could you please provide the following?

- A separate quote for the generator and ATS for 303
- A separate quote for the generator and ATS for 306
- A separate quote for the generator and ATS's for 314, 315, and 319.



October 1, 2020

Quotation: O-162202-Q-03213
 Doc Ref: City of GCS Station 303 Q-03213-20201001-1132

Prepared by

Clinton Rapp
 Inside Sales
 5910 E Hillsborough Ave
 Tampa FL 33610
 United States
 Phone:
 www.cummins.com

Project: City of Green Cove Springs Lift Stations Station 303

Quote valid till: November 30, 2020

Thank you for your inquiry. We are pleased to quote as follows.

ITEM NUMBER	DESCRIPTION	Quantity
1	<p>C80D6C Genset-Diesel, 60Hz, 80kW</p> <p>U.S. EPA, Stationary Emergency Application</p> <p>Genset-Diesel, 60Hz,80kW</p> <p>Duty Rating - Standby Power (ESP)</p> <p>Listing - UL 2200</p> <p>NFPA 110 Type 10 Level 1 Capable</p> <p>Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency</p> <p>Exciter / Regulator - Permanent Magnet Generator, 3 Phase Sensor</p> <p>Voltage - 277 / 480, 3 Phase, Wye, 4 Wire</p> <p>Alternator - 60Hz, 12L, 480 / 277V, 120C, 40C Ambient</p> <p>Alternator Heater, 120 Volt AC</p> <p>Aluminum Sound Attenuated Level 2 Enclosure, with Exhaust System</p> <p>Enclosure Color - Sandstone, Aluminum</p> <p>Enclosure - Wind Load 180 MPH, ASCE7-10</p>	1

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Skidbase - Housing Ready
UL142 Sub Base Dual Wall Basic, Diesel Fuel Tank, 48 Hour Minimum
Control Mounting - Left Facing
PowerCommand2.3 Controller
Gauge - Oil Pressure
AmpSentry™ UL Listed Protective Relay
Stop Switch - Emergency
Signals - Aux, Input / Output
Control Display Language - English
Load Connection - Single
Circuit Breaker, Location A, 70A - 250A, 3P, LSI, 600 Volts AC, 100%, UL
Circuit Breaker or Terminal Box - Position B (Generator Right Side) - None
Circuit Breaker or Terminal Box - Position C (Generator Right Side) - None
Engine Governor - Electronic, Isochronous
Fuel Water Separator
Low Fuel Level Switch, 40%
Mechanical Fuel Gauge
Switch - Fuel Tank, Rupture Basin
Engine Starter - 12 Volt DC Motor
Engine Air Cleaner - Normal Duty
Battery Charging Alternator
Engine Cooling - Radiator, High Ambient Air Temperature, Ship Fitted
Shutdown - Low Coolant Level
Extension - Coolant Drain
Engine Coolant - 50% Antifreeze, 50% Water Mixture
Coolant Heater
Engine Oil
Genset Warranty - 2 Years Base



Literature - English

Packing - Skid, Poly Bag

Larger Battery Rack

Extension - Oil Drain

Sandstone Sound Level 2 Intake Baffle - Ship Loose

Enclosure Installation Kit (Arrow)

1

Circuit Breaker Installation-12VDC Shunt Trip

1

Circuit Breaker Installation-1SPDT, Auxiliary Contacts

1

Battery Charger-10Amp, 120/208/240VAC, 12/24V, 50/60Hz

1

E STOP BRK Glass NEMA 3 w/ contacts

1

Factory Direct Shipment to Customer

1

2 OTPC Transfer Switch-Power Command: 125A

1

Transfer Switch-Onan, PwrCmd, 125 Amp

Listing - UL 1008 / CSA Certification

Application - Utility to Genset

Cabinet - Type 3R

Poles - 3 (Solid Neutral)

Frequency - 60 Hz

System - 3 Phase, 3 or 4 Wire

Voltage - 480 Volts AC

Level 1 Transfer Switch Control

Control Panel, Security Key Switch

Display - Digital

Auxiliary Relay - Switch In Emergency Position - 12 Volts DC

Auxiliary Relay - Switch In Normal Position - 12 Volts DC

Transfer Switch Warranty - Year 0 - 2: Parts, Labor and Travel Year 3 - 5: Parts Only Year 6 - 10: Main Contacts Only



	Factory Direct Shipment to Customer	1
3	Service - start up & load bank testing	1
Grand Total		USD 30,675.90

NOTE: Quote Grand Total does not include any tax.



NOTES AND EXCEPTIONS:

- Current Submittal Lead Time: **4 weeks**
- Current Production Lead Time (*after receipt of approved submittal and accepted PO*):
 - Transfer Switch(es): **5-7 weeks**
 - Generator: **12-14 weeks**
- Proposal based upon supplied **customer BOM** documents dated **09/30/2020** only.
- Price quoted is F.O.B. factory with freight allowed to the first U.S. destination.
- Price does not include any applicable taxes unless listed above.
- All ship loose items installed by others.
- Unloading, installation, and fuel are not included and will be the responsibility of others.
- **Warranty:** Cummins **2-year** warranty begins at the successful completion of startup and testing in lieu of acceptance or substantial completion.
- **Startup & Training:**
 - Providing Cummins standard startup and the specific testing listed above only. All other testing including NETA testing is provided by others.
 - Our proposal includes **1** trip during normal business hours to complete the onsite services listed above. If additional trips or after-hours trips are required, additional cost will be incurred.
 - Training for maintenance personnel will be concurrent at time of startup unless otherwise noted.
 - No videotaping is included with this quotation. All taping is supplied by others.
- **PMA:** Generator Maintenance Agreement is not included and will be negotiated directly with the owner once equipment has been successfully started up and tested.
- *NOTICE: As a result of the outbreaks of the disease COVID-19 arising from the novel coronavirus, temporary delays in delivery, labor, or services from Cummins and its sub-suppliers or subcontractors may occur. Among other factors, Cummins' delivery is subject to correct and punctual supply from our sub-suppliers or subcontractors, and Cummins reserves the right to make partial deliveries or modify its labor or service. While Cummins shall make every commercially reasonable effort to meet the delivery, service, or completion described herein, such date(s) is(are) subject to change.*

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:
Cummins Sales and Service

Name :John Duddy
Email :mn467@cummins.com
Cell :
Office:



SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No



TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto shall be null and void and of no legal effect on Cummins.

SCOPE

Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. Any Quote is valid for 60 days. The price is firm provided drawings are approved and returned within 60 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated.

SHIPPING; DELIVERY; DELAYS

Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

PAYMENT TERMS; CREDIT; RETAINAGE

Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

TAXES; EXEMPTIONS

Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

TITLE; RISK OF LOSS

Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

INSPECTION AND ACCEPTANCE

Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

LIEN; SECURITY AGREEMENT

Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

CANCELLATION; CHARGES

Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office 60 or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

MANUALS

Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

TRAINING; START UP SERVICES; INSTALLATION

Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by

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others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

MANUFACTURER'S WARRANTY

Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

WARRANTY PROCEDURE

Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

LIMITATIONS ON WARRANTIES

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

IDEMNITY

Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY

NOT WITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

DEFAULT; REMEDIES

Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins.

Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

CUSTOMER REPRESENTATIONS; RELIANCE

Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

CONFIDENTIALITY

Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information;

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(e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

INSURANCE

Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

ASSIGNMENT

This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

INTELLECTUAL PROPERTY

Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

MISCELLANEOUS

Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern. Cummins may incur additional charges which will be passed on to the Customer, as applicable.

COMPLIANCE

Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** 12/08/2020
FROM: Derek Asdot, Chief of Police
SUBJECT: City council approval of Evidence Custodian and Administrative Commander attending PEAFF Conference.

BACKGROUND

Conference dates are May 23 – May 26, 2021 located in Daytona Beach, FL. Total cost for conference is \$650.00. \$350 for Gerilynn and then \$300 for Commander Guzman. This fee includes the following: certification class, certification materials, and then the certification exam. Funds will be coming out of Professional Development: 104-2021-5005410.

FISCAL IMPACT

RECOMMENDATION

Please approve the PEAFF conference for G. Barton and J. Guzman.

Switch to Receipt

Item #10.

Download PDF

PEAF
934 North University Drive
#439
Coral Springs
Florida, US
33065
treasurer@peaf.net

Invoice

Date: November 4, 2020

Registration Code: 669-53-1-ca87

Transaction ID: 669

Please send this invoice with payment attached to the address above, or use the payment link below. Payment must be received within 48 hours of event date.

Bill To:

John Guzman
1001 Idlewild Avenue
Green Cove Springs, Florida
United States

Purchases

Item	Description	Qty	Price	Total
Conference Ticket (Certification Test NOT included)	This conference ticket is for one person, additional person's from the same agency may purchase additional conference ticket same agency at a reduced rate. This purchase includes one dinner ticket, additional dinner tickets may be purchased separately. (For 2021 PEAFF Educational Conference)	1	\$350.00	\$350.00
Additional Conference Ticket (Same Agency) Admission	The purchase of this requires another person from the same agency to purchase. This also includes one dinner ticket. (For 2021 PEAFF Educational Conference)	1	\$300.00	\$300.00
			Sub-Total	\$650.00 (USD)
Sales Tax			15%	\$0.00
			Total	\$650.00 (USD)

* taxable items



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council Regular Meeting **MEETING DATE:** December 8, 2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: City Council approval of funding in the amount of \$25,814.09 to Anixter and \$27,575.38 to AWG for electric material inventory for operating and capital projects.

BACKGROUND

The electric department utilizes a wide variety of materials for routine electric system maintenance and capital system hardening projects. Warehouse staff solicits quotes from vendors and utilizes a combination of price and lead time to award material purchases to vendors. The latest request for quotes is spread between four vendors, of which two vendors exceed the \$25,000.00 threshold requiring council approval.

FISCAL IMPACT

\$53,389.47 to the Electric Department capital and operating budgets

RECOMMENDATION

Approve funding in the amount of \$25,814.09 to Anixter and \$27,575.38 to AWG for electric material inventory for operating and capital projects.

QUOTES RECEIVED BY: SAM LOPEZ		DATE: 11/5/2020		VENDOR/QUOTER Gresco 3250		VENDOR/QUOTER Anixter 8638		VENDOR/QUOTER AWG 7466		VENDOR/QUOTER IRBY 524		VENDOR/QUOTER TRI-STATE 2630	
		QTY	NOTE	PRICE	NOTE	PRICE	NOTE	PRICE	NOTE	PRICE	NOTE	PRICE	NOTE
E-0005	6' STREET LIGHT BRACKET, ARM	40				\$68.00	4-6 weeks					\$72.00	6 WK
E-0007	PHOTO CELL CONTROL	200		\$ 21.00	4 WEEKS	NQ		\$ 21.52	2 WEEKS	\$14.34	1 WK	NQ	
E-0010	TIN BRONZE GRIP	25		\$ 23.50	2-3 WEEKS	\$23.50	4 weeks	\$ 32.36	2-3 weeks			NQ	
E-0011	SINGLE PHSE / SINGLE POSITION	56		\$ 27.00	2 WEEKS	\$23.97	6 weeks	\$ 36.16	4-6 weeks			NQ	
E-0016	BRACKET SWITCH W/ DEADEND LINK	21		\$ 66.00	2-3 WEEKS	\$64.97	6 weeks	\$ 70.29	7 Weeks			NQ	
E-0017	BRACKET SWITCH	2		\$ 150.00	5 WEEKS	\$147.20	6 weeks	\$ 155.88	7 Weeks			NQ	
E-0020	TIE SIDE #477 F NECK	150		\$ 4.95	2 WEEKS	\$4.27	Anixter Stock	\$ 7.66	2-3 weeks	\$4.33	4 WK	NQ	
E-0027	AMP WEDGE 477-477 18/1 YELLOW	100		\$ 16.00	3 WEEKS	NQ		\$ 33.28	6-8 WEEKS			NQ	
E-0220	INSULATING COVER C7	75		\$ 0.65	1 WEEK	\$0.540	Anixter Stock	\$ 0.66	1-2 Weeks	\$0.61	1 WK	\$1.00	2 WK
E-0240	COMP TAP WR 159 "1"	300		\$ 0.47	1-2 WEEKS	\$0.370	Anixter Stock	\$ 0.53	1-2 Weeks	\$0.36	1 WK	0.75	2 WK
E-0250	COMP TAP WR 189 "2"	300		\$ 0.47	3 WEEKS	\$0.400	Anixter Stock	\$ 0.51	1-2 Weeks	\$0.38	5 WK	0.66	2 WK
E-0260	COMP TAP WR 279 "4"	300		\$ 0.70	1-2 WEEKS	\$0.638	Anixter Stock	\$ 0.78	1-2 Weeks	\$0.67	4 WK	\$1.15	2 WK
E-0270	COMP TAP WR 289 "3"	50		\$ 0.72	1-2 WEEKS	\$0.650	Anixter Stock	\$ 0.79	1-2 Weeks	\$0.67	4 WK	0.98	2 WK
E-0280	COMP TAP WR 399 "6"	50		\$ 0.75	1-2 WEEKS	\$0.744	Anixter Stock	\$ 0.91	1-2 Weeks	\$0.71	1 WK	\$1.24	2 WK
E-0290	COMP TAP WR 419 "7"	75		\$ 0.80	8 WEEKS	\$0.740	Anixter Stock	\$ 0.91	1-2 Weeks	\$2.20	1 WK	\$1.30	2 WK
E-0300	COMP TAP WR 379 "5"	50		\$ 0.80	1-2 WEEKS	\$0.677	Anixter Stock	\$ 0.82	1-2 Weeks	\$0.70	1 WK	\$1.15	2 WK
E-0370	SERV. CONN. ICS64	125		\$ 0.50	3-4 WEEKS	\$0.412	Anixter Stock	\$ 0.51	1-2 Weeks	\$0.36	1 WK	\$1.00	6 WK
E-0470	INSULATED SERVICE SLEEVE	250		\$ 0.50	2-3 WEEKS	\$0.392	Anixter Stock	\$ 0.48	1-2 Weeks	\$0.39	1 WK	\$1.10	2 WK
E-0787	STIRRUP HOTLINE(8-2/0) ALUM	110		\$ 9.00	4-6 WEEKS	\$10.50	Anixter Stock	\$ 3.64	4-6 WEEKS	\$9.00	10-14 WK	NQ	
E-0800	HOT LINE CLAMP BRONZE BC-2/0	200		\$ 8.00	4-6 WEEKS	\$6.77	Anixter Stock	\$ 16.99	4-6 WEEKS	\$9.01	5 WK	NQ	
E-0835	CLAMP, JUMPER BRONZE	200		\$ 2.75	3 WEEKS	\$2.14	Anixter Stock	\$ 12.89	4-6 WEEKS			NQ	
E-0840	COUPLING, GROUND ROD	111		\$ 2.75	1 WEEK	\$2.53	Anixter Stock	\$ 0.41	1-2 Weeks	\$2.74	1 WK	NQ	
E-0860	GROUND ROD CU 8'	165		\$ 9.25	1 WEEK	\$8.72	Anixter Stock	\$ 11.11	1-2 Weeks			\$25.00	1WK
E-1396	ELBOW 4" SCH40 48R WITH BELL END	12				\$25.20	4 weeks					NQ	
E-1401	PVC CONDUIT ADAPTER 4X6	20				\$79.07	4 weeks			\$89.84	5 WK	NQ	
E-1450	ARRESTOR 18KV	73		\$ 34.50	7 WEEKS	\$35.40	Anixter Stock					NQ	
E-1460	CUTOUT 27KV 100AMP	46		\$ 75.00	5 WEEKS	\$71.87	5 weeks	\$ 79.65	1-2 WEEKS			NQ	
E-1616	GUY ATTACHMENT, CONCRETE POLE	225		\$ 5.65	2-3 WEEKS	\$6.54	2 weeks	\$ 9.40	50 IN STOCK BALANCE IN 2 WEEKS	\$5.68	1 WK	NQ	
E-1780	INSULATOR 7.2KV SPL	34		\$ 0.66	STOCK	\$0.80	Anixter Stock	\$ 1.35	1-2 WEEKS	\$0.63	1 WK	NQ	
E-1832	INSULATOR , CLAMP TOP VERT. MOUNT	100		\$ 25.00	3-4 WEEKS	\$24.30	2 weeks	\$ 52.43	6-8 WEEKS	\$29.14	12 WK	NQ	
E-1833	INSULAOR, TIE TOP 35KV F NECK	100		\$ 14.00	2 WEEKS	\$13.27	2 weeks	\$ 28.83	1-2 WEEKS	\$14.42	4 WK	NQ	
E-1838	BRACKET, POLE TOP	64		\$ 13.50	2 WEEKS	\$14.50	anixter stock	\$ 17.97	1-2 Weeks	\$16.40	6 WK	\$16.00	1 WK
E-1852	INSULATOR, STUD BOLT 14"	100		\$ 5.00	5 WEEKS	\$8.42	anixter stock	\$ 4.21	1-2 Weeks	\$7.82	18WK	NQ	
E-1875	STRAIN INSULATOR 18"	110		\$ 14.50	4-6 WEEKS	\$16.27	anixter stock	\$ 14.15	1-2 WEEKS			NQ	
E-2120	MACHINE BOLT 12"	275		\$ 1.25	1 WEEK	\$1.04	anixter stock	\$ 1.30	1-2 Weeks	\$0.93	1 WK	\$1.30	1 WK
E-2130	MACHINE BOLT 14"	700		\$ 1.45	1 WEEK	\$1.09	anixter stock	\$ 1.53	8 WEEKS	\$1.04	1 WK	\$1.50	1 WK
E-2140	MACHINE BOLT 16"	125		\$ 1.85	1 WEEK	\$1.20	anixter stock	\$ 2.05	8 WEEKS	\$1.33	1 WK	\$2.00	1 WK
E-2200	EYE BOLT 14"	250		\$ 3.00	4 WEEKS	\$2.82	anixter stock	\$ 3.28	2 WEEKS	\$2.25	1 WK	\$3.60	1 WK
E-2210	EYE BOLT 16"	225		\$ 4.00	2 WEEKS	\$2.64	anixter stock	\$ 3.43	195 IN STOCK	\$2.91	5 WK	\$5.50	3 WK
E-2390	EYE NUT 5/8"	150		\$ 2.50	2 WEEKS	\$1.41	anixter stock	\$ 1.12	1-2 WEEKS	\$1.45	1 WK	\$1.85	3 WK
E-2410	SQUARE WASHER 2X2	800		\$ 0.75	2 WEEKS	\$0.18	anixter stock	\$ 0.15	1-2 WEEKS	\$0.21	1 WK	0.32	3 WK
E-2630	TERMINATOR (RAYCHEM)	59		\$ 76.50	3-4 WEEKS	\$78.13	2 weeks	\$ 97.19	2 WEEKS			NQ	
E-3420	WIRE CODE NAME "MUREX" (1200')	2		\$1.55/FT	2-3 WEEKS	NQ		.93/FT	2-3 WK			NQ	
E-3439	WIRE CODE NAME "AMHERST" (3810')	2		\$1.00/FT	2-3 WEEKS	NQ		.394/FT	1 WK			NQ	
E-3456	WIRE CODE NAME "COSMOS" (4245')	3		\$1.50/FT	2-3 WEEKS	NQ		.825/FT	1 WK			NQ	

Item #11.

E-3520	4" U-GUARD	9	\$ 45.00	1 WEEK	\$60.40	anixter stock	\$ 40.67	1-2 WEEKS		\$38.00	1 WK	
E-3540	YELLOW GUY GUARD	50	\$ 4.00	1 WEEK	\$4.15	anixter stock	\$ 5.57	1-2 WEEKS	\$4.07	1 WK	NQ	
E-3560	GUY WIRE 3/8 TYPE B (500')	5	WAITING				.40/FT	1 WK	.38/FT	1 WK	NQ	
E-3575	WIRE #4 SD ALUM TIE	2	\$ 71.25	1 WEEK			97.5	1 WK	\$64.97	8 WK	NQ	
E-3580	WIRE #6 SD ALUM TIE	1	\$ 83.75	1 WEEK			103.3	1 WK	\$68.75	6 WKS	NQ	
E-3600	WIRE #2 AL TRIPLEX "CLAM" (500')	3	WAITING				.498/FT	1 WK			NQ	
E-3610	WIRE #6 DUPLEX AL "COLLIE" (1000')	1	WAITING				.17/FT	1 WK			NQ	
E-3640	INSULATED #6 SOFT DRAWN COPPER (287')	3	\$0.80/FT	1 WEEK			0.55	1 WK			NQ	
E-3645	INSULATED #4 SOFT DRAWN COPPER (147')	4	WAITING				0.82	1 WK	\$2.34	1 WK	NQ	
E-3650	WIRE #6 CU SOFT DRAWN BARE	1	\$ 103.75	1 WEEK			135.45	1 WK	\$101.01	1 WK	NQ	
E-3660	WIRE #4 CU SOFT DRAWN BARE	10	\$ 97.50	1 WEEK			118	1 WK	\$109.00	1WK	NQ	
E-3690	WIRE 4/0 THW CI INS (1000')	1	WAITING				2.953/FT	1 WK			NQ	
E-3700	WIRE 2/0 THW INS COVERED COPPER (1000')	2	WAITING				2.19/FT	1 WK			NQ	
E-3730	ANCHOR 8'X10"	10	\$ 50.00	7-8 WEEKS	\$36.27	anixter stock	\$ 72.05	1-2 weeks	\$40.75	1 WK	\$52.00	1 WK
E-3740	ANCHOR , MULIT HELIX 10,12,14"	22	\$ 157.50	6-7 WEEKS	\$102.50	anixter stock	\$ 178.46	6 WEEKS	\$170.94	13 WK	\$225.00	10 WK
E-3750	GUY ADP. TRIPLEYE	22	\$ 24.00	1 WEEK	\$19.51	anixter stock	\$ 30.12	6 WEEKS	\$33.91	1 WK	\$34.00	20 WK
E-3760	ROD, ANCHOR EXTENSION 3.5FT	44	\$ 45.00	4-5 WEEKS	\$26.05	anixter stock	\$ 55.33	6 WEEKS			\$45.00	8 WK
E-3808	NEUTRAL BRACKET	36	\$ 4.50	5 WEEKS	\$6.07	anixter stock	\$ 4.71	4-6 WEEKS	\$3.41	4 WK	\$6.50	1 WK
E-TAPE	BLACK VINYL TAPE	255			\$3.30	anixter stock	\$ 3.38	1-2 WEEKS	\$3.80	1 WK	\$3.00	1 WK
		total	13,135.500		25,814.090		27,257.375		\$3,452.54		\$342.00	

Item #11.

QUOTES

RECEIVED BY: SAM LOPEZ

DATE: 11/5/2020

				VENDOR/QUOTER		VENDOR/QUOTER		VENDOR/QUOTER	
				Gresco	3250	Anixter	8638	Tri-State	7466
					GOOD THRU		GOOD THRU		GOOD THRU
		QTY	NOTE	PRICE	NOTE	PRICE	NOTE	PRICE	NOTE
E-3812	LARGE ANGLE SHOES	50		\$ 19.05	1 WEEK	\$14.78	10 WK	NO	QUOTE
E-1834	INSULATOR,CLAMP TOP HORZ.MOUNT	100		NO	QUOTE	No	QUOTE	\$ 35.00	1wk
E-3813	XL- ANGLE SHOES	50		NO	QUOTE	NO	QUOTE	\$ 11.25	8 WK



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** December 8, 2020
FROM: Steve Thomas
SUBJECT: City Council Approval of Task Order # 1-20-400 to Toco Engineering, LLC in the amount of \$52,000.00 for Professional Engineering services agreement to Design, Permit and Supply Drawings for construction of the West St drainage basin project from Walnut St to MLK holding pond. *Steve Thomas*

BACKGROUND

This project has been in need of major upgrades for many years and now that we have established a stormwater utility we have the funds to get started on this project. This corrugated metal pipe has several issues with it all down West St and the bottom of the pipe has rusted away and caused some settlement and required constant maintenance and repair.

Tocoi proposes to have the project designed and permitted within 120 days of task order approval. Once the design is complete, we will bid out the project and begin construction prior to the end for fiscal year 2021.

FISCAL IMPACT

\$100,000.00 is budgeted for this design and permitting in the FY 21 Stormwater CIP budget. The impact is \$52,000.00 out of account # 406-3036-5006307 To TOCOI Engineering LLC.

RECOMMENDATION

Approve Task Order # 1-20-400 to Toco Engineering, LLC in the amount of \$52,000.00 for Professional Engineering services agreement to Design, Permit and Supply Drawings for construction of the West St drainage basin project from Walnut St to MLK holding pond and authorize the City Manager to issue a purchase order and approve all applications for payment.

TASK ORDER

PROFESSIONAL ENGINEERING SERVICES AGREEMENT

TASK ORDER NO.: 1-20-400

PURCHASE ORDER NO.: _____

PROJECT NAME: West Street Stormwater Rehab Design-City of Green Cove Springs

CITY: CITY OF GREEN COVE SPRINGS, a political subdivision of the State of Florida

PROJECT MANAGER: Steve Thomas, Public Works Director

CONSULTANT: Charles Sohm, Project Manager, Tocol Engineering

CONSULTANT'S ADDRESS: 714 N. Orange Avenue
Green Cove Springs, FL 32043

Execution of the Task Order by the CITY shall serve as authorization for the CONSULTANT to provide for the above project dated **18th day of November, 2020** between the CITY and the CONSULTANT and further delineated in the specifications, conditions and requirements stated in the following listed documents which are attached hereto and made a part hereof.

SCOPE OF WORK

DETAILED SERVICES AND TASKS FOR PROJECT OR STUDY

Design/Permitting of Maintenance/Upgrade of existing Stormwater Drainage Structures along West St. From s/o Walnut St. to Water Retention area n/o Martin Luther King Blvd.

- o **Data Gathering, Due Diligence, Survey Coordination**
- o **Preliminary Engineering—Drawings/Plans/Specifications**
- o **Permit Application with FDEP**
- o **Final Engineering**

The CONSULTANT shall provide said services pursuant to this Task Order, its attachments, and the above-referenced Agreement, which is incorporated herein by reference as if it had been set out in its entirety. Whenever the Task Order conflicts with said Agreement, the Agreement shall prevail.

TIME FOR COMPLETION: The work authorized by this Task Order shall be commenced upon receipt of a Purchase Order by the CONSULTANT and shall be completed within (120) calendar days from receipt of a Purchase Order by the CONSULTANT.

METHOD OF COMPENSATION:

(a) This Task Order is issued on a:

- “Lump Sum Basis”
- “Hourly Rate Basis” with a “Not-to-Exceed” amount
- “Hourly Rate Basis” with a “Limitation of Funds” amount

- (b) If the compensation is based on a "Lump Sum Basis," then the CONSULTANT shall perform all work required by this Task Order for the sum of **Fifty-two thousand dollars (\$52,000.00)** In no event shall the CONSULTANT be paid more than the "Lump Sum Fee" Amount.
- (c) If the compensation is based on an "Hourly Rate Basis" with a "Not-to-Exceed" Amount, then the CONSULTANT shall perform all work required by this Task Order for a sum not exceeding **DOLLARS (\$)** . The CONSULTANT'S compensation shall be based on the actual work required by this Task Order.
- (d) If the compensation is based on an "Hourly Rate Basis" with a "Limitation of Funds" Amount, then the CONSULTANT is not authorized to exceed the "Limitation of Funds" amount of **DOLLARS (\$)** without prior written approval of the CITY. Such approval, if given by the CITY, shall indicate a new "Limitation of Funds" amount. The CONSULTANT shall advise the CITY whenever the CONSULTANT has incurred expenses on this Task Order that equals or exceeds eighty percent (80%) of the "Limitation of Funds" amount. The CITY shall compensate the CONSULTANT for the actual work performed under this Task Order.

The CITY shall make payment to the CONSULTANT in strict accordance with the payment terms of the above-referenced Agreement.

It is expressly understood by the CONSULTANT that this Task Order, until executed by the CITY, does not authorize the performance of any services by the CONSULTANT and that the CITY, prior to its execution of the Task Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Task Order if it is determined that to do so is in the best interest of the CITY.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order on this 18th day of November 2020, for the purposes stated herein.

TOCOI ENGINEERING, LLC

By: 

Charles N. Sohm, P.E.

Witness

CITY OF GREEN COVE SPRINGS

By: _____
Steve Thomas, Public Works Director

Witness

Date: _____



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** December 8, 2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: City Council approval for funding to Cummins Southeast in the amount of \$31,795.19 for purchase of a generator for Lift Station #6, utilizing Sourcewell Cooperative Bid ID# 103544. This is part of the HMGP Project # 4337-215-R, from which we have received an advance payment of \$23,846.39 (75%)

BACKGROUND

On 8/21/2018 Council ratified the submittal by staff for an HMGP grant application for installation of a generator and other improvements at Lift Station #6. The total estimated cost of the project was \$107,400.00. The City has received a grant amount of \$80,550.00, or 75% of the project cost. This project must be complete by February 28, 2022.

On 2/4/2020 Council approved of and authorized the mayor to execute the actual contract.

This agenda item is for approval to purchase the generator. The city has received a cash advance for 75% of the purchase price.

FISCAL IMPACT

\$7,946.80 to the wastewater CIP budget

RECOMMENDATION

Approve funding to Cummins Southeast in the amount of \$31,795.19 for purchase of a generator for Lift Station #6, utilizing Sourcewell Cooperative Bid ID# 103544.



October 1, 2020

Quotation: O-162202-Q-03252
 Doc Ref: City of GCS Station 306 Q-03252-20201001-1157

Prepared by

Clinton Rapp
 Inside Sales
 5910 E Hillsborough Ave
 Tampa FL 33610
 United States
 Phone:
 www.cummins.com

Project: City of Green Cove Springs Lift Stations Station 306

Quote valid till: November 30, 2020

Thank you for your inquiry. We are pleased to quote as follows.

ITEM NUMBER	DESCRIPTION	Quantity
1	<p>C80D6C Genset-Diesel, 60Hz, 80kW</p> <p>U.S. EPA, Stationary Emergency Application</p> <p>Genset-Diesel, 60Hz,80kW</p> <p>Duty Rating - Standby Power (ESP)</p> <p>Listing - UL 2200</p> <p>NFPA 110 Type 10 Level 1 Capable</p> <p>Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency</p> <p>Exciter / Regulator - Permanent Magnet Generator, 3 Phase Sensor</p> <p>Voltage - 120 / 240, 3 Phase Delta</p> <p>Alternator - 60Hz, 12L, 240 / 120V, 120C, 40C Ambient</p> <p>Alternator Heater, 120 Volt AC</p> <p>Aluminum Sound Attenuated Level 2 Enclosure, with Exhaust System</p> <p>Enclosure Color - Sandstone, Aluminum</p> <p>Enclosure - Wind Load 180 MPH, ASCE7-10</p>	1



Skidbase - Housing Ready
UL142 Sub Base Dual Wall Basic, Diesel Fuel Tank, 48 Hour Minimum
Control Mounting - Left Facing
PowerCommand2.3 Controller
Gauge - Oil Pressure
AmpSentry™ UL Listed Protective Relay
Stop Switch - Emergency
Signals - Aux, Input / Output
Control Display Language - English
Load Connection - Single
Circuit Breaker, Location A, 70A - 250A, 3P, LSI, 600 Volts AC, 100%, UL
Circuit Breaker or Terminal Box - Position B (Generator Right Side) - None
Circuit Breaker or Terminal Box - Position C (Generator Right Side) - None
Engine Governor - Electronic, Isochronous
Fuel Water Separator
Low Fuel Level Switch, 40%
Mechanical Fuel Gauge
Switch - Fuel Tank, Rupture Basin
Engine Starter - 12 Volt DC Motor
Engine Air Cleaner - Normal Duty
Battery Charging Alternator
Engine Cooling - Radiator, High Ambient Air Temperature, Ship Fitted
Shutdown - Low Coolant Level
Extension - Coolant Drain
Engine Coolant - 50% Antifreeze, 50% Water Mixture
Coolant Heater
Engine Oil
Genset Warranty - 2 Years Base



Literature - English	
Packing - Skid, Poly Bag	
Larger Battery Rack	
Extension - Oil Drain	
Sandstone Sound Level 2 Intake Baffle - Ship Loose	
Enclosure Installation Kit (Arrow)	1
Circuit Breaker Installation-12VDC Shunt Trip	1
Circuit Breaker Installation-1SPDT, Auxiliary Contacts	1
Battery Charger-10Amp, 120/208/240VAC, 12/24V, 50/60Hz	1
E STOP BRK Glass NEMA 3 w/ contacts	1
Factory Direct Shipment to Customer	1
2 OTPC Transfer Switch-Power Command: 260A	1
Transfer Switch-Onan, PwrCmd, 260 Amp	
Listing - UL 1008 / CSA Certification	
Application - Utility to Genset	
Cabinet - Type 3R	
Poles - 3 (Solid Neutral)	
Frequency - 60 Hz	
System - 3 Phase, 3 or 4 Wire	
Voltage - 240 Volts AC	
Level 1 Transfer Switch Control	
Control Panel, Security Key Switch	
Display - Digital	
Aux Relay - Emergency Position - 12 Volts DC	
Aux Relay - Normal Position - 12 Volts DC	
Transfer Switch Warranty - Year 0 - 2: Parts, Labor and Travel Year 3 - 5: Parts Only Year 6 - 10: Main Contacts Only	



	Factory Direct Shipment to Customer	1
3	Service - start up & load bank testing	1
Grand Total		USD 31,795.19

NOTE: Quote Grand Total does not include any tax.



NOTES AND EXCEPTIONS:

- Current Submittal Lead Time: **4 weeks**
- Current Production Lead Time (*after receipt of approved submittal and accepted PO*):
 - Transfer Switch(es): **5-7 weeks**
 - Generator: **12-14 weeks**
- Proposal based upon supplied **customer BOM** documents dated **09/30/2020** only.
- Price quoted is F.O.B. factory with freight allowed to the first U.S. destination.
- Price does not include any applicable taxes unless listed above.
- All ship loose items installed by others.
- Unloading, installation, and fuel are not included and will be the responsibility of others.
- **Warranty:** Cummins **2-year** warranty begins at the successful completion of startup and testing in lieu of acceptance or substantial completion.
- **Startup & Training:**
 - Providing Cummins standard startup and the specific testing listed above only. All other testing including NETA testing is provided by others.
 - Our proposal includes **1** trip during normal business hours to complete the onsite services listed above. If additional trips or after-hours trips are required, additional cost will be incurred.
 - Training for maintenance personnel will be concurrent at time of startup unless otherwise noted.
 - No videotaping is included with this quotation. All taping is supplied by others.
- **PMA:** Generator Maintenance Agreement is not included and will be negotiated directly with the owner once equipment has been successfully started up and tested.
- *NOTICE: As a result of the outbreaks of the disease COVID-19 arising from the novel coronavirus, temporary delays in delivery, labor, or services from Cummins and its sub-suppliers or subcontractors may occur. Among other factors, Cummins' delivery is subject to correct and punctual supply from our sub-suppliers or subcontractors, and Cummins reserves the right to make partial deliveries or modify its labor or service. While Cummins shall make every commercially reasonable effort to meet the delivery, service, or completion described herein, such date(s) is(are) subject to change.*

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:
Cummins Sales and Service

Name :John Duddy
Email :mn467@cummins.com
Cell :
Office:



SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No



TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto shall be null and void and of no legal effect on Cummins.

SCOPE

Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. Any Quote is valid for 60 days. The price is firm provided drawings are approved and returned within 60 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated.

SHIPPING; DELIVERY; DELAYS

Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

PAYMENT TERMS; CREDIT; RETAINAGE

Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

TAXES; EXEMPTIONS

Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

TITLE; RISK OF LOSS

Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

INSPECTION AND ACCEPTANCE

Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

LIEN; SECURITY AGREEMENT

Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

CANCELLATION; CHARGES

Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office 60 or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

MANUALS

Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

TRAINING; START UP SERVICES; INSTALLATION

Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by

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others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

MANUFACTURER'S WARRANTY

Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

WARRANTY PROCEDURE

Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

LIMITATIONS ON WARRANTIES

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

IDEMNITY

Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY

NOT WITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

DEFAULT; REMEDIES

Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins.

Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

CUSTOMER REPRESENTATIONS; RELIANCE

Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

CONFIDENTIALITY

Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information;

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(e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

INSURANCE

Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

ASSIGNMENT

This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

INTELLECTUAL PROPERTY

Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

MISCELLANEOUS

Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern. Cummins may incur additional charges which will be passed on to the Customer, as applicable.

COMPLIANCE

Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

Scott Schultz

From: John Duddy <john.duddy@cummins.com>
Sent: Thursday, November 12, 2020 10:38 AM
To: Scott Schultz
Subject: FW: Permanent Generators
Attachments: City of GCS Station 303 Q-03213-20201001-1132.docx; City of GCS Station 306 Q-03252-20201001-1157.docx; City of GCS Stations 314 315 319 Q-03264-20201001-1301.docx

CAUTION: This email originated from outside of the organization. . Do not click links or open attachments unless you recognize the sender and know the content is safe.

Scott,

Pricing is confirmed per sourcewell purchasing cooperative ID#103544.

John Duddy
 Cummins Inc.
 904-838-6532

From: Scott Schultz [mailto:sschultz@greencovesprings.com]
Sent: Thursday, November 12, 2020 10:15 AM
To: John Duddy <john.duddy@cummins.com>
Subject: Permanent Generators

External Sender

From: Greg Bauer [mailto:gbauer@greencovesprings.com]
Sent: Wednesday, September 30, 2020 10:48 AM
To: John Duddy <john.duddy@cummins.com>
Cc: Scott Schultz <sschultz@greencovesprings.com>
Subject: Permanent Generators

External Sender

John,

Good morning, we apologize in advance for all the back and forth on the generators. After discussion with FEMA, we have landed on purchasing 5 permanent generator packages from Cummings. The list of generators is attached. Also, we made an error on the generator for lift station 303. LS# 303 is a **3ph 480 V**. I apologize for the inconvenience. Could you please provide the following?

- A separate quote for the generator and ATS for 303
- A separate quote for the generator and ATS for 306
- A separate quote for the generator and ATS's for 314, 315, and 319.



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** December 8, 2020
FROM: Marlena Guthrie, Finance Director
SUBJECT: City Council approval of the Unaudited FY 2020 Revenues and Expenditures Report and the Quarterly Investment Report for the period ending September 30, 2020.

BACKGROUND

The attached Revenues and Expenditures Report is for the period October 1, 2019 through September 30, 2020. In the General Fund, revenues are listed by category and/or major funding sources. In all funds, the budgeted figures are presented first with the actual expenditures and the variance between the budget and actual listed next. The percent of actual is the amount that has actually been received (or accrued in the case of state shared revenues) or the amounts expended as a percent of the budget for the period ending September 30, 2020. The report is prepared on a modified accrual basis with state shared revenues for the month of September 2020 (received in October and November 2020) accrued for the month of September 2020.

Attachment "A" reflects the City of Green Cove Springs Investments which are currently 100% deposited with the Florida State Board of Administration as of September 30, 2020.

FISCAL IMPACT

None

RECOMMENDATION

Approve the Unaudited FY 2020 Revenues and Expenditures Report and the Quarterly Investment Report for the Period Ending September 30, 2020.

**GENERAL FUND
REVENUES AND EXPENDITURES
AS OF SEPTEMBER 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
GENERAL FUND REVENUES:				
Ad Valorem Taxes	1,769,122	1,766,498	(2,624)	100%
Gas Tax	420,000	363,778	(56,222)	87%
Surtax	980,000	907,795	(72,205)	93%
Franchise Fees	15,000	7,992	(7,008)	53%
Communications Svcs Tax	370,000	392,425	22,425	106%
Utility Taxes - Water	125,000	132,621	7,621	106%
Utility Taxes - Other	68,600	48,750	(19,850)	71%
Business Taxes	40,000	38,898	(1,102)	97%
Code Enforcement Fines	30,000	35,789	5,789	119%
State Shared Taxes/Licenses	260,000	238,015	(21,985)	92%
Sales Tax	457,800	451,081	(6,719)	99%
Municipal Fuel Rebate	8,000	8,291	291	104%
Qualifying Fees	1,400	720	(680)	51%
Planning and Zoning Fees	60,000	28,857	(31,143)	48%
Copying	2,000	750	(1,250)	38%
DOT Agreements	107,078	107,078	(0)	100%
Safety Grant-Fla League	6,000	6,000	0	0%
Police State Contribution	0	124,361	124,361	0%
Swimming Pool Receipts	48,000	0	(48,000)	0%
Special Events	60,000	30,641	(29,359)	51%
Interlocal - Clay County	300,000	0	(300,000)	0%
Interlocal - School Board	332,090	394,734	62,644	119%
Court Fines/Parking Fines	42,000	10,086	(31,914)	24%
Red Light Camera	850,000	859,721	9,721	101%
Police Education	4,500	9,861	5,361	219%
Asset Forfeiture - Federal	0	14,501	14,501	0%
Police Vest Grant	4,500	2,842	(1,659)	63%
DEA & DOJ Overtime	18,344	4,499	(13,845)	25%
Interest	74,000	32,162	(41,838)	43%
Private Developer	15,000	0	(15,000)	0%
Sale of Surplus	20,000	6,973	(13,027)	35%
Miscellaneous Income	16,560	15,903	(657)	96%
Rent-Building Department	30,000	30,000	0	100%
Rent-Augusta Savage Facility	22,740	22,625	(115)	99%
Pier Docking Fees	2,000	2,501	501	125%
Park Reservation Fees	20,000	10,550	(9,450)	53%
Cost Recoveries/Transfers to GF	3,036,331	2,997,807	(38,524)	99%
Reserves	600,654	481,732	(118,922)	80% Note #1
Grants/Loans	835,000	917	(834,083)	0%
Legislative Delegation	550,000	550,000	0	100%
TOTAL REVENUES	11,601,719	10,137,752	(1,463,967)	87%

Note #1 - The majority of budgeted Reserves in the General Fund Revenues consists of Surtax, Gas Tax, and Depreciation. These Reserves are the funding sources for various Capital uses in the General Fund as outlined in the CIP. These Reserves are reflected on this report for presentation purposes to offset the related General Fund Capital Expenditures as presented in the Budget.

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
<u>GENERAL FUND EXPENDITURES:</u>				
CITY COUNCIL:				
PERSONAL SERVICES	49,944	49,795	(149)	100%
OPERATING EXPENSES	25,875	5,270	(20,605)	20%
TOTAL	75,819	55,065	(20,754)	73%
CITY CLERK:				
PERSONAL SERVICES	103,498	102,581	(917)	99%
OPERATING EXPENSES	61,955	25,392	(36,563)	41%
TOTAL	165,453	127,973	(37,480)	77%
CITY MANAGER:				
PERSONAL SERVICES	303,889	324,352	20,463	107%
OPERATING EXPENSES	23,537	14,722	(8,815)	63%
TOTAL	327,426	339,074	11,648	104%
HUMAN RESOURCES:				
PERSONAL SERVICES	187,611	189,596	1,985	101%
OPERATING EXPENSES	41,466	27,726	(13,740)	67%
TOTAL	229,077	217,322	(11,755)	95%
AUGUSTA SAVAGE:				
PERSONAL SERVICES	39,771	50,030	10,259	126%
OPERATING EXPENSES	58,620	24,464	(34,156)	42%
CAPITAL	765,000	319,105	(445,895)	42%
TOTAL	863,391	393,598	(469,793)	46%
FINANCE:				
PERSONAL SERVICES	278,557	285,793	7,236	103%
OPERATING EXPENSES	39,340	34,487	(4,853)	88%
CAPITAL	0	0	0	0%
TOTAL	317,897	320,280	2,383	101%
INFORMATION TECHNOLOGY:				
PERSONAL SERVICES	117,759	113,170	(4,589)	96%
OPERATING EXPENSES	35,338	39,468	4,130	112%
CAPITAL	45,000	45,541	541	101%
TOTAL	198,097	198,179	82	100%
GENERAL SERVICES:				
OPERATING EXPENSES	287,206	250,231	(36,975)	87%
CAPITAL OUTLAY	6,000	349,423	343,423	5824% Note #2
CONTRIBUTION TO GF RESERVES	1,260,000	1,058,003	(201,997)	84%
TOTAL	1,553,206	1,657,657	104,451	107%

Note #2 - Purchase of Rivers House is included in this category.

<i>GENERAL FUND EXPENDITURES (CONT'D)</i>	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
CITY ATTORNEY:				
PERSONAL SERVICES	93,191	93,133	(58)	100%
OPERATING EXPENSES	29,038	16,032	(13,006)	55%
TOTAL	122,229	109,166	(13,063)	89%
DEVELOPMENT SERVICES:				
PERSONAL SERVICES	82,015	88,345	6,330	108%
OPERATING EXPENSES	34,579	30,623	(3,956)	89%
TOTAL	116,594	118,968	2,374	102%
CODE ENFORCEMENT:				
PERSONAL SERVICES	56,543	60,584	4,041	107%
OPERATING EXPENSES	12,480	4,237	(8,243)	34%
TOTAL	69,023	64,821	(4,202)	94%
POLICE:				
PERSONAL SERVICES	2,357,691	2,444,201	86,510	104%
OPERATING EXPENSES	641,169	599,246	(41,923)	93%
CAPITAL	137,554	144,747	7,193	105%
TRANSFERS OUT TO POLICE BLDG FUND	159,602	159,602	(0)	100%
TOTAL	3,296,016	3,347,794	51,778	102%
PUBLIC WORKS:				
PERSONAL SERVICES	334,881	362,030	27,149	108%
OPERATING EXPENSES	286,935	268,357	(18,578)	94%
CAPITAL	1,845,000	1,066,556	(778,444)	58%
TOTAL	2,466,816	1,696,943	(769,873)	69%
RIGHT OF WAY MTCE:				
PERSONAL SERVICES	94,459	93,553	(906)	99%
OPERATING EXPENSES	159,184	134,388	(24,796)	84%
TOTAL	253,643	227,941	(25,702)	90%
PARKS & RECREATION:				
PERSONAL SERVICES	176,340	206,162	29,822	117%
OPERATING EXPENSES	129,500	131,169	1,669	101%
CAPITAL	835,000	597,140	(237,860)	72%
TRANSFERS OUT TO SPRING PARK FUND	81,788	81,788	(0)	100%
TOTAL	1,222,628	1,016,259	(206,369)	83%

<u>GENERAL FUND EXPENDITURES (CONT'D)</u>	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
PARKS & REC PROGRAMMING:				
PERSONAL SERVICES	139,310	27,171	(112,139)	20%
OPERATING EXPENSES	18,872	60,590	41,718	321%
TOTAL	158,182	87,760	(70,422)	55%
EQUIPMENT MTCE:				
PERSONAL SERVICES	143,740	146,824	3,084	102%
OPERATING EXPENSES	22,482	12,127	(10,355)	54%
TOTAL	166,222	158,952	(7,270)	96%
GRAND TOTAL ALL DEPARTMENTS	11,601,719	10,137,752	(1,463,967)	87%
EXCESS REVENUES OVER EXPENDITURES		0		

**UTILITY FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
<i>ELECTRIC FUND</i>				
OPERATING REVENUES	12,771,500	11,809,917	(961,583)	92%
RESERVES/LOAN PROCEEDS	4,061,438	1,194,321	(2,867,117)	29%
INTEREST	85,000	40,865	(44,135)	48%
OTHER REVENUES	146,400	130,925	(15,475)	89%
TOTAL REVENUES	17,064,338	13,176,028	(3,888,310)	77%
EXPENSES:				
PERSONAL SERVICES	1,037,045	892,469	(144,576)	86%
OPERATING EXPENSES	9,798,955	9,057,711	(741,244)	92%
CAPITAL	3,745,000	2,048,822	(1,696,178)	55%
OTHER EXPENSES	17,200	17,686	486	103%
COST ALLOC/TRANSFERS	1,477,274	1,477,274	(0)	100%
DEBT	988,864	206,431	(782,433)	21%
TOTAL EXPENSES	17,064,338	13,700,392	(3,363,946)	80%
REVENUES:				
<i>WATER FUND</i>				
OPERATING REVENUES	1,673,177	2,134,016	460,839	128% Note #3
RESERVES/LOAN PROCEEDS	2,095,000	769,359	(1,325,641)	37%
INTEREST	18,000	8,145	(9,855)	45%
OTHER REVENUES	29,000	13,721	(15,279)	47%
TOTAL REVENUES	3,815,177	2,925,241	(889,936)	77%
EXPENSES:				
PERSONAL SERVICES	653,936	676,681	22,745	103%
OPERATING EXPENSES	468,544	518,243	49,699	111%
CAPITAL	2,210,000	808,308	(1,401,692)	37%
OTHER EXPENSES	3,000	2,838	(162)	95%
COST ALLOC/TRANSFERS	304,697	304,697	(0)	100%
DEBT	175,000	37,950	(137,050)	22%
TOTAL EXPENSES	3,815,177	2,348,717	(1,466,460)	62%

Note #3 - We Drill It Settlement of \$223,000 is included in this category.

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
WASTEWATER FUND				
OPERATING REVENUES	2,653,030	2,840,068	187,038	107%
INTEREST	11,000	5,449	(5,551)	50%
RESERVES	30,000	70,000	40,000	233%
GRANTS/LOAN PROCEEDS	5,930,000	4,013,219	(1,916,781)	68%
OTHER REVENUES	37,169	29,242	(7,927)	79%
TOTAL REVENUES	8,661,199	6,957,978	(1,703,221)	80%

EXPENSES:				
PERSONAL SERVICES	653,936	707,847	53,911	108%
OPERATING EXPENSES	821,498	590,437	(231,061)	72%
CAPITAL	3,365,000	5,462,288	2,097,288	162%
OTHER EXPENSES	4,000	5,293	1,293	132%
COST ALLOC/TRANSFERS	373,940	373,940	(0)	100%
DEBT	43,795	47,518	3,723	109%
TRANSFERS TO RECLAIMED WATER	2,860,000	0	(2,860,000)	0%
TO BE APPROPRIATED	100,000	0	(100,000)	0%
CONTRIBUTION TO RETAINED EARNINGS	439,030	0	(439,030)	0%
TOTAL EXPENSES	8,661,199	7,187,323	(1,473,876)	83%

REVENUES:				
SOLID WASTE FUND				
OPERATING REVENUES	800,620	809,565	8,945	101%
INTEREST	7,700	3,814	(3,886)	50%
TOTAL REVENUES	808,320	813,379	5,059	101%

EXPENSES:				
PERSONAL SERVICES	447,393	294,002	(153,391)	66%
OPERATING EXPENSES	113,806	114,442	636	101%
OTHER EXPENSES	3,000	1,006	(1,994)	34%
CAPITAL	30,000	22,874	(7,126)	0%
DEBT	80,203	4,034	(76,169)	5%
COST ALLOC/TRANSFERS	133,918	133,918	(0)	100%
TOTAL EXPENSES	808,320	570,276	(238,044)	71%

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
CUSTOMER SERVICE FUND				
DEPRECIATION TRANSFER	35,000	34,999	(1)	100%
TRANSFERS FROM OTHER UTILITIES	453,497	453,498	1	100%
TOTAL REVENUES	488,497	488,497	(0)	100%

EXPENSES:				
PERSONAL SERVICES	350,724	361,002	10,278	103%
OPERATING EXPENSES	62,773	54,371	(8,402)	87%
CAPITAL	35,000	74,148	39,148	212%
CUSTOMER SVC DEFICIT REPAYMENT	40,000	0	(40,000)	0%
TOTAL EXPENSES	488,497	489,521	1,024	100%

REVENUES:				
STORMWATER FUND				
OPERATING REVENUES	177,898	158,388	(19,510)	89% Note #4
OTHER REVENUES	1,924	32	(1,892)	2%
GRANT-HMGP	112,500	0	(112,500)	0%
TRANSFERS IN	67,500	0	(67,500)	0%
TOTAL REVENUES	359,822	158,421	(201,401)	44%

EXPENSES:				
PERSONAL SERVICES	102,247	67,739	(34,508)	66%
OPERATING EXPENSES	106,575	51,447	(55,128)	48%
OTHER EXPENSES	1,000	78	(923)	8%
CAPITAL	150,000	0	(150,000)	0%
TOTAL EXPENSES	359,822	119,263	(240,559)	33%

REVENUES:				
RECLAIMED WATER FUND				
TRANSFER IN FROM WWATER FUND	2,860,000	0	(2,860,000)	0%
TOTAL REVENUES	2,860,000	0	(2,860,000)	0%

EXPENSES:				
CAPITAL	2,860,000	0	(2,860,000)	0%
TOTAL EXPENSES	2,860,000	0	(2,860,000)	0%

Note #4 - FY 20 is the fourth year for the majority of Stormwater Fund fees to be collected by Non-Ad Valorem Assessment.

**SPECIAL REVENUE FUND-BUILDING FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
OPERATING REVENUES	445,841	405,100	(40,741)	91%
TOTAL REVENUES	445,841	405,100	(40,741)	91%
EXPENSES:				
PERSONAL SERVICES	136,399	133,238	(3,161)	98%
OPERATING EXPENSES	198,142	192,951	(5,191)	97%
TO BE APPROPRIATED	98,300	66,211	(32,089)	67%
CAPITAL	13,000	12,700	(300)	0%
TOTAL EXPENSES	445,841	405,100	(40,741)	91%

**SPECIAL LAW ENFORCEMENT TRUST FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
CONFISCATIONS	0	0	0	0%
MISCELLANEOUS INCOME	0	0	0	0%
FROM FUND BALANCE	20,000	16,501	(3,499)	83%
TOTAL REVENUES	20,000	16,501	(3,499)	83%
EXPENSES:				
PROFESSIONAL DEVELOPMENT	15,000	12,558	(2,442)	84%
TRAVEL & PER DIEM	2,500	88	(2,412)	0%
OPERATING EXPENSES	2,500	3,855	1,355	154%
TOTAL EXPENSES	20,000	16,501	(3,499)	83%

**POLICE BUILDING CAPITAL IMPROVEMENT FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
TRANSFERS IN	159,602	159,602	(0)	100%
TOTAL REVENUES	159,602	159,602	(0)	100%
EXPENSES:				
DEBT	159,602	159,602	(0)	100%
TOTAL EXPENSES	159,602	159,602	(0)	100%

**SPRING PARK PROJECT FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
TRANSFERS IN	81,788	81,788	(0)	100%
TOTAL REVENUES	81,788	81,788	(0)	100%
EXPENSES:				
DEBT	81,788	81,788	(0)	100%
CAPITAL	0	0	0	0%
TOTAL EXPENSES	81,788	81,788	(0)	100%

**DISASTER FUND
REVENUES AND EXPENDITURES
AS OF SEPT 30, 2020 (UNAUDITED)
100% OF YEAR**

	BUDGET	ACTUAL	VARIANCE OVER (UNDER BUDGET)	% ACTUAL TO BUDGET
REVENUES:				
COUNTY REVENUE	1,490,000	1,161,476	(328,524)	78%
INSURANCE PROCEEDS	0	0	0	0%
TRANSFERS IN-FEMA GRANT	27,500	27,296	(204)	99%
TOTAL REVENUES	1,517,500	1,188,772	(328,728)	78%
EXPENSES:				
OPERATING EXPENSES	48,200	47,373	(827)	98%
CAPITAL	269,300	62,945	(206,355)	23%
TRANSFERS OUT	1,200,000	1,161,476	(38,524)	97%
TOTAL EXPENSES	1,517,500	1,271,794	(245,706)	84%

**THIS FUND WAS SET UP TO ACCOUNT FOR EXPENSES INCURRED DURING DISASTERS.
THE EXPENSES REFLECTED FOR FY 20 ARE ASSOCIATED WITH COVID-19 EXPENDITURES.**

**CITY OF GREEN COVE SPRINGS
 FLORIDA STATE BOARD OF ADMINISTRATION
 LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND
 BALANCE AS OF SEPTEMBER 30, 2020**

PARTICIPANT RETURN 09/30/2020: .33%

FUND	AGENCY ACCT. #	BALANCE
GENERAL		1,627,248.42
UTILITY		4,007,779.74
SINKING FUND - WATER		322,998.89
SINKING - ELECTRIC		<u>757,688.08</u>
TOTAL		6,715,715.13

PER THE CITY'S INVESTMENT POLICY, SECTION XII. AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION, A. THE FLORIDA LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND, 2. PORTFOLIO COMPOSITION - A MAXIMUM OF 100% OF AVAILABLE FUNDS MAY BE INVESTED IN THE FLORIDA LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND.



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council Regular Session **MEETING DATE:** December 8, 2020
FROM: Scott Schultz, Assistant Water Utilities Director
SUBJECT: City Council approval of Contractors Pay Request #5 in the amount of \$23,402.16 to Jax Utilities Management for Bid Award LC 2020-07, US 17 / SR 16 Force Main Modifications in the amount of \$412,915.00. *Scott Schultz*

BACKGROUND

At the intersection of SR 16 and SR 15 (US 17) the force mains from US 17 South (Old Food Lion Warehouse) flows past to Lift Station #2 as a force main. The wastewater from the Cove Plaza and Cove Apartments empties into a gravity sewer just behind the intersection that flows through the wetlands (Green Cove Swamp) to Lift Station #2. This gravity sewer is in very bad shape and could not be videoed as part of the Sanitary Sewer Evaluation Survey (SSES) due to its condition and soggy ground from this summers rains. During storms and extremely high tide conditions, the manholes (which are too far apart and in disrepair) allow the river water to flow into Lift Station #2 and overwhelm the station. There is also high potential for a sanitary sewer overflow (SSO).

This task will be to route the Cove Apartments and Cove Plaza wastewater into the US 17 South force main which will eliminate the need for the gravity system through the wetlands. The cost is high as an evaluation of pumping / head capacity at the affected lift stations is required, design of how Cove Plaza and Apartments are injected, extensive underground surveying, FDOT permitting, preparation of blueprints and associated bid documents will be required. This task will take the project from design through completion, which includes construction inspection and closeout services.

This task will also support the broader Consolidated AWWTP project as well as any future development along Cooks Lane.

On 11/13/2018 Council approved a Task Order in the amount of \$71,000.00 with Mittauer & Associates for the design and bidding of the improvements.

On 2/4/2020 Council approved an increase to the wastewater capital improvement budget in the not to exceed amount of \$412,000.00 for the force main improvements.

FISCAL IMPACT

\$23,402.16 from the Wastewater Department capital improvement budget.

\$87,369.48 from the Wastewater Department capital improvement budget.

Approve Contractors Pay Request #4 in the amount of \$23,402.16 to Jax Utilities Management for Bid Award LC 2020-07, US 17 / SR 16 Force Main Modifications in the amount of \$412,915.00



MITTAUER
& ASSOCIATES, INC.
CONSULTING ENGINEERS &
PROJECT FUNDING SPECIALISTS

580-1 WELLS ROAD
ORANGE PARK, FL 32073
PHONE: (904) 278-0030
FAX: (904) 278-0840
WWW.MITTAUER.COM

November 30, 2020

VIA EMAIL

Mr. Scott Schultz, Assistant Water Utilities Director
City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

RE: Contractor's Pay Request No. 5
US 17 & SR 16 Force Main Modifications (a.k.a Cooks Lane Pump Station)
City Contract No. LC 2020-07
City of Green Cove Springs , Florida
Mittauer & Associates, Inc. Project No. 8905-50-1

Dear Mr. Schultz:

We have reviewed Pay Request No. 5 from Jax Utilities Management, Inc. and find it acceptable. We have, accordingly, indicated our approval and are forwarding an electronic copy to you for approval and payment. This pay request totals \$23,402.16.

Please do not hesitate to call should you have any questions.

Sincerely yours,
Mittauer & Associates, Inc.

Jason R. Shepler, P.E.
Vice President of Environmental Services

JRS/pj
Enclosure
cc: Jax Utilities Management, Inc.

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

APPLICATION NO: 5 **RECEIVED**
NOV 25 2020

PROJECT: US17 / SR16 (Cooks Ln)
Force Main Improvements

TO (OWNER): City of Green Cove Springs
900 Gum Street
Green Cove Spgs, FL 32043-2803

FROM (CONTRACTOR): Jax Utilities Management, Inc
 CONTRACT FOR: GCS Purchase Order #2722061

Mittauer & Assoc., Inc.
 November 25, 2020

PERIOD TO:

Application is made for payment, as shown below, in connection with the Contract. Continuation sheet, AIA Document G703, is attached.

CONTRACTORS APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY		
Change Orders approved in previous payments by Owner	ADDITIONS	DEDUCTIONS
TOTAL	0.00	0.00
Approved this Month		
Number		
Date Approved		
TOTALS	0.00	0.00

Net change by Change Orders

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid for by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and the current payment shown herein is now due.

- 1. ORIGINAL CONTRACT SUM \$412,915.00
- 2. Net Change by Change Orders
- 3. CONTRACT SUM TO DATE (LINE 1 + - 2) \$412,915.00
- 4. TOTAL COMPLETED AND STORED TO DATE \$372,622.60
- 5. RETAINAGE
 - a. 10% (Column D+E on G703) \$37,262.26
- Total retainage (Line 5a, or Total in Column J of G703) \$335,360.34
- 6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \$311,958.18
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)
- 8. **CURRENT PAYMENT DUE** \$23,402.16
- 9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6) \$77,554.66

CONTRACTOR: Jax Utilities Management, Inc

By: [Signature] Date: 11/25/2020



AMOUNT CERTIFIED \$23,402.16
 ENGINEER: [Signature]
 BY: JASON R. SHEPLER DATE: 11/25/20
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payments are without prejudice to any rights of the Owner or Contractor under this Contract

ARCHITECTS CERTIFICATE FOR PAYMENT
 In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architects knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

PROJECT: **US17 / SR16 (Cooks Ln)**
Force Main Improvements

Application # **5**
Application Date **11/25/2020**
Period To **11/25/2020**

A	B	C	D	E	F	G	H	
ITEM NO	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN DORE)	TOTAL COMPLETED & STORED TO DATE (D + E + F)	% (G/C)	BALANCE TO FINISH (C - G)
1 PUMP STATION & FORCE MAIN								
	Mobilization / Survey	25,000.00	25,000.00	0.00		25,000.00	100%	0.00
	Erosion Control	5,000.00	4,250.00	250.00		4,500.00	90%	500.00
	Wellwell	135,790.00	135,790.00	0.00		135,790.00	100%	0.00
	Dewatering	40,000.00	40,000.00	0.00		40,000.00	100%	0.00
	Pumps & Panel	97,512.00	73,134.00	19,502.40		92,636.40	95%	4,875.60
	Electrical	15,000.00	9,000.00	5,250.00		14,250.00	95%	750.00
	Guardrail	9,000.00	0.00	0.00		0.00	0%	9,000.00
	Fence	8,500.00	0.00	0.00		0.00	0%	8,500.00
	Driveway & Concrete Slab	10,000.00	7,500.00	0.00		7,500.00	75%	2,500.00
	Lift Station Piping	17,000.00	17,000.00	0.00		17,000.00	100%	0.00
	Grassing & Landscaping	5,000.00	500.00	0.00		500.00	10%	4,500.00
	Testing	2,000.00	400.00	0.00		400.00	20%	1,600.00
	394' - 6" Force Main	8,668.00	7,801.20	0.00		7,801.20	90%	866.80
	Connect to Existing Force Main	3,000.00	0.00	0.00		0.00	0%	3,000.00
	40' - 10" Gravity Sewer	2,400.00	2,400.00	0.00		2,400.00	100%	0.00
	Sewer Manhole	4,000.00	3,800.00	0.00		3,800.00	95%	200.00
	110' - 2" PVC Water Service	2,420.00	2,420.00	0.00		2,420.00	100%	0.00
	As-Builts	5,000.00	0.00	1,000.00		1,000.00	20%	4,000.00
2	UNSUITABLE							
	Unsuitable Soil - remove & replace (75 cy)	2,625.00	2,625.00	0.00		2,625.00	100%	0.00
3	PERMITTING							
	Pump Station Electric Service Permitting	15,000.00	15,000.00	0.00		15,000.00	100%	0.00
		412,915.00	346,620.20	26,002.40	0.00	372,622.60	90%	40,292.40

Jason Shepler

From: Scott Schultz <sschultz@greencovesprings.com>
Sent: Wednesday, November 25, 2020 7:16 AM
To: Jason Shepler
Subject: FW: Draw Req Cooks Lane GCS
Attachments: US17-SR16 COOK LN DRAW REQ \$3 11-25-20.pdf

R **VED**
NOV 25 2020
Mittauer & Assoc., Inc.

From: Kimberly Baum <Kim@jaxum.com>
Sent: Tuesday, November 24, 2020 3:17 PM
To: Scott Schultz <sschultz@greencovesprings.com>
Cc: Christina Abstein <Christina@jaxum.com>; Mike James <KMJ@jaxum.com>; Rick Johns <rick@jaxum.com>
Subject: Draw Req Cooks Lane GCS

CAUTION: This email originated from outside of the organization. . Do not click links or open attachments unless you recognize the sender and know the content is safe.

Scott – Good Afternoon

Please see attached our November 25th Draw Request #5 for US17 Cooks Lane

Thank You

[Kimberly A. Baum](#)
Jax Utilities Management Inc.
5465 Verna Blvd
Jacksonville, FL 32205
904.779.5353
kim@jaxum.com



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** December 08, 2020
FROM: Laurie Griffin, Assistant Finance Director
SUBJECT: Award of Bid LC 2020-17 Chapman Substation Construction to Terry's Electric in the amount of \$879,086. *Mike Null*

BACKGROUND

ITB LC 2020-17 solicited qualified electrical contractors to perform construction work at the Chapman Substation. Bids were opened on November 24, 2020, with six (6) firms participating. Terry's Electric provided the lowest bid for the work specified at a cost of \$879,086.00. The Engineer and Staff reviewed the submittals and recommend Council award to the low bidder Terry's Electric.

FISCAL IMPACT

The funds for the construction project in the amount of \$879,086.00 are in the Electric Department's FY 2021 capital project fund.

RECOMMENDATION

Staff recommends the award of bid for LC 2020-17 Chapman Substation Construction to Terry's Electric in the amount of \$879,086 and authorize the City Manager to sign all required contract documents and payments for this project.

Bid Opening Record Chapman Substation Construction LC 2020-17

BIDDER NAME	Terry's Electric	The Fishel Co.	Aubrey Silvey Enterprises	Sayers Const. LLC	Hilton Electrical Automation	C & C Powerline
BID ITEM:						
Lump Sum Excluding Concrete	879,086.00	1,098,807.00	707,400.00	1,014,783.27	1,311,683.00	748,783.00
Equipment Pads		113,344.21	0.00		75,863.00	176,070.00
Structure Foundation (C or SF)		169,813.91	182,600.00		104,118.00	128,724.00
Total Lump Concrete		283,158.12	182,600.00		171,410.00	304,794.00
Total Bid Price Inc Concrete		1,381,965.12	890,000.00		1,491,664.00	1,053,577.00
Foundation Type		Caisson	Spread			
Optional Pricing to remove capacitor banks		12,846.93		7,126.07		15,635.00
Price Adj. For measurement			no > than 25% of measurements			
2" PVC/per ft	8.00	8.77	6.00	9.10	10.64	12.30
3" New Ditch/per ft	15.00	6.40	9.00	16.90	14.18	35.00
12 #10 cable/per ft	12.08	1.51 install	7.00	5.72	2.89	5.68
4 #10 cable /per ft	1.68	1.51 install	5.00	3.40	2.10	2.84
4 #8 cable/per ft	1.97	1.51 install	7.50	3.40	2.63	2.82
Cable Trench/per ft	1,930.00	347.78	400.00	190.00	36.75	215.32
4 ct fiber	2.00	1.01 install	20.00	6.00	2.36	2.86
4/0 Grd Grid	3.75	1.97 install	9.50	2.00	3.68	6.60
10' Grd Rod	250.00	23.65	125.00	128.28	8.40	50.00
Cassion Foundation	1,200.00	1,833.36	900.00	1,700.00	1,943.00	2,600.00
Spread Ft Foundation	1,600.00	1,344.47	1,100.00	1,800.00	1,313.00	2,600.00
Time of Completion	180 days Sub/210 day Final	180 days Sub/210 day Final	180 days Sub/210 day Final	180 days Sub/210 day Final	180 days Sub/210 day Final	180 days Sub/210 day Final

Yellow hi light denote type of foundation chosen



1531 Hunt Club Blvd, Suite 200
Gallatin, TN 37066

(615) 527-7084
pdengineers.com

December 2, 2020

Mr. Mike Null
City of Green Cove Springs
321 Walnut St, Green Cove Springs, FL 32043

**Subject: Comparison of Bid Proposals, Chapman Substation & SCADA Installation
Substation Construction RFP LC2020-17**

Mr. Null:

On Nov. 5, 2020, the RFP LC2020-17 was issued publicly and also directly to two preferred vendors. On Nov. 24, the City received several proposals. Below is a summary of the bids; a more detailed breakdown of the pricing is enclosed.

Bidder:	Terry's Electric	Aubrey Silvey	Sayers Const. LLC	C & C Powerline	The Fishel Co.	Hilton Electrical
Total Bid Price, including concrete	\$879,086.00	\$890,000.00	\$1,014,783.27	\$1,053,577.00	\$1,381,965.12	\$1,491,664.00
Foundation Type	Caisson	Spread	Caisson	Caisson	Caisson	Caisson
Optional Pricing to remove capacitor banks	<i>Not quoted</i>	<i>Not quoted</i>	\$7,126.07	\$15,635.00	\$12,846.93	<i>Not quoted</i>
Acknowledged Addenda 1 & 2?	Yes	No	Yes	No	No	No
Completion	180/210 Days	180/210 Days	180/210 Days	180/210 Days	180/210 Days	180/210 Days

All proposals included requested pricing data and signatures, and each sufficiently met the technical requirements of the RFP. Several bidders failed to acknowledge both addenda, which led to submittal of pricing on a superseded Bid Form, but did not impact the bidders meeting the technical requirements.

After evaluating the proposals, we recommend the City issue a purchase order to Terry's Electric for \$879,086.00. We advise that your legal counsel and procurement department review the proposal for legal and business adequacy and conformance to the City's purchasing requirements.

Please call me at (615) 527-7077, should you have any questions or comments.

Sincerely,

Patterson & Dewar Engineers, Inc.

P. Anthony Hanson, P.E.
Principal Engineer
ahanson@pdengineers.com

Bid Opening Record Chapman Substation Construction LC 2020-17

BIDDER NAME	Terry's Electric	Aubrey Silvey Enterprises	Sayers Const. LLC	C & C Powerline	The Fishel Co.	Hilton Electrical Automation
Acknowledged Addenda #1 & 2?	Yes	No	Yes	No	No	No
BID ITEM:						
Lump Sum Excluding Concrete		\$707,400.00		\$748,783.00	\$1,098,807.00	\$1,311,683.00
Total Lump Concrete		\$182,600.00		\$304,794.00	\$283,158.12	\$171,410.00
Equipment Pads		\$0.00		\$176,070.00	\$113,344.21	\$75,863.00
Structure Foundation (C or SF)		\$182,600.00		\$128,724.00	\$169,813.91	\$104,118.00
Total Bid Price Inc Concrete	\$879,086.00	\$890,000.00	\$1,014,783.27	\$1,053,577.00	\$1,381,965.12	\$1,491,664.00
Foundation Type	Caisson	Spread	Caisson	Caisson	Caisson	Caisson
Optional Pricing to remove capacitor banks	<i>Not quoted</i>	<i>Not quoted</i>	\$7,126.07	\$15,635.00	\$12,846.93	<i>Not quoted</i>
Time of Completion	180/210 days	180/210 days	180/210 days	180/210 days	180/210 days	180/210 days
UNIT PRICES FOR ADJUSTMENTS						
2" PVC existing ditch/per ft	\$8.00	\$6.00	\$9.10	\$12.30	\$8.77	\$10.64
3" PVC new ditch/per ft	\$15.00	\$9.00	\$16.90	\$35.00	\$6.40	\$14.18
12cc #10 cable/per ft	\$12.08	\$7.00	\$5.72	\$5.68	\$1.51 install	\$2.89
4cc #10 cable /per ft	\$1.68	\$5.00	\$3.40	\$2.84	\$1.51 install	\$2.10
4cc #8 cable/per ft	\$1.97	\$7.50	\$3.40	\$2.82	\$1.51 install	\$2.63
Cable Trench/per ft	\$1,930.00	\$400.00	\$190.00	\$215.32	\$347.78	\$36.75
4 ct fiber	\$2.00	\$20.00	\$6.00	\$2.86	\$1.01 install	\$2.36
4/0 Grd Grid	\$3.75	\$9.50	\$2.00	\$6.60	\$1.97 install	\$3.68
10' Grd Rod	\$250.00	\$125.00	\$128.28	\$50.00	\$23.65	\$8.40
Cassion Foundation	\$1,200.00	\$900.00	\$1,700.00	\$2,600.00	\$1,833.36	\$1,943.00
Spread Ft Foundation	\$1,600.00	\$1,100.00	\$1,800.00	\$2,600.00	\$1,344.47	\$1,313.00

Yellow highlight denotes foundation type chosen

AGREEMENT FOR PROFESSIONAL CONSTRUCTION SERVICES

Substation Construction & SCADA Installation

This Agreement is entered into as of this _____ day of _____, 2020, by and between the City of Green Cove Springs, Florida, a municipal corporation under the laws of the State of Florida whose address is: 321 Walnut Street, Green Cove Springs, Florida, 32043, hereinafter referred to as “CITY” and Terry’s Electric , a Florida corporation whose address is: 600 N. Thacker Avenue, Suite #A, Kissimmee, FL 34741, hereinafter referred to as “CONTRACTOR.”

WITNESSETH

WHEREAS, the CITY requires a qualified firm to construct, install and remove designated substation structures and equipment for the Chapman Substation and;

WHEREAS, the CITY solicited a proposal for services LC 2020-17;

WHEREAS, the CONTRACTOR submitted a proposal to provide said services and has represented to the CITY that it is qualified and desires to perform said services in accordance with the terms and conditions contained herein, and all applicable laws and professional standards;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 TERM

1.1 This Agreement is to become effective upon execution by both parties and shall remain in effect until completion of the work outlined in LC 2020-17 Chapman Substation Construction and SCADA Installation. Stated completion date per Exhibit “A” is within 210 calendar days of notice to proceed.

2.0 DESCRIPTION OF SERVICES

2.1 It is expressly understood and acknowledged that the CONTRACTOR shall provide those services as more particularly described in Exhibit “A” (Bid Proposal Form and CONTRACTOR’S Quotation dated 11/23/2020).

- 2.2 The CONTRACTOR shall not be authorized to proceed until the CITY has issued a Notice to Proceed to the CONTRACTOR. Upon receipt and approval by the CONTRACTOR of the signed Notice to Proceed from the CITY, the CONTRACTOR shall perform the services set forth herein.

3.0 SCHEDULE

- 3.1 The CONTRACTOR shall perform services in conformance with the mutually agreed upon schedule consistent with the completion of the project and the fee proposal attached herein as Exhibit "A". The CONTRACTOR shall complete all services in a timely manner and will keep the CITY fully informed of the status of the work on a reasonable basis in relation to the scope of the project or at least monthly. Should the CONTRACTOR fall behind the agreed upon schedule it shall employ such resources necessary to comply with the agreed upon schedule at no additional cost to the CITY.
- 3.2 Except for cases of Force Majeure, as defined in Section 17, no extension for completion of services shall be granted to the CONTRACTOR without the CITY'S prior written consent.

4.0 METHOD OF PAYMENT FOR SERVICES AND EXPENSES

- 4.1 The CONTRACTOR shall submit no more than one invoice per month to the City's Project Manager for payment, which shall be paid no more than 25 days after receipt by the Accounts Payable Department, per the State of Florida's prompt payment act.
- 4.2 In the event of termination by the CITY under Section 16.0 during the performance of the services, payments due the CONTRACTOR up to the point of termination, including payments for services rendered, and all costs incurred shall constitute total payment for such services.

5.0 RIGHT TO INSPECTION

- 5.1 The CITY or its agents shall have the right to review or observe the services performed by the CONTRACTOR. No inspection, review, or observation shall relieve the CONTRACTOR of its responsibility under this Agreement.

6.0 PROGRESS MEETING

- 6.1 The CITY'S designated Project Manager may request periodic progress briefings during the term of this Agreement.

7.0 SAFETY

- 7.1 The CONTRACTOR or their SUCONTRACTOR agrees to comply with the CITY'S published safety standards while on the property of the CITY.
- 7.2 The CONTRACTOR or their SUBCONTRACTOR shall have full responsibility and assume all liability for the safety and supervision of its employees while performing services provided hereunder.

8.0 REASONABLE ACCESS

- 8.1 During the term of this Agreement, the CITY shall grant the CONTRACTOR reasonable access to the CITY'S premises for purposes of fulfilling its obligations under this Agreement.

9.0 INSURANCE/BONDS AND HOLD HARMLESS / INDEMNIFICATION

- 9.1 The CONTRACTOR shall maintain in force during the term of this Agreement, at its own expense, insurance set forth in Exhibit "A", attached hereto and incorporated herein, and shall indemnify, defend and hold harmless the City for any and all third party claims, suits, judgments or damages, losses and expenses, including court costs, to the extent of the CONTRACTOR's negligence. A copy of the CONTRACTOR's insurance policy showing the City as co-insured, shall be provided to the CITY prior to commencement of the project.

10.0 COMPLIANCE WITH LAWS AND REGULATIONS

- 10.1 The CONTRACTOR or their agents shall comply with all requirements of Federal, State, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of this Agreement.

11.0 REPRESENTATIONS

- 11.1 The CONTRACTOR represents that the services provided hereunder shall conform to all requirements of this Agreement, response thereto and any amendments or supplements thereto; shall be consistent with recognized and sound professional construction management practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the services rendered.
- 11.2 The recommendations, advice, budgetary information and schedules to be furnished by CONTRACTOR under this Agreement shall not be deemed to be representations, warranties, or guarantees or constitute the performance of licensed professional services that constitute the practice of architecture or engineering. CONTRACTOR shall cause any such services, as applicable to the scope of work, to be provided by a properly licensed design professional. Any claim by Owner for damage, loss, or expense, based directly or indirectly upon acts, errors, or omissions of any architect, engineer, or other design professional who CONTRACTOR is required to engage in connection with this Agreement shall be made by Owner against said design professional and its insurer(s) only, and CONTRACTOR shall have no liability of any kind, direct or indirect, for the professional negligence of said design professional under this Agreement or otherwise.
- In no event shall CONTRACTOR's liability arising out of or in connection with the performance or nonperformance of any or all Services or other obligations under this Agreement exceed the value of the contract whether based on delay, contract, tort, negligence, strict liability, warranty, indemnity, error and omissions or otherwise, provided that such limitation of liability shall not apply to CONTRACTOR's indemnity obligations for claims asserted against the Owner by third parties for personal injury or tangible property damage caused by the negligence of the CONTRACTOR or its employees.
- 11.3 The CONTRACTOR represents that the personnel furnishing such services shall be qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.
- 11.4 Subject to the provisions of this Section, should the CONTRACTOR breach the warranties set forth herein, the CITY shall have such remedies as may be provided at law or equity.

12.0 DOCUMENTS

- 12.1 Upon the CITY'S or its designated Project Manager's request, at any time during the term of this Agreement, or upon completion or termination of this Agreement, the CONTRACTOR shall provide the CITY, or its designated Project Manager, with a copy of all documents, plans, drawings and electronic files prepared by the CONTRACTOR under this Agreement.

13.0 ASSIGNMENT

- 13.1 The CONTRACTOR shall not assign or subcontract this Agreement or any rights or monies due or to become due hereunder without the prior written consent of the CITY.
- 13.2 If, upon receiving written approval from the CITY, any part of this Agreement is subcontracted by the CONTRACTOR, the CONTRACTOR shall be fully responsible to the CITY for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.
- 13.3 If the CITY determines that any subcontractor is not performing in accordance with this Agreement, the CITY shall so notify the CONTRACTOR who shall take immediate steps to remedy the situation.
- 13.4 If any part of this Agreement is subcontracted by the CONTRACTOR prior to commencement of any work by the subcontractor, the CONTRACTOR shall require the subcontractor to provide the CITY and its affiliates with insurance coverage as required by the CITY.

14.0 INDEPENDENT CONTRACTOR

- 14.1 At all times during the term of this Agreement, the CONTRACTOR shall be considered an Independent Contractor.

15.0 DEFAULT

- 15.1 If, during the term of this Agreement, the CONTRACTOR shall be found in default of any of the material provisions of this Agreement, the CITY may suspend its performance hereunder until such delinquency or default has been corrected; the CITY shall notify the CONTRACTOR in writing and of the deficiency and allow them ten (10) days to initiate and diligently pursue a cure to the default before

suspending them. If the CONTRACTOR fails to correct such delinquency within one hundred and twenty (120) days, the CITY may terminate this Agreement.

16.0 TERMINATION

- 16.1 Notwithstanding any other provision of this Agreement, the CITY may, upon written notice to the CONTRACTOR, terminate this Agreement if: a) the CONTRACTOR is adjudged to be bankrupt; b) the CONTRACTOR makes a general assignment for the benefit of its creditors; or c) the CONTRACTOR fails to comply with any of the conditions or provisions of this Agreement, without prejudice to any other right or remedy the CITY may have under this Agreement. In the event of such termination, the CITY shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work, properly performed and accepted prior to the effective date of termination.
- 16.2 The CONTRACTOR may stop work or terminate if through no act or fault of CONTRACTOR, the Work is suspended for a period of more than 60 days by owner or under an order of court or other public authority, or Owner fails to act on any Application for Payment within 30 days after it is submitted or Owner fails to pay CONTRACTOR in accordance with Florida's Prompt Payment Act any sum finally determined to be due, then CONTRACTOR may, upon 10 days' written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, terminate the Agreement and recover from Owner payment invoiced for services rendered to date. In lieu of terminating the Agreement and without prejudice to any other right or remedy, if Owner has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may upon 10 days' written notice to Owner stop the Work until payment is made of all such amounts due CONTRACTOR.
- 16.3 Any delay, suspension or termination of the Work by CITY shall be subject to CONTRACTOR's Cancellation and Delay Policy, as set forth in Exhibit "A".

17.0 FORCE MAJEURE

- 17.1 Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if, and to the extent, caused by acts of God, fire, flood, pandemic, windstorm, explosion, riot, war, sabotage, strikes, extraordinary breakdown of or damage to the CITY'S affiliates' generating plants, their equipment or facilities; court injunction or order; Federal and/or State law or regulation; order by any regulatory agency; or cause or causes beyond the

reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstances of Force Majeure remain in effect for one hundred and twenty (120) days, either party may terminate this Agreement.

18.0 PUBLIC RECORDS REQUIREMENTS

18.1 Notwithstanding any provision in this agreement to the contrary, the following public records requirements shall apply:

1. Keep and maintain public records required by the public agency (City/Organization) to perform the service.
2. Upon request from the public agency's custodian of public records (City Clerk), provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

If the Contractor has questions regarding the application of Chapter 119 Florida Statutes, for their duties to provide public records relating to this contract then contact the City's custodian of Public Records City Clerk Erin West at (904) 297-7500 X 3307, or e-mail ewest@greencovesprings.com, 321 Walnut St. Green Cove Spring FL 32043.

19.0 GOVERNING LAW & VENUE

19.1 This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida, procedural and substantive, and applicable federal statutes rules and regulations. The venue for

any and all litigation arising under this Agreement, shall lie in Clay County, Florida. Each party waives their rights to a jury trial of any issues arising hereunder and agreement to submit to binding arbitration, hearing may take place by Zoom.

20.0 HEADINGS

20.1 Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

21.0 SEVERABILITY

21.1 In the event any portion of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts thereof shall otherwise be fully enforceable.

22.0 WAIVER AND ELECTION OF REMEDIES

22.1 Waiver by either party of any terms, conditions, or provisions of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

22.2 No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

23.0 THIRD PARTY RIGHTS

23.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the CITY and the CONTRACTOR.

24.0 PROHIBITION AGAINST CONTINGENT FEES

24.1 The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or

other consideration contingent upon or resulting from the award or making of this Agreement.

25.0 ENTIRE AGREEMENT

25.1 Except as otherwise stated, this Agreement, including the schedules, attachments, appendixes, and exhibits attached hereto, constitutes the entire Agreement between the CITY and the CONTRACTOR with respect to the service specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

26.0 SOVEREIGN IMMUNITY

26.1 Nothing contained in the Agreement shall be construed as a waiver of the CITY'S rights to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the CITY'S potential liability under Federal or State law.

27.0 WARRANTY

27.1 N/A

28.0 LIMITATION OF LIABILITY

28.1 Neither Party shall in any event be liable to the other party for any indirect, special or consequential damages whatsoever, under any theory of relief including without limitation, breach of warranty, breach of contract, tort (including negligence), strict liability, or otherwise, arising out of or related to that party's acts or omissions. Neither Party shall be liable to the other Party for terms greater than those set forth in section 11.2 above. Any action for breach of contract or otherwise must be commenced within one year after the cause of the action has occurred.

29.0 NOTICE

29.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage pre-paid, to:

CITY: Mike Null, Assistant City Manager
City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

CONTRACTOR:

Either party may change the name of the person receiving notices and the address at which notices are received by so advising the other party in writing.

(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

City of Green Cove Springs

B. Van Royal, Mayor

Date

Steve Kennedy, City Manager

Date

ATTEST:

Erin West, City Clerk

Date

AS TO FORM ONLY:

L. J. Arnold, III, City Attorney

Date

Terry's Electric, Inc.

Date



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Session **MEETING DATE:** December 08, 2020
FROM: Laurie Griffin, Assistant Finance Director
SUBJECT: Award of Bid LC 2020-18 Chapman Substation Relay Panels to Keystone Electrical MFG in the amount of \$188,908.50. *Mike Null*

BACKGROUND

ITB LC 2020-18 solicited qualified electrical panel providers to construct relay panels and equipment for Chapman Substation. Bids were opened on November 24, 2020, with two (2) firms participating. Another bid was received late and was not evaluated. The project engineers and staff evaluated the two submittals and determined that the firm of Keystone Electrical MFG was the most compliant vendor since the low bidder Electrical Power Products did not specify the correct panel in their bid. The correct panel(s) are more expensive than the ones listed in their bid. The cost differential between the panels is the difference in the price between the two firms. Staff recommends awarding to the firm of Keystone Electrical MFG in the amount of \$188,908.50.

FISCAL IMPACT

The funds for this project in the amount of \$188,908.50 are in the Electric Department's FY 2021 capital project fund.

RECOMMENDATION

Staff recommends the award of bid for LC 2020-18 Chapman Substation Relay Panels to Keystone Electrical MFG in the amount of \$188,908.50 and authorize the City Manager to sign all required contract documents and payments for this project.

BID RECORD SHEET LC 2020-18

BIDDERS NAME: Keystone Electrical MFG

<u>Description</u>	<u>Qty</u>	<u>Total Price</u>
Relay panel and equipment as specified, including these spare parts: <ul style="list-style-type: none"> • one spare DC mini-breaker of each amp rating and/or type • one spare of BOM items: 1 and 2 per Contract Drawings 	4	\$ <u>112,007.82</u>
Harbor, North and South Substation RTU Cabinets	3	\$ <u>27,816.01</u>
Recloser RTU Cabinets	8	\$ <u>30,429.99</u>
Capacitor RTU Cabinets	5	\$ <u>18,654.68</u>

TOTAL LUMP SUM BID	\$ <u>188,908.50</u>
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WARRANTY

Buyer requests 1-year warranty on Goods, which shall be included in the Total Price. If Seller includes alternate warranty period in Total Price, Seller shall state here the additional cost to provide a 1-year warranty.

- A. Seller's proposed warranty period: 2 yrs *(Attach detail of warranty).*
- B. Adder for 1-year warranty *(if not included in Total Price):* included
_____.

RECORDED BY: Laurie Griffin 11/24/2020

BID RECORD SHEET LC 2020-18

BIDDERS NAME: Electrical Power Products

<u>Description</u>	<u>Qty</u>	<u>Total Price</u>
Relay panel and equipment as specified, including these spare parts: <ul style="list-style-type: none"> • one spare DC mini-breaker of each amp rating and/or type • one spare of BOM items: 1 and 2 per Contract Drawings 	4	\$ <u>113,456.00</u>
Harbor, North and South Substation RTU Cabinets	3	\$ <u>28,999.00</u>
Recloser RTU Cabinets	8	\$ <u>23,596.00</u>
Capacitor RTU Cabinets	5	\$ <u>14,493.00</u>

TOTAL LUMP SUM BID	\$ <u>180,544.00</u>
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WARRANTY

Buyer requests 1-year warranty on Goods, which shall be included in the Total Price. If Seller includes alternate warranty period in Total Price, Seller shall state here the additional cost to provide a 1-year warranty.

- A. Seller's proposed warranty period: 1 yr (*Attach detail of warranty*).
- B. Adder for 1-year warranty (*if not included in Total Price*): _____.

RECORDED BY: Laurie Griffin 11/24/2020



1531 Hunt Club Blvd, Suite 200
Gallatin, TN 37066

(615) 527-7084
pdengineers.com

December 2, 2020

Mr. Mike Null
City of Green Cove Springs
321 Walnut St, Green Cove Springs, FL 32043

**Subject: Comparison of Bid Proposals, Chapman Substation
Substation Relay Panels Procurement RFP LC2020-18**

Mr. Null:

On Nov. 5, 2020, the RFP LC2020-18 was issued publicly and also directly to three preferred vendors. On Nov. 24, the City received several proposals. Below is a summary of the bids.

Bidder:	EPP	Keystone	KVA
Lump Sum: Relay panels & equipment	\$113,456.00	\$112,007.82	
Substation RTU	\$28,999.00	\$27,816.01	
Recloser RTU	\$23,596.00	\$30,429.99	
Capacitor Bank RTU	\$14,493.00	\$18,654.68	
Total Bid Price	\$180,544.00	\$188,908.50	Bid arrived late
Acknowledged Addendum 1?	No	Yes	
Delivery of Goods (150 Days)	14-15 weeks	13-14 weeks	
Warranty period	1-year	2-year	
Exceptions	Quoted incorrect RTAC	Liq. Damages capped at 5%	

The proposal from KVA, Inc. arrived after the bid closing time and was therefore not accepted. Both proposals from Electrical Power Products (EPP) and Keystone EMC included requested pricing data and signatures. Keystone's sufficiently met the technical requirements of the RFP, but EPP did not acknowledge Addendum 1 (issued on Nov. 17) which had provided the correct part # for the SEL RTAC. Since EPP did not quote the correct part, we recommend designating that bid as non-responsive to the RFP.

After evaluating the proposals, we recommend the City issue a purchase order to Keystone EMC for \$188,908.50. We advise that your legal counsel and procurement department review the Keystone proposal for legal and business adequacy and conformance to the City's purchasing requirements.

Please call me at (615) 527-7077, should you have any questions or comments.

Sincerely,

Patterson & Dewar Engineers, Inc.

P. Anthony Hanson, P.E.
Principal Engineer
ahanson@pdengineers.com

AGREEMENT FOR PROFESSIONAL CONSTRUCTION SERVICES

Substation Relay Panels and Equipment

This Agreement is entered into as of this _____ day of _____, 2020, by and between the City of Green Cove Springs, Florida, a municipal corporation under the laws of the State of Florida whose address is: 321 Walnut Street, Green Cove Springs, Florida, 32043, hereinafter referred to as “CITY” and Keystone Electrical Manufacturing Company, whose address is: 2511 Bell Avenue, Des Moines, IA 50321, hereinafter referred to as “CONTRACTOR.”

WITNESSETH

WHEREAS, the CITY requires a qualified firm to construct and deliver to site(s) four (4) panels with accessories/spare parts and (16) RTU cabinet, FOB to Green Cove Springs and

WHEREAS, the CITY solicited a proposal for services LC 2020-18;

WHEREAS, the CONTRACTOR submitted a proposal to provide said services and has represented to the CITY that it is qualified and desires to perform said services in accordance with the terms and conditions contained herein, and all applicable laws and professional standards.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 TERM

1.1 This Agreement is to become effective upon execution by both parties and shall remain in effect until delivery and acceptance on site of panels and equipment as outlined in LC 2020-18.

2.0 DESCRIPTION OF SERVICES

2.1 It is expressly understood and acknowledged that the CONTRACTOR shall provide those services as more particularly described in Exhibit “A” (Bid Proposal Form and CONTRACTOR’S Quotation dated 11/19/2020).

2.2 The CONTRACTOR shall not be authorized to proceed until the CITY has issued a Purchase Order to the CONTRACTOR. Upon receipt and approval by the

CONTRACTOR of the Purchase Order from the CITY, the CONTRACTOR shall perform the services set forth herein.

3.0 SCHEDULE

- 3.1 The CONTRACTOR shall perform services in conformance with the mutually agreed upon schedule consistent with the completion of the project and the fee proposal attached herein as Exhibit "A".
- 3.2 Except for cases of Force Majeure, as defined in Section 17, no extension for completion of services shall be granted to the CONTRACTOR without the CITY'S prior written consent.

4.0 METHOD OF PAYMENT FOR SERVICES AND EXPENSES

- 4.1 The CITY shall total bid price of \$188,908.50 upon receipt and acceptance of the panels and equipment. Payment shall be net thirty days per the State of Florida Prompt Payment Act.
- 4.2 In the event of termination by the CITY under Section 16.0 during the performance of the services, payments due the CONTRACTOR up to the point of termination, including payments for services rendered, and all costs incurred shall constitute total payment for such services.

5.0 RIGHT TO INSPECTION

- 5.1 N/A

6.0 PROGRESS MEETING

- 6.1 N/A

7.0 SAFETY

- 7.1 The CONTRACTOR or their SUCONTRACTOR agrees to comply with the CITY'S published safety standards while on the property of the CITY.
- 7.2 The CONTRACTOR or their SUBCONTRACTOR shall have full responsibility and assume all liability for the safety and supervision of its employees while performing services provided hereunder.

8.0 REASONABLE ACCESS

8.1 During the term of this Agreement, the CITY shall grant the CONTRACTOR reasonable access to the CITY'S premises for purposes of fulfilling its obligations under this Agreement.

9.0 INSURANCE/BONDS AND HOLD HARMLESS / INDEMNIFICATION

9.1 The CONTRACTOR shall maintain in force during the term of this Agreement, at its own expense, insurance set forth in Exhibit "A", attached hereto and incorporated herein, and shall indemnify, defend and hold harmless the City for any and all third party claims, suits, judgments or damages, losses and expenses, including court costs, to the extent of the CONTRACTOR's negligence.

10.0 COMPLIANCE WITH LAWS AND REGULATIONS

10.1 The CONTRACTOR or their agents shall comply with all requirements of Federal, State, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of this Agreement.

11.0 REPRESENTATIONS

11.1 The CONTRACTOR represents that the services provided hereunder shall conform to all requirements of this Agreement, response thereto and any amendments or supplements thereto; shall be consistent with recognized and sound professional construction management practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the services rendered.

11.2 The recommendations, advice, budgetary information and schedules to be furnished by CONTRACTOR under this Agreement shall not be deemed to be representations, warranties, or guarantees or constitute the performance of licensed professional services that constitute the practice of architecture or engineering. CONTRACTOR shall cause any such services, as applicable to the scope of work, to be provided by a properly licensed design professional. Any claim by Owner for damage, loss, or expense, based directly or indirectly upon acts, errors, or omissions of any architect, engineer, or other design professional who CONTRACTOR is required to engage in connection with this Agreement shall be made by Owner against said design professional and its insurer(s) only, and CONTRACTOR shall have no liability of any kind, direct or indirect, for the professional negligence of said design professional under this Agreement or otherwise.

In no event shall CONTRACTOR's liability arising out of or in connection with the performance or nonperformance of any or all Services or other obligations under this Agreement exceed the value of the contract whether based on delay, contract, tort, negligence, strict liability, warranty, indemnity, error and omissions or otherwise, provided that such limitation of liability shall not apply to CONTRACTOR's indemnity obligations for claims asserted against the Owner by third parties for personal injury or tangible property damage caused by the negligence of the CONTRACTOR or its employees.

- 11.3 The CONTRACTOR represents that the personnel furnishing such services shall be qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.
- 11.4 Subject to the provisions of this Section, should the CONTRACTOR breach the warranties set forth herein, the CITY shall have such remedies as may be provided at law or equity.

12.0 DOCUMENTS

- 12.1 Upon the CITY'S or its designated Project Manager's request, at any time during the term of this Agreement, or upon completion or termination of this Agreement, the CONTRACTOR shall provide the CITY, or its designated Project Manager, with a copy of all documents, plans, drawings and electronic files prepared by the CONTRACTOR under this Agreement.

13.0 ASSIGNMENT

- 13.1 The CONTRACTOR shall not assign or subcontract this Agreement or any rights or monies due or to become due hereunder without the prior written consent of the CITY.
- 13.2 If, upon receiving written approval from the CITY, any part of this Agreement is subcontracted by the CONTRACTOR, the CONTRACTOR shall be fully responsible to the CITY for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.
- 13.3 If the CITY determines that any subcontractor is not performing in accordance with this Agreement, the CITY shall so notify the CONTRACTOR who shall take immediate steps to remedy the situation.

- 13.4 If any part of this Agreement is subcontracted by the CONTRACTOR prior to commencement of any work by the subcontractor, the CONTRACTOR shall require the subcontractor to provide the CITY and its affiliates with insurance coverage as required by the CITY.

14.0 INDEPENDENT CONTRACTOR

- 14.1 At all times during the term of this Agreement, the CONTRACTOR shall be considered an Independent Contractor.

15.0 DEFAULT

- 15.1 If, during the term of this Agreement, the CONTRACTOR shall be found in default of any of the material provisions of this Agreement, the CITY may suspend its performance hereunder until such delinquency or default has been corrected; the CITY shall notify the CONTRACTOR in writing and of the deficiency and allow them ten (10) days to initiate and diligently pursue a cure to the default before suspending them. If the CONTRACTOR fails to correct such delinquency within one hundred and twenty (120) days, the CITY may terminate this Agreement.

16.0 TERMINATION

- 16.1 Notwithstanding any other provision of this Agreement, the CITY may, upon written notice to the CONTRACTOR, terminate this Agreement if: a) the CONTRACTOR is adjudged to be bankrupt; b) the CONTRACTOR makes a general assignment for the benefit of its creditors; or c) the CONTRACTOR fails to comply with any of the conditions or provisions of this Agreement, without prejudice to any other right or remedy the CITY may have under this Agreement. In the event of such termination, the CITY shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work, properly performed and accepted prior to the effective date of termination.
- 16.2 The CONTRACTOR may stop work or terminate if through no act or fault of CONTRACTOR, the Work is suspended for a period of more than 60 days by owner or under an order of court or other public authority, or Owner fails to act on any Application for Payment within 30 days after it is submitted or Owner fails to pay CONTRACTOR in accordance with Florida's Prompt Payment Act any sum finally determined to be due, then CONTRACTOR may, upon 10 days' written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, terminate the Agreement and recover from Owner payment invoiced for services rendered to date. In lieu of terminating the Agreement and without prejudice to any

other right or remedy, if Owner has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may upon 10 days' written notice to Owner stop the Work until payment is made of all such amounts due CONTRACTOR.

- 16.3 Any delay, suspension or termination of the Work by CITY shall be subject to CONTRACTOR's Cancellation and Delay Policy, as set forth in Exhibit "A".

17.0 FORCE MAJEURE

- 17.1 Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if, and to the extent, caused by acts of God, fire, flood, epidemic, pandemic, windstorm, explosion, riot, war, sabotage, strikes, extraordinary breakdown of or damage to the CITY'S affiliates' generating plants, their equipment or facilities; court injunction or order; Federal and/or State law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstances of Force Majeure remain in effect for one hundred and twenty (120) days, either party may terminate this Agreement.

18.0 PUBLIC RECORDS REQUIREMENTS

- 18.1 Notwithstanding any provision in this agreement to the contrary, the following public records requirements shall apply:
1. Keep and maintain public records required by the public agency (City/Organization) to perform the service.
 2. Upon request from the public agency's custodian of public records (City Clerk), provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
 4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency upon request from the public agency's custodian of public records, in a format

that is compatible with the information technology systems of the public agency.

If the Contractor has questions regarding the application of Chapter 119 Florida Statutes, for their duties to provide public records relating to this contract then contact the City's custodian of Public Records City Clerk Erin West at (904) 297-7500 X 3307, or e-mail ewest@greencovesprings.com, 321 Walnut St. Green Cove Spring FL 32043.

19.0 GOVERNING LAW & VENUE

19.1 This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida, procedural and substantive, and applicable federal statutes rules and regulations. The venue for any and all litigation arising under this Agreement, shall lie in Clay County, Florida. Each party waives their rights to a jury trial of any issues arising hereunder and agreement to submit to binding arbitration, hearing may take place by Zoom.

20.0 HEADINGS

20.1 Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

21.0 SEVERABILITY

21.1 In the event any portion of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts thereof shall otherwise be fully enforceable.

22.0 WAIVER AND ELECTION OF REMEDIES

22.1 Waiver by either party of any terms, conditions, or provisions of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

22.2 No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

23.0 THIRD PARTY RIGHTS

23.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the CITY and the CONTRACTOR.

24.0 PROHIBITION AGAINST CONTINGENT FEES

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

25.0 ENTIRE AGREEMENT

25.1 Except as otherwise stated, this Agreement, including the schedules, attachments, appendixes, and exhibits attached hereto, constitutes the entire Agreement between the CITY and the CONTRACTOR with respect to the service specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

26.0 SOVEREIGN IMMUNITY

26.1 Nothing contained in the Agreement shall be construed as a waiver of the CITY'S rights to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the CITY'S potential liability under Federal or State law.

27.0 WARRANTY

27.1 CONTRACTOR'S two-year Warranty, as set forth in Exhibit "A", shall apply in lieu of all other warranties, express or implied.

28.0 LIMITATION OF LIABILITY

28.1 Neither Party shall in any event be liable to the other party for any indirect, special or consequential damages whatsoever, under any theory of relief including without limitation, breach of warranty, breach of contract, tort (including negligence), strict liability, or otherwise, arising out of or related to that party's acts or omissions. Neither Party shall be liable to the other Party for terms greater than those set forth in section 11.2 above. Any action for breach of contract or otherwise must be commenced within one year after the cause of the action has occurred.

29.0 NOTICE

29.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage pre-paid, to:

CITY: Mike Null, Assistant City Manager
City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

CONTRACTOR:

Either party may change the name of the person receiving notices and the address at which notices are received by so advising the other party in writing.

(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

City of Green Cove Springs

B. Van Royal, Mayor

Date

Steve Kennedy, City Manager

Date

ATTEST:

Erin West, City Clerk

Date

AS TO FORM ONLY:

L. J. Arnold, III, City Attorney

Date

Keystone Electrical Manufacturing Co.

Date



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Meeting **MEETING DATE:** December 8, 2020
FROM: Steve Thomas
SUBJECT: City Council approval of Pay Application #4 to KBT Contracting Corp in the amount of \$12,287.07 for the ASACC Library Building project. *Steve Thomas*

BACKGROUND

City Council approved entering into a contract with KBT Contracting Corp on 6/16/2020 in the amount of \$476,826.00 to build the new library building at Augusta Savage Arts & Community Center. Attached is Pay Application #4 in the amount of \$12,287.07 for Council Approval.

FISCAL IMPACT

Funds are available in the approved FY 21 CIP for the library project.

RECOMMENDATION

Approve the payment of Pay Application #4 to KBT Contracting Corp in the amount of \$12,287.07 for the new library building.

APPLICATION AND CERTIFICATION FOR PAYMENT

TO Owner: City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

FROM CONTRACTOR: KBT Contracting Corp

APPLICATION NO: 4
 PERIOD FROM: 11/1/2020
 TO: 11/30/2020
 DISTRIBUTION TO:
 OWNER
 ARCHITECT
 CONTRACTOR
 Lender
 CONTRACT NO: LC 2020-09

CONTRACT FOR: Augusta Savage Arts & Community Center Library

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown is now due.

- 1. ORIGINAL CONTRACT SUM **\$476,826.00**
- 2. Net change by Change Orders **\$1,428.00**
- 3. CONTRACT SUM TO DATE (Line 1 ± 2) **\$478,254.00**
- 4. TOTAL COMPLETED & STORED TO DATE **\$298,779.20**
(Column G on G703)
- 5. Retainage:
 - a. 10 % of Completed Work \$ **\$29,877.92**
(Columns D + E on G703)
 - b. % of Stored Materials \$ **0**
- 6. TOTAL EARNED LESS RETAINAGE **\$268,901.28**
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT **\$256,614.21**
- 8. CURRENT PAYMENT DUE **\$12,287.07**
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE.. **\$207,924.72**
(Line 3 less Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$1,428.00	
Total approved this month		
TOTALS	\$1,428.00	\$0.00
NET CHANGES by Change Order		

CONTRACTOR: KBT Contracting Corp

By: [Signature] Date: 12/2/2020

State of: Florida County of: Duval
 Subscribed and sworn to before me this 2 day of December, 2020
 Notary Public: Dawn Marie Lane Johnson
 My Commission expires: Aug 16, 2024



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the OWNER that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED
 (Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT or CONSTRUCTION-MANAGER:

By: [Signature] Date: 12/2/2020

This Certificate is not negotiable. the AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract

Item #18.

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 2 OF 2 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing Contractor's signed Certification is attached.

In tabulation below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 4

APPLICATION DATE: 30-Nov-20

PERIOD FROM: 3-Nov-20

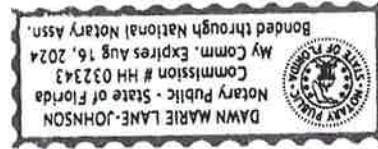
TO: 30-Nov-20

ARCHITECT'S PROJECT NO: Bid No. LC2020-09

Augusta Savage Arts & Community Center Library

A ITEM No.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (not in D or E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H BALANCE TO FINISH C - G	I RETAINAGE
			Previous Applications	% G/C					
1	Mobilization	\$20,000.00	\$20,000.00				\$20,000.00	\$0.00	\$2,000.00
2	General Conditions	\$47,682.00	\$23,841.00	\$7,152.30		\$30,993.30	\$30,993.30	\$16,688.70	\$3,099.33
3	Slab with Termite	\$40,255.00	\$40,255.00			\$40,255.00	\$40,255.00	\$0.00	\$4,025.50
4	Plumbing	\$31,021.00	\$21,714.70			\$21,714.70	\$21,714.70	\$9,306.30	\$2,171.47
5	Electrical	\$40,850.00	\$28,595.00			\$28,595.00	\$28,595.00	\$12,255.00	\$2,859.50
6	HVAC	\$32,500.00	\$19,500.00	\$6,500.00		\$26,000.00	\$26,000.00	\$6,500.00	\$2,600.00
7	Sound System	\$6,467.00				\$0.00	\$0.00	\$6,467.00	\$0.00
8	Data Controls	\$15,567.00	\$1,556.70			\$1,556.70	\$1,556.70	\$14,010.30	\$155.67
9	Fire Alarm	\$16,867.00	\$1,686.70			\$1,686.70	\$1,686.70	\$15,180.30	\$168.67
10	Exterior Wall Frame, Sheeting	\$21,000.00	\$21,000.00			\$21,000.00	\$21,000.00	\$0.00	\$2,100.00
11	Interior framing, Insulation	\$11,771.00	\$11,771.00			\$11,771.00	\$11,771.00	\$0.00	\$1,177.10
12	Truss installation, decking	\$45,984.00	\$45,984.00			\$45,984.00	\$45,984.00	\$0.00	\$4,598.40
13	Entry Columns and trims	\$5,817.00	\$5,817.00			\$5,817.00	\$5,817.00	\$0.00	\$581.70
14	Windows	\$3,534.00	\$3,534.00			\$3,534.00	\$3,534.00	\$0.00	\$353.40
15	Roofing	\$12,829.00	\$12,829.00			\$12,829.00	\$12,829.00	\$0.00	\$1,282.90
16	Soffits	\$3,950.00	\$3,950.00			\$3,950.00	\$3,950.00	\$0.00	\$395.00
17	Exterior Doors	\$6,200.00	\$6,200.00			\$6,200.00	\$6,200.00	\$0.00	\$620.00
18	Stucco	\$16,032.00	\$3,206.40			\$3,206.40	\$3,206.40	\$12,825.60	\$320.64
19	Exterior Painting	\$3,000.00				\$0.00	\$0.00	\$3,000.00	\$0.00
20	Gutters	\$7,839.00				\$0.00	\$0.00	\$7,839.00	\$0.00
21	Fire Barrier Drywall	\$5,617.00	\$5,617.00			\$5,617.00	\$5,617.00	\$0.00	\$561.70
22	Drywall	\$15,777.00	\$3,155.40			\$3,155.40	\$3,155.40	\$12,621.60	\$315.54
23	Acoustical Ceiling	\$6,656.00				\$0.00	\$0.00	\$6,656.00	\$0.00
24	Wall Tiles	\$4,800.00				\$0.00	\$0.00	\$4,800.00	\$0.00
25	Interior Doors	\$24,570.00	\$4,914.00			\$4,914.00	\$4,914.00	\$19,656.00	\$491.40
26	Millwork	\$7,808.00				\$0.00	\$0.00	\$7,808.00	\$0.00
27	Interior Painting	\$5,100.00				\$0.00	\$0.00	\$5,100.00	\$0.00
28	Flooring	\$9,283.00				\$0.00	\$0.00	\$9,283.00	\$0.00
29	Appliances	\$1,000.00				\$0.00	\$0.00	\$1,000.00	\$0.00
30	Specialties (Ballet bars, mirrors, lockers, fire extinguishers)	\$5,850.00				\$0.00	\$0.00	\$5,850.00	\$0.00
31	Labor to install client supplied specialties	\$1,200.00				\$0.00	\$0.00	\$1,200.00	\$0.00
32	Change Order #1	\$1,428.00				\$0.00	\$0.00	\$1,428.00	\$0.00
		\$478,254.00	\$285,126.90	\$13,652.30	\$0.00	\$298,779.20	\$298,779.20	\$179,474.80	\$29,877.92

Item #18.




Stamp:

Signature of Notary: Dawn Marie Lane-Johnson

BEFORE ME, the undersigned officer, personally appeared Rebecca E. Timmons as President of KBT Contracting Corp, who is personally known to me and who did not take an oath, and who is known to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he/she executed said instrument in the capacity and for the purposes therein expressed.

STATE OF Florida
COUNTY OF Duval

By 
Printed Name Rebecca Timmons
Title President
Lienor's Name KBT Contracting Corp
Address 5105 Blanding Blvd.
Jacksonville, FL 32210

DATED on December 2, 2020

This waiver and release does not cover any retention or labor, services or materials furnished after the date specified.

1107 Malin Luther King Jr. Blvd.
Green Cove Springs, FL

The undersigned lienor, in consideration of the sum of \$12287.07, hereby waives and releases its lien and right to claim a lien for labor, services or materials furnished through 11/30/2020 to City of Green Cove Springs on the job of Augusta Savage Arts and Community Center Library to the following described property:

WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council Regular Meeting **MEETING DATE:** December 8, 2020
FROM: Scott Schultz, Asst. Water Utilities Director
SUBJECT: City Council approval of Pay Request #4 in the amount of \$243,001.40 to General Underground for Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), and Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00 for a total amount of \$1,000,449.00.

BACKGROUND

On June 16, 2016 the City Council approved the Rate Study conducted by Staff and Mittauer & Associates.

On March 21, 2017, Council approved a Task Order with Mittauer & Associates for \$50,000.00 for development of a Water Master Plan.

On June 19, 2018, the City Council approved the Water Master Plan conducted by Staff and Mittauer. The Master Plan included a thorough review of the existing Water Capital Improvement Program (CIP) and resulted in an update to the CIP. As a result of the updated CIP, Staff requested an update to the Water portion of the Rate Study to evaluate financing options and alternatives to CIP financing.

On September 4, 2018, City Council approved a Task Authorization with Mittauer & Associates for \$12,000.00 to update the Water Rate Study.

At the March 5, 2019 City Council meeting Staff and Mittauer presented the updated Water Rate Study which was subsequently approved by the City Council. The City Council directed staff to return with an Ordinance authorizing the borrowing of funds to complete the immediate and future CIP needs. Staff was also directed to draft an RFP to secure a loan for the "Priority 1" immediate need CIP projects.

The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000.00

The Priority 2, Harbor Road, Bonaventure and Magnolia Point Cul-de-sac, total design and construction estimate is \$4,850,000.00.

The Priority 3, Reynolds High Service Pumps & Well 2 design and construction estimate is \$2,500,000.00.

The Priority 4, asbestos concrete (AC) pipe replacement. Design and construction estimate is \$6,620,000.00

The Priority 5, Governors Creek Water Main, design, and construction estimate is \$360,000.00

Design and permitting for Priorities 3-5 cost estimate is \$1,424,000.00

Total 2019 Water CIP Cost Estimate is \$17,124,000.00

Council approved Ordinance No. O-07-2019 on First Reading as to Form Only on 3/19/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System.

Council approved Ordinance No. O-07-2019 on Second and Final Reading on 4/2/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System

On April 2, 2019 staff was directed to draft an RFP to secure a loan for the "Priority 1" immediate CIP projects. The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000 plus costs and fees related to the issuance of the loan.

On April 2, 2019, Council adopted Ordinance No. O-07-2019 authorizing the borrowing of up to \$18,000,000 for capital improvements to the City's water system. Staff was also directed to draft an RFP to secure a loan for the "Priority 1" immediate CIP projects. The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000 plus costs and fees related to the issuance of the loan.

During the May 21, 2019 meeting, Council authorized staff to award the loan for improvements to the City's water distribution system in Reynolds Park to Synovus Bank. Synovus Bank was chosen to finance the Water Utility Revenue Note, Series 2019 with a fixed 2.63% interest rate for 10 years without premium or prepayment penalty. This loan is secured solely by a pledge of the net revenues of the City's Water Utility System. The net revenues pledge for the Water Utility Revenue Note, Series 2019 will be obligated for the ten year term of the loan. The maturity date for this loan is April 1, 2029.

A formal bid was conducted by city staff and Mittauer for the Reynolds Water System Improvements. Included as an alternate was the extension of water & sewer services to MOBRO which came up at the end of the design and was added.

City staff and the engineer of record have reviewed the received bids and certified General Underground as the qualified bidder.

Through value engineering and project optimization the total amount for the Reynolds improvements was \$684,724.00, far below the \$1,350,000.00 estimate. This enabled staff to include financing for the extension of water services to and across the MOBRO property to them water. MOBRO will be contributing approximately \$150,000.00 of the \$314,275.00 cost of the extension for water and sewer services. The system has been sized for future expansion east on State Road 16.

City Council approved Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), and Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00 for a total amount of \$1,000,449.00 to general Underground on 5/19/2020.

FISCAL IMPACT

\$243,001.40 to the Water Fund CIP Budget

RECOMMENDATION

Approve Pay Request #4 in the amount of \$243,001.40 to General Underground for Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), and Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00 for a total amount of \$1,000,449.00.



MITTAUER
& ASSOCIATES, INC.
CONSULTING ENGINEERS &
PROJECT FUNDING SPECIALISTS

580-1 WELLS ROAD
ORANGE PARK, FL 32073
PHONE: (904) 278-0030
FAX: (904) 278-0840
WWW.MITTAUER.COM

December 2, 2020

VIA EMAIL

Mr. Scott Schultz, Assistant Water Utilities Director
City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

RE: Contractor's Pay Request No. 4
Reynolds Water System Improvements
City Contract No. LC 2020-06
City of Green Cove Springs, Florida
Mittauer & Associates, Inc. Project No. 8905-49-1

Dear Mr. Schultz:

We have reviewed Pay Request No. 4 from General Underground, LLC and find it acceptable. We have, accordingly, indicated our approval and are forwarding an electronic copy to you for approval and payment. This pay request totals \$243,001.40.

Please do not hesitate to call should you have any questions.

Sincerely yours,
Mittauer & Associates, Inc.

Jason R. Shepler, P.E.
Vice President of Environmental Services

JRS/pj
Enclosure
cc: General Underground, LLC

APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER: City of Green Cove Springs LC 2020-06

Reynolds Water System Improvements

AIA DOCUMENT G702

APPLICATION NO: 4

PAGE 1 OF 1

Distribution to:	
X	OWNER
X	ENGINEER
X	CONTRACTOR

FROM CONTRACTOR:

General Underground
PO BOX 870
Chiefland, FL 32644

VIA ENGINEER:

Mittauer & Associates
580-1 Wells Rd
Orange Park, FL 32873

PERIOD TO: 11/30/2020

PROJECT NUMBER: LC 2020-06

CONTRACT FOR:

CONTRACT DATE: 5/19/2020

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

1. ORIGINAL CONTRACT SUM	\$	\$ 997,499.00
2. Net change by Change Orders	\$	-
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$	\$ 997,499.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	\$ 673,084.00
5. RETAINAGE:		
a. 5% of Completed Work (Column D + E on G703)	\$	\$ 33,654.20
b. % of Stored Material (Column F on G703)	\$	-
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	\$ 33,654.20
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	\$ 639,429.80
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	\$ 396,428.40
8. CURRENT PAYMENT DUE	\$	\$ 243,001.40
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	\$ 358,069.20

CONTRACTOR: General Underground

By:  Date: 11/30/2020

State of: _____ County of: _____
Subscribed and sworn to before me this _____ day of _____
Notary Public:  SAVANNAH A. BROWN
Commission # H-028738
Expires August 14, 2024
My Commission expires: _____

ENGINEER'S CERTIFICATE OF PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Engineer certifies to the Owner that to the best of the Engineer's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$ 243,001.40

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ENGINEER:  Date: 12/2/20

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ -	\$ -
Total approved this Month	\$ -	\$ -
TOTALS	\$ -	\$ -
NET CHANGES by Change Order	\$0.00	

Progress Estimate - Unit Price Work	Contractor's Application		General Underground LLC				Application Number		4		
For LC 2020-06	Reynolds Water System Improvements City of Green Cove Springs, Florida						Application Number		4		
Application Period:	10/29/2020-11/30/2020						Application Date:		12/1/2020		
	Item	Contract Information				Estimated Value of Work		Materials Presently Stored (not in C)	Total Completed and Stored to Date	Balance to Finish	
					Quantity Installed	Installed to Date					
Bid Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item (\$)	Quantity Installed	Installed to Date				
1	Mobilization (5%)	1	LS	\$ 30,000.00	\$ 30,000.00	1	\$ 30,000.00		1	\$ 30,000.00	\$ -
2	General Conditions (15%)	1	LS	\$ 40,000.00	\$ 40,000.00	0.4	\$ 16,000.00		0.4	\$ 16,000.00	\$ 24,000.00
3	Water Main, Conventionally Installed										
a)	6" PVC Water Main	50	LF	\$ 50.00	\$ 2,500.00	0	\$ -		0	\$ -	\$ 2,500.00
b)	8" PVC Water Main	1,900	LF	\$ 38.00	\$ 72,200.00	1839	\$ 69,882.00		1839	\$ 69,882.00	\$ 2,318.00
c)	10" PVC Water Main	1,700	LF	\$ 45.00	\$ 76,500.00	1755	\$ 78,975.00		1755	\$ 78,975.00	\$ (2,475.00)
d)	12" PVC Water Main	1,000	LF	\$ 60.00	\$ 60,000.00	916	\$ 54,960.00		916	\$ 54,960.00	\$ 5,040.00
4	Water Main, Horizontally Directional Drilled										
a)	12" Fusible PVC	700	LF	\$ 85.00	\$ 59,500.00	720	\$ 61,200.00		720	\$ 61,200.00	\$ (1,700.00)
5	Ductile Iron Fittings-Mortar Lined	13,300	LBS	\$ 1.00	\$ 13,300.00	2134	\$ 2,134.00		2134	\$ 2,134.00	\$ 11,166.00
6	Gate Valve and Box										
a)	6" Gate Valve & Box	1	EA	\$ 1,200.00	\$ 1,200.00	0	\$ -		0	\$ -	\$ 1,200.00
b)	8" Gate Valve & Box	3	EA	\$ 1,350.00	\$ 4,050.00	2	\$ 2,700.00		2	\$ 2,700.00	\$ 1,350.00
c)	10" Gate Valve & Box	2	EA	\$ 2,200.00	\$ 4,400.00	3	\$ 6,600.00		3	\$ 6,600.00	\$ (2,200.00)
d)	12" Gate Valve & Box	2	EA	\$ 3,000.00	\$ 6,000.00	2	\$ 6,000.00		2	\$ 6,000.00	\$ -
7	Connection to Existing Main										
a)	6" x 6" x 6" TEE, MJ w/ 6" Cut-in Sleeve, MJ	1	EA	\$ 2,500.00	\$ 2,500.00	0	\$ -		0	\$ -	\$ 2,500.00
b)	10" x 8" SS Tapping Sleeve & Valve	2	EA	\$ 5,000.00	\$ 10,000.00	1	\$ 5,000.00		1	\$ 5,000.00	\$ 5,000.00
c)	10" x 10" SS Tapping Sleeve & Valve	2	EA	\$ 6,000.00	\$ 12,000.00	1	\$ 6,000.00		1	\$ 6,000.00	\$ 6,000.00
d)	12" x 10" SS Tapping Sleeve & Valve	1	EA	\$ 6,500.00	\$ 6,500.00	0	\$ -		0	\$ -	\$ 6,500.00
e)	12" x 12" SS Tapping Sleeve & Valve	1	EA	\$ 8,000.00	\$ 8,000.00	1	\$ 8,000.00		1	\$ 8,000.00	\$ -
f)	14" x 8" SS Tapping Sleeve & Valve	2	EA	\$ 5,500.00	\$ 11,000.00	2	\$ 11,000.00		2	\$ 11,000.00	\$ -
g)	8" Line Stop & (2) 8" DI Plugs, MJ	3	EA	\$ 6,000.00	\$ 18,000.00	0	\$ -		0	\$ -	\$ 18,000.00
h)	10" Line Stop & (2) 8" DI Plugs, MJ	2	EA	\$ 7,750.00	\$ 15,500.00	0	\$ -		0	\$ -	\$ 15,500.00
i)	12" Line Stop & (2) 8" DI Plugs, MJ	1	EA	\$ 8,000.00	\$ 8,000.00	0	\$ -		0	\$ -	\$ 8,000.00
j(1)	6" Insert-a-Valve w/ 6" DI Plugs, MJ Team Insert-a-Valve	2	EA	\$ 10,000.00	\$ 20,000.00	0	\$ -		0	\$ -	\$ 20,000.00
j(2)	6" Insert-a-Valve w/ 6" DI Plugs, MJ Alternate Insert-a-Valve (Hydra-Stop or Equal)	2	EA	\$ 7,500.00	\$ 15,000.00	0	\$ -		0	\$ -	\$ 15,000.00
8	Remove & Replace Water Services										
a)	2" Water Service w/ Meter & Box (Short)	5	EA	\$ 2,500.00	\$ 12,500.00	6	\$ 15,000.00		6	\$ 15,000.00	\$ (2,500.00)
b)	2" Water Service w/ Meter & Box (Long)	5	EA	\$ 2,750.00	\$ 13,750.00	3	\$ 8,250.00		3	\$ 8,250.00	\$ 5,500.00

9	Temporary Sample Tap	B	EA	\$ 800.00	\$ 6,400.00	0	\$ -	0	\$ -	\$ 6,400.00
10	Fire Hydrant Assembly	B	EA	\$ 4,500.00	\$ 36,000.00	8	\$ 36,000.00	8	\$ 36,000.00	\$ -
11	Removal Existing Fire Hydrant Assembly	6	EA	\$ 2,000.00	\$ 12,000.00	0	\$ -	0	\$ -	\$ 12,000.00
12	2" Flushing Hydrant with Plugged Dead End	1	EA	\$ 3,224.00	\$ 3,224.00	0	\$ -	0	\$ -	\$ 3,224.00
13	Removal & Replacement of Unsuitable Soils	500	CY	\$ 10.00	\$ 5,000.00	0	\$ -	0	\$ -	\$ 5,000.00
14	Removal & Replacement of :									
a)	Asphalt Pavement	1500	SY	\$ 30.00	\$ 45,000.00	0	\$ -	0	\$ -	\$ 45,000.00
b)	4" Concrete Sidewalk	50	SY	\$ 50.00	\$ 2,500.00	0	\$ -	0	\$ -	\$ 2,500.00
c)	6" Concrete Driveway	50	SY	\$ 50.00	\$ 2,500.00	0	\$ -	0	\$ -	\$ 2,500.00
d)	Asphalt Drainage Flume	1	LS	\$ 3,500.00	\$ 3,500.00	0	\$ -	0	\$ -	\$ 3,500.00
15	Take Existing Water Main Out of Service									
a)	6" Water Main (grout fill)	850	LF	\$ 12.00	\$ 10,200.00	0	\$ -	0	\$ -	\$ 10,200.00
b)	12" Water Main (grout fill)	250	LF	\$ 40.00	\$ 10,000.00	0	\$ -	0	\$ -	\$ 10,000.00
16	Audiovisual Documentation	1	LS	\$ 7,500.00	\$ 7,500.00	1	\$ 7,500.00	1	\$ 7,500.00	\$ -
17	Grassing / Restoration	1	LS	\$ 17,000.00	\$ 17,000.00	0	\$ -	0	\$ -	\$ 17,000.00
BASE TOTAL		\$ 683,224.00		Installed Quantity		\$ 425,201.00		Total Remaining		\$ 258,023.00
ADDITIVE ALTERNATE NO.1 UNIT PRICE BASIS FOR TOTAL ALLOWANCE										
17	Grassing / Restoration (Seed / Mulch) (4,700 LF of 20' Wide Utility Easement Limits)	1	LS	\$ 5,000.00	\$ 5,000.00	0	\$ -	0	\$ -	\$ 5,000.00
18	Topographic Route Surveying (20' Wide Utility Easement Limits)	4,700	LF	\$ 3.25	\$ 15,275.00	4700	\$ 15,275.00	4700	\$ 15,275.00	\$ -
19	Clearing & Grubbing	2	AC	\$ 3,000.00	\$ 6,000.00	0	\$ -	0	\$ -	\$ 6,000.00
WATER MAIN EXTENSION ALLOWANCE (1900 LF OF 10" WM)										
3c	10" PVC Water Main, Conventional	700	LF	\$ 44.00	\$ 30,800.00	0	\$ -	0	\$ -	\$ 30,800.00
4b	10" Fusible PVC Water Main, HDD	1,200	LF	\$ 44.00	\$ 52,800.00	1817	\$ 79,948.00	1817	\$ 79,948.00	\$ (27,148.00)
5	Ductile Iron Fittings-Mortar Lined	2,500	LBS	\$ 1.00	\$ 2,500.00	0	\$ -	0	\$ -	\$ 2,500.00
6c	10" Gate Valve & Box	4	EA	\$ 2,500.00	\$ 10,000.00	0	\$ -	0	\$ -	\$ 10,000.00
9	Temporary Sample Tap	2	EA	\$ 750.00	\$ 1,500.00	0	\$ -	0	\$ -	\$ 1,500.00
10	Fire Hydrant Assembly	2	EA	\$ 5,000.00	\$ 10,000.00	0	\$ -	0	\$ -	\$ 10,000.00
FORCEMAIN EXTENSION ALLOWANCE (4700 LF OF 6" FM)										
3e	6" PVC Force Main, Conventional	2,700	LF	\$ 33.00	\$ 89,100.00	0	\$ -	0	\$ -	\$ 89,100.00
4c	6" Fusible PVC Force Main, HDD	2,000	LF	\$ 33.00	\$ 66,000.00	4620	\$ 152,460.00	4620	\$ 152,460.00	\$ (86,460.00)
5	Ductile Iron Fittings-Epoxy Lined	2,500	LBS	\$ 1.00	\$ 2,500.00	200	\$ 200.00	200	\$ 200.00	\$ 2,300.00
6a	6" Gate Valve & Box	4	EA	\$ 1,200.00	\$ 4,800.00	0	\$ -	0	\$ -	\$ 4,800.00
7k	Connect to Existing 12" FM 12" x 6" Cut-in TEE, MJ with 12" Cut-in Sleeve	1	LS	\$ 3,000.00	\$ 3,000.00	0	\$ -	0	\$ -	\$ 3,000.00
20	Air Release Valve and Box	2	EA	\$ 7,500.00	\$ 15,000.00	0	\$ -	0	\$ -	\$ 15,000.00
Additive Alt 1 Total		\$ 314,275.00		Installed Quantity ALT 1		\$ 247,883.00		Total Remaining ALT 1		\$ 66,392.00
GRAND TOTAL		\$ 997,499.00		Total Installed QTY		\$ 673,084.00		Total Remaining Qty		\$ 324,415.00



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** December 8, 2020
FROM: Mike Null, Assistant City Manager
SUBJECT: Council approval to purchase a dual voltage, 2,000 kVA, 480/277 volt transformer for spare stock from Gresco in the amount of \$26,800. *Mike Null*

BACKGROUND

The City has several 1,000, 1,500 and 2,000 kVA transformers throughout the distribution system and currently does not have any spares for replacement with the exception of one (1) 13 kV, 1,000 kVA. The purchase of this transformer will give the City a spare transformer to use as a replacement for any of these sized transformers on either the 13kV or 23kV circuits. Staff solicited quotes from three (3) companies. Gresco and Weg responded. Anixter did not provide a quote. Gresco submitted the lowest quote at \$26,800.00. Since this amount is over \$25,000, Council approval is required for the purchase.

Additionally, staff is requesting the Council waive the formal bid process for this item and it would add significantly more time to the quote process and would likely result in a higher overall price. This exception is allowed in Chapter 5 of the City's Purchasing Policies and Procedures Manual adopted by Council in 2019.

FISCAL IMPACT

This will be purchased as part of the Electric Department inventory budget.

RECOMMENDATION

Approve the purchase of a dual voltage, 2,000 kVA, 480/277 volt transformer for spare stock from Gresco in the amount of \$26,800.

GREEN COVE SPRINGS COPY

QUOTED DATE

11

Item #20.



SHIP TO:
 CITY OF GREEN COVE SPRINGS
 900 GUM STREET

GREEN COVE SPRINGSFL32043

<u>DESCRIPTION</u>	<u>PRODUCT NUMBER</u>	<u>QTY</u>	<u>UNIT PRICE</u>	<u>EXT PRICE</u>
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TRANSFORMER LOSS DATA IS BASED ON ANSI C57.12.00:

LOSS GRT: AVE VOLT% : 100

NL TEMP BASIS: 85 LL TEMP BASIS: 85

FOB GREEN COVE SPRINGS, FL.

FREIGHT PREPAID AND ALLOWED.

LEAD TIME 18-20 WEEKS.

*QUOTED PER ERMCO THREE PHASE REQUEST FOR QUOTATION FORM.

-DUE TO PRIMARY VOLTAGE REQUEST, QUOTED WITH 125 BIL IN LIEU OF 95 BIL.

-QUOTED WITH SPECIFIC DIMENSIONS. ERMCO PROVIDES SPECIFIC DIMENSIONS FOR UNITS 750 KVA AND LARGER.

-TAPS ARE DESIGNED FOR USE IN THE SERIES POSTION ONLY.

NOTE: LEADTIME

IS SUBJECT TO CHANGE WITHOUT NOTICE! 4TH QTR INDEX 2020. FREIGHT PREPAID & ALLOWED. LEAD TIME FOR SINGLE PHASE POLES 14-16 WKS-PADS 22-24 WKS ARO 3 PHASE PAD 18-20 WKS ARO

ITEM 1	ERMCO 3 PHASE PAD TRANSFORMER	3PH-PAD	2	\$26800.00	\$53600.00
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ITEM# : 1.00

NL= 2190 LL=10966 IZ=6.000 TL=13156

OPTIONS BEGIN.....

ERMCO	ERMCO STD 3PH TRANSFORMER
2000	2000 KVA
G	GRDY
167G	13200GY/7620X22860GY/13200 125 BIL
X	H0/X0 GROUND
003	2 TAPS 2.5% ABOVE & BELOW NORMAL
127	480Y/277 LH
S5	ANSI SPECIFIC K DIM=5.0
L	LOOP FEED

QUOTED DATE

11

Item #20.

GREEN COVE COPY



SHIP TO:
 CITY OF GREEN COVE SPRINGS
 900 GUM STREET

GREEN COVE SPRINGSFL32043

DESCRIPTION	PRODUCT NUMBER	QTY	UNIT PRICE	EXT PRICE
010	ERMCO STD REPLACABLE STUD WELL			
G15	STD INSERT SYSTEM SELECT			
000	ELBOW ARRESTERS NOT SELECTED			
000	NO INS. STANDOFF BUSHING SELECTED			
000	NO INS. PROTECTIVE CAP SELECTED			
S	STAGGERED LV BUSHING ARRANGEMENT			
510	HJ INTG 10H SPD			
1	LV BUSHING SUPPORTS REQUIRED			
361	HI-AMP "BAYO" FUSE/LINK CP			
A00	STD ISOLATION LINK BY CONFIGURATOR			
1	FLAPR BAYO HOLDR W/SILVER CONTACTS			
000	MILD STEEL TANK & BASE			
000	MILD STEEL CABINET & SILL			
0	STD CABINET PARTITION			
0	PADMOUNT GREEN FINISH			
2	SS HARDWARE W/BRONZE NUTS			
11	SILICON BRONZE PENTABOLT			
1	S.S. 2HOLE GRD PAD IN PRI & SEC			
00	STANDARD AIR SPACE			
00	GENERIC PR VALVE .25 10PSI 35SCFM			
Z	ERMCO STD DRAIN VALVE W/ SAMPLER			
P	DRAIN IN PRIMARY COMPARTMENT			
0	1"NPT FILL PLUG			
Z	SEC ERMCO STD LIQUID LEVEL GAUGE			
0	NO VACUUM GAGE SELECTED			
Z	ERMCO STD TEMPERATURE GAGE			
0	STD TX OIL			
A	STANDARD TWO NAMEPLATES			
00	STD KVA DECAL OUTSIDE			
01	"NON PCB" 1X2 (ERMCO STD) 7-15			
11	DANGER "MR OUCH" GENERIC (3-52-02)			
02	WARNING "MR OUCH" GENERIC(3-52-01)			
99	STD PRIMARY DECAL INSIDE(HV)			
97	STD SEC DECAL OUTSIDE 1"			
00	STD ERMCO "E" LOGO DECAL (3-8-151)			
N	NO SPECIAL TEST NEEDED			
OPTIONS END.....				

48 HOUR NOTICE

RECEIVING HOURS 8 AM - 3 PM

NO FRIDAY DELIVERIES

Quotation Number: 495932046

Revision: 0

Date: 11/10/2020

Customer: City of Green Cove Springs,
321 Walnut Street,
Green Cove Springs, FL 32043

Attention: Joe Hansford

Cust. Code: 1000255

Email: jhansford@greencovesprings.com

Region: 200200

Reference: 2000 kVA Replacement

Product(s): 3-PHASE ANSI/IEEE PADMOUNT

Manufacturing Location: WEG Transformers USA - Washington, MO

WEG is pleased to present our quotation for three phase transformers. The attached proposal is based in our interpretation of any specifications, drawings and/or other information provided to WEG.

General Conditions:

- Prices:** Firm for the duration of the contract.
- Validity:** **From** 11/13/2020 **through** 12/13/2020
- Taxes:** Federal, state, local or any other taxes and tariffs are excluded.
- Freight:** FOB Destination - Freight Prepaid and Allowed
- Payment:** Net 30 days from invoice date
- Warranty:** Standard, 12 months from the date of installation, but not to exceed 18 months from the date of shipment.

Any design dimensions, unless otherwise specified are for indication only, and are not binding. This quotation is subject to WEG Transformers USA Terms and Conditions of Sale that are included with this quote hereinafter.

Any deviation from the attached bill of material(s), before or after receipt of order, may affect price and delivery. The quoted ship weeks will go into effect after all outstanding technical matters have been resolved. Ship weeks are based on plant loading at time of quotation. Please verify ship weeks when placing an order. Please reference our quotation number and item number on all purchase orders and correspondence.

We will be pleased to provide you with any additional information that is required. Should you have any questions, please feel free to contact me or please contact your authorized WEG distributor or Sales Representative. WEG appreciates the opportunity to provide a response to your Inquiry and looks forward to receiving your order.

Sincerely,

WEG Transformers USA,

Makayla Moran

Makayla Moran
Account Specialist
Eastern Utility Sales
(636) 239-9380

Copy: John Carter & Associates

Quotation Number: 495932046

Revision: 0

Date: 11/10/2020

Quotation Details:

Orders must be issued to “WEG Transformers USA, LLC” and are subject to WEG’s Terms and Conditions of Sale that are included with this quote or have been provided previously to the buyer.

Quotation number including revision level and item number should be referenced on purchase order.

Accurate and detailed ship to address and contact information is required at time of purchase order to assure correct shipping and handling.

Quoted lead-times are based on current factory loading and are subject to change. For more information, please consult the factory before placing an order.

Upon order entry by WEG, the transformer will be acknowledged to ship at the quoted lead time or the best available lead time based on plant loading.

Due to the volatility of the raw materials market, strict interpretation of our quotation validation period must be adhered to. If your quote has expired, please consult your Account Specialist/Product Engineer for a quotation update.

Approval drawings can be provided, if needed, two (2) weeks after receipt of complete order information. Please remember to request approval drawings at the time of purchase order if required. **IF APPROVAL DRAWINGS ARE REQUIRED**, shipment lead-time does not begin until drawings are returned approved by customer. **IF NO APPROVAL DRAWINGS ARE REQUIRED**, shipment lead-time begin after receipt of complete order information.

Orders entered “on HOLD for APPROVAL” and NOT released within three (3) weeks after receiving factory approval type drawings are subject to price increases at the time of release.

Record Drawings are sent two weeks before shipment.

This Proposal is based on our interpretation of any Specifications, Drawings, and/or other information provided to WEG. Accuracy and completeness is the sole responsibility of the Distributor, Contractor, and End User. If any Item/Service is not listed it is not included nor implied to be. All Items and services not shown or listed will be the responsibility of the Distributor, Contractor, and End User to furnish and/or provide.

Subject to credit approval.



WEG Transformers USA

One Pauwels Drive, Washington, MO 63090, USA
www.weg.net T: 1-636-239-9300 F: 1-636-239-9395

TECHNICAL SPECIFICATIONS

Item #20.

Date: 11/10/2020
Quotation Number: 95932046
Item Number: 10

Customer Line No.: _____ **Quantity:** 1
Unit Price: \$34,018.00 **Extended Price:** \$34,018.00

Three Phase Pad-Mount Transformer(s)		Model #:	
kVA Rating:	2000 kVA	Cooling Class:	ONAN
	Mineral Oil Immersed	Frequency:	60 Hz
Primary Voltage:	13200 GrdY/7620 X 22860	Avg. Winding Temp.:	65 °C
	GrdY/13200 volts	Secondary Voltage:	480Y/277 volts
Primary BIL Rating:	125 kV	Secondary BIL Rating:	30 kV
HV Winding Matl:	Aluminum	LV Winding Matl:	Aluminum
High Voltage Taps:	B Taps - Two 2.5% Taps below Nominal and Two 2.5% Taps above Nominal		
No Load Loss:	1896 Watts	Load Loss:	12515 Watts
		Total Loss:	14411 Watts
Impedance:	5.73 %		

Tank Enclosure:
Welded Cover w/(1) Handhole(s) - 14x24
Stainless Steel Exterior Hardware
Cabinet Depth: 24 Inches, Pentahead Security Bolts
Steel HV-LV Barrier

Bushings:
Loop Feed ANSI Specific Dimensions
Dead Front Primary Terminations: Wells w/Removable Studs , (6) Inserts
Secondary Terminations: Epoxy Bushings w/Non-removable 10 Hole Spades , Spade Support

Protection:
Dual Sensing Bayonet Fusing (), w/Flapper valve bayonet fuse holder, Plastic Dripshield (3), Spare bayonet fuses (1 SET in plastic bag att. to bay. ring)

Accessories:
Pressure Relief Valve , Drain valve w/Sampler
Liquid Level Gauge, Liquid Temperature Gauge
Schrader Valve

Switching:
H0X0 Removable Link, One ON/OFF Transformer Switch (300 Amps)

Paint Color:
GREEN (Munsell 7.0GY3.29/1.5),

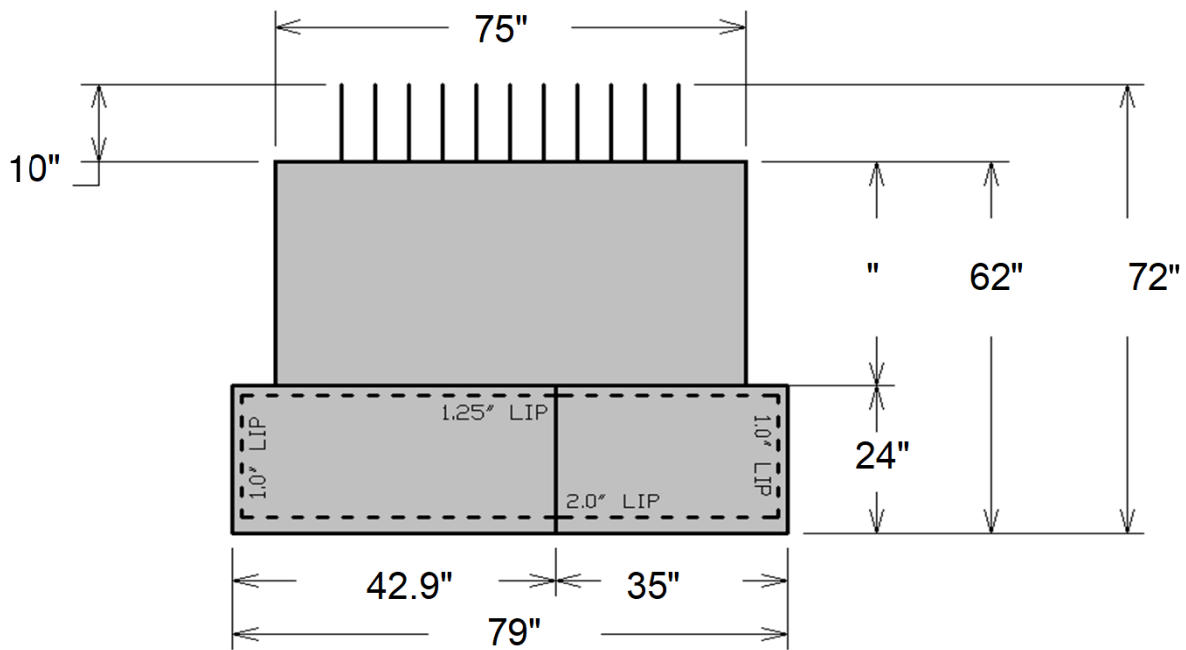
Standards:
Quoted in compliance with the latest applicable ANSI standards unless otherwise specified by the customer.

Shipment: 38 to 40 weeks

WEG Transformers USA Inc
 Registered Office & Plant:
 One Pauwels Drive, Washington, MO 63090, USA
 T:+1 636 239 9300 F:+ 636 239 9395

Quotation
495932046-0010

2000 kVA HV: 13200GrdY/7620 x 22860GrdY/13200 LV: 480Y/277



**Preliminary Dimensions are in Inches
 Final Design MAY Change**

Cabinet Height: 84"
Total Weight: 14349 lbs
Oil Volume: 609 gals

Date: 11/10/2020
Designer: mdn

PROPOSAL NOTES

COMMERCIAL TERMS: WEG Transformers USA LLC is an ISO certified company. Our standard Terms and Conditions of Sale apply unless otherwise indicated. WEG assumes no obligations or liabilities beyond those specified in the WEG document entitled “Terms & Conditions of Sale”. Unless otherwise indicated in this proposal, standard delivery terms are F.O.B. WEG Factory, freight prepaid and allowed. Freight is included in the proposed equipment price with Purchaser assuming all risk of loss and damage in transit and liable for cost, such as demurrage or detention, after the purchased equipment has left our loading docks or facility.

COMMERCIAL NOTES: This Proposal is based on our interpretation of any Specifications, Drawings, and/or other information provided to WEG. Accuracy and completeness is the sole responsibility of the Distributor, Contractor, and End User. If any item or service is not listed it is not included nor implied to be. All items or services not shown or listed will be the responsibility of the Distributor, Contractor, and End User to furnish or provide.

Upon order entry by WEG, the transformer will be acknowledged to ship at the quoted lead time or the best available lead time. Lead times quoted are based on accurate and complete information from the customer. If additional information or clarifications are required, a delayed response from the customer may affect the ship date(s) of the unit(s). WEG cannot be held accountable for such delays.

TECHNICAL NOTES: Our proposal is valid for the equipment specifically described in the attached WEG Technical Specs. Adding of any required design features not included in our Technical Specs at time of proposal may result in revisions to the proposed price, delivery time, or any other particulars related to the herewith submitted proposal.

The proposed equipment is based on application at an altitude of 3,300 ft. and below unless specifically noted in the design. For equipment rated at standard altitude and used in applications above this elevation, the transformer must be de-rated in accordance with applicable ANSI standards.

All Transformers are shipped with our standard Operations and Maintenance manual, unless otherwise indicated.

Impedance (%IZ nominal) and/or losses quoted are subject to the applicable ANSI tolerances. Average sound level shall not exceed NEMA standards. Rubber Goods such as primary elbow connectors, portable insulated standoff bushings, dead-end caps/plugs, as well as items such as hot sticks, hook sticks, padlocks, and special tools unless specified in the BOM, are Purchaser supplied. For Delta configured transformers, core design shall be 3-legged stacked and not 5-legged wound type. Annealing for our stacked designs is “not required”.

SHIPPING NOTES: Shipment will be made according to the quoted lead times after complete order information is received by the factory, inclusive of approval/record type drawings when requested at time of order. Should standard approval drawings be required, they can be emailed 2-3 weeks ARO.

All prices are for shipments arriving by truck at Purchaser’s site, Mon-Fri, 8AM-5PM. If alternative delivery is required, freight price adders may apply. Purchaser should advise at or before time of order of any special requirements.

TESTING: This proposal includes standard factory testing. These tests are standard routine test as defined by the latest IEEE C57.12.00 and C57.12.90 standards. Pricing includes WEG “standard” factory tests below:

- Winding Resistance Measurements
- Ratio Test and phase relation
- No-Load Loss and Excitation Current
- Load Losses and Impedance Voltage
- Low Frequency Test
 - Applied Voltage on Secondary
 - Applied Voltage on Primary (Delta connected only)
 - Induced Voltage
- Phase Relation
- Lightning Impulse Testing
- Auxiliary Wiring Dielectric
- Bushing Current Transformer
- Standard Lead Test of Fully Assembled Transformer
- Mechanical Inspection

Accuracy of test equipment is within +/- 3% traceable to national Bureau of Standards and calibrated annually. Additional testing beyond those listed will incur fees per schedule.

Certified test reports can be provided at no additional charge upon indication at time of purchase order placement. Price adders will be incurred per schedule for items such as witness testing, special tests, inspections, etc.

CANCELLATION SCHEDULE: If an order cancellation occurs after award, penalties will apply per WEG Cancellation Schedule.

STATUS	SALES PRICE
Order Acknowledged	5%
Order Scheduled	10%
Engineering	
- Drawings issued	15%
Production Control	
- Final material ordered	30%
- Schedules issued to the plant	40%
Transformer Production	
- Tank started	50%
- Core started	65%
- Coil started	75%
- Core & Coil assembly	100%
- Unit in the oven	100%
- Unit tanked	100%
- Unit tested	100%
- Unit in final assembly	100%
- Unit dock	100%
Unit Shipped	100%

TERMS & CONDITIONS OF SALE

GENERAL: Unless otherwise specifically stated on the front side of the Quotation, Order Acknowledgement of invoice forms of the WEG Transformers USA LLC, (hereinafter called "Company"), or unless otherwise expressly agreed to by Company in writing, the following terms and conditions shall govern and control all sales by the Company. Any terms in a Purchaser's inquiries, purchase orders, other forms, letters or elsewhere, irrespective of their materiality, which are either different from or in addition to Company's conditions of sale recited herein (or Company's special conditions of sale set forth in the applicable product-line price sheet) are objected to and are excluded unless the Company expressly agrees in writing to such terms. Acceptance of the goods shipped shall constitute assent to Company's conditions of sale. No other terms or conditions in contradiction hereof shall be applicable, whether contained in Purchaser's inquiries, purchase orders, other forms, letters or elsewhere

QUOTATIONS, ORDERS, PRICES: Unless otherwise stated in writing, Company's quotations are subject to acceptance by the Purchaser within thirty (30) days. Orders will be billed at prices in effect at time of shipment, unless otherwise so stated in the quotation. Published prices and discounts are subject to change without notice. Possession of price or discount sheets in no way obligates Company to sell to the Purchaser possessing such price or discount sheets. Orders are subject to final approval and acceptance at Company's factory. Unless otherwise stated in writing, Company reserves the right to ship plus or minus ten (10%) per cent of specified quantity of items not cataloged. Unless otherwise stated on front side of Company's Quotation, Order Acknowledgement or Invoice, method of shipment by Company shall in all cases be F.O.B. Factories. For sales to clients outside the United States of America sale shall be concluded following the INCOTERMS named in the contract or, if it is not mentioned, according to EX WORKS (INCOTERMS).

SALES AND SIMILAR TAXES: The Company's prices do not include Federal, State or municipal sales, use, excise or similar taxes, consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise or other similar tax applicable to the sale or use of the equipment hereunder, shall be paid by the Purchaser, or in lieu thereof the Purchaser shall provide the Company with a tax exemption acceptable to the taxing authorities.

TERMS: Net thirty (30) days from date of Company's invoice. Invoice subject to **SERVICE CHARGE** if not paid within terms.

METHOD OF DELIVERY: For all sales within the United States of America, all prices on WEG Transformers USA price sheets are F.O.B. Factories with freight allowed via cheapest way to any domestic common carrier points (excluding Alaska and Hawaii) on shipments of net invoice value of \$2,000.00 or more. On less than \$2,000.00 net invoice value, the shipment will be made freight collect or prepaid and added to the invoice. When method of shipment is specified by purchaser, any additional expense will be borne by the purchaser. On F.O.B. Factory shipments and shipments less than \$2,000.00 net invoice value, the Company reserves the right to make partial shipments against orders which do not meet Company's freight allowance terms.

MINIMUM CHARGE: On orders for less than \$250.00, the amount billed will be \$250.00. Exceptions are for parts, which are not subject to the \$250.00 minimum order charge.

CANCELLATION OR DELAY BY PURCHASER: No order or contract may be cancelled or delayed by Purchaser except upon payment by Purchaser of cancellation or delay charges, based upon expenses already incurred and commitments made by Company. All cancellations are subject to acceptance by WEG Transformers USA.

RETURNED GOODS: Specific written request and arrangements must be made in advance in order for Purchaser to obtain credit or replacement on material returned. Request for return of material must be made within one year of original shipping date. **If the material being returned is currently priced in a WEG Transformers USA price sheet**, it can be replaced in like dollar amount of other priced items based on the list price of the items returned as well as those items replacing the returned items subject to the following adjustments. Purchaser must reimburse the Company for outgoing shipping costs, prepay return shipment and pay a minimum handling charge of 10% or \$20.00, whichever is more, plus any charges necessary to rework and/or repackaging to resalable condition.

All other Items approved for return, purchaser must reimburse Company for outgoing shipping costs, prepay return shipment and pay a minimum restocking charge of 20% or \$20.00, whichever is more, plus any charges necessary to rework and/or repackaging goods to resalable condition.

DELAYS, DAMAGE OR LOSS: Notwithstanding any conditions contained in Purchaser's purchase order (or other forms) to the contrary, Company is not and shall not be liable for details in shipment or delivery of materials, goods or equipment, detention thereof, loss or damage thereto, when due to acts of God, acts of the Purchaser, acts of civil or military authority, priorities, U.S. governmental restrictions or embargoes, war, riot, fires, strikes, flood, epidemics, quarantine restrictions, default or delay by supplier, breakdown in manufacturing facilities, machinery or equipment, delays in transportation or difficulties obtaining necessary materials, labor or manufacturing facilities due to such causes or any other cause beyond its reasonable control.

WARRANTY: Company warrants to Purchaser that the equipment to be delivered to Purchaser will be free from defects in material and workmanship when used under proper and normal use for a period of 12 months after the equipment is put into service. Not to exceed 18 months from the date the equipment is delivered (whether by sale, lease or rental). Organic insulation materials are sold **with the express understanding** that their life and fitness for purpose are indeterminate and largely depend on application and operating circumstances and continuing maintenance. Should any failure to conform to the above (or to any additional warranty contained in the special conditions of sale set forth in the applicable product-line price sheet) appear within one (1) year after the date of shipment by Company, the Company agrees, upon prompt notification thereof and conformation that the equipment has been stored, installed, operated and maintained in accordance with recommendations of the Company and standard industry practice, to correct the nonconformity at Company's option either by repairing any defective part or parts or by making available at Company's plant a repaired or replacement part. The liability of Company to Purchaser arising out of the supplying of said equipment or its use, whether on warranty, contract or negligence, shall not in any event exceed the cost of correcting defects in the equipment as herein provided, and upon the expiration of said one (1) year, all such liability shall terminate. **The foregoing shall constitute the sole remedy of the Purchaser and the sole liability of Company.** The Warranty does not and shall not include reimbursement for the expenses which may be incurred by Purchaser. Before any material is returned, Purchaser must contact Company, as outlined under Returned Goods. No warranty is made with respect to equipment not manufactured by Company, such being subject only to warranties made by their respective manufacturers. Company shall in no event be responsible or liable for modifications, alterations, misapplication or repairs made to its products or equipment by Purchaser or others, or for damage caused thereto by negligence, accident, overloading or improper use by Purchaser or others.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL OR IMPLIED (INCLUDING ANY WARRANTY ON MERCHANTABILITY OR FITNESS FOR PURPOSE). THE ONLY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE ARE THOSE EXPRESSED ABOVE AND THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

LIMITATION OF LIABILITY: Buyer expressly agrees that, notwithstanding any other provision of this contract, under no circumstances shall Seller's total aggregate liability resulting from:

- (1) The performance, failure to perform or breach of Seller's obligations herein, and
- (2) Any activity undertaken by Seller with regard to equipment and services covered by this contract, and
- (3) All actions based on negligence of any kind, strict liability or tort on the part of Seller or its suppliers, and
- (4) Otherwise exceed the price paid by Buyer for the product.

BUYER EXPRESSLY AGREES THAT SELLER WILL NOT BE LIABLE UNDER ANY THEORY OF LIABILITY FOR ANY PENALTY OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, THE LOSS OF USE, INCOME, PROFITS OR PRODUCTION, OR INCREASED COST OF OPERATION, OR DAMAGE TO MATERIAL, OR DOWN-TIME COSTS, OR COSTS ASSOCIATED WITH THE REMOVAL OF EQUIPMENT OR PRODUCTS FROM SERVICE OR REINSTALLATION, DISASSEMBLY OR REASSEMBLY, OR CLAIMS OF THIRD PARTIES AGAINST BUYER, ARISING IN CONNECTION WITH THE SALE, INSTALLATION, USE OF, INABILITY TO USE, OR THE REPAIR OR REPLACEMENT OF SELLER'S PRODUCTS. Buyer shall indemnify and hold Seller harmless for any liability to Buyer's employees, workers, contractors or any other persons beyond the limitation provided in this Section.

LIMITATION ON CLAIMS AND ACTIONS: Any claim by Buyer for breach of the foregoing warranty shall be deemed waived by Buyer unless submitted to Seller in writing within thirty days from the date Buyer discovered, or by reasonable inspection should have discovered the alleged breach. Any cause of action for breach of the foregoing warranty shall be brought within one year after the cause of action has accrued.

OSHA: Seller warrants that at time of shipment the equipment will conform to the applicable occupational safety and health standards promulgated pursuant to the Federal Occupational Safety and Health Act of 1970, and which are in effect on the date that Seller enters its acknowledgement of Buyer's order. The Buyer's exclusive remedy and Seller's liability for breach of this warranty is limited to replacement of nonconforming equipment.

MISCELLANEOUS: Company will comply with all applicable Federal, State and local laws, and specifically represents that any goods to be delivered hereunder will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Council Meeting **MEETING DATE:** December 8, 2020
FROM: Mike Null, Assistant City Manager
SUBJECT: Council approval of Pay Application #1 from IRBY Construction in the amount of \$164,955.60 for the Chapman Third Feed Reconductor project which has a total contract amount of \$549,852.00. *Mike Null*

BACKGROUND

In August, 2020, City Council approved award of the Chapman Third Feed project to IRBY Construction in the amount of \$549,852.00. This is the first application for payment in the amount of \$164,955.60. Due to the extended time between Council meetings, staff has already paid this invoice and are seeking ratification by Council of this payment.

FISCAL IMPACT

\$164,955.60 from the FY 21 Electric Department Loan CIP Budget

RECOMMENDATION

Approve Pay Application #1 from IRBY Construction in the amount of \$164,955.60 for the Chapman Third Feed Reconductor project.



INVOICE

Irby Constuction Company
 318 Old Hwy 49 S
 Richland, MS 39218-9449

Date: October 30, 2020
 Invoice #: 2530-1
 Bid No: LC 2020-11
 Job #: 2530 - Chapman Feeder
 Completion Date: Through 10/30/20

Bill To:

City of Green Cove Springs
 321 Walnut Street
 Green Cove Springs, FL 32043

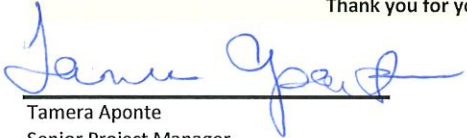
Quantity	Item Number	Description	Unit Price	Extended Amount
30%	1	Chapman Feeder	549,852.00	\$ 164,955.60
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
Subtotal				\$ 164,955.60

Make all checks payable to Irby Construction Company

For ACH payment please contact Margaret L. Rushing at 601-960-7246. If you have any questions concerning this invoice, contact Tamera Aponte 601-376-8107.

Balance due **\$ 164,955.60**

Thank you for your business!


 Tamera Aponte
 Senior Project Manager



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Regular Meeting **MEETING DATE:** December 8, 2020

FROM: Steve Thomas

SUBJECT: City Council approved a Change order # 2 to KBT Contracting Corp on September 15, 2020 to build out the Classroom area at Augusta Savage Arts and Community Center for the food bank in the total amount of \$148,100.00. Attached is pay # 2 for your approval in the amount of \$13,015.12. *Steve Thomas*

BACKGROUND

City Council voted to accept the CARES Act funding to do several projects in the City on September 1, 2020 and the food bank was one of the projects.

City Council approved a change order to KBT Contracting Corp to build out the Food Bank in the amount of \$148,100.00. This project was on a tight timeline for this project, so this was the fastest way to complete this project on time. Staff completed all demo and KBT was responsible for the build out. Attached is Pay Application #2 for this portion of the project.

FISCAL IMPACT

The food bank project is being funded by CARES Act monies.

RECOMMENDATION

Approve Pay Application #2 in the amount of \$13,015.12 from KBT Contracting Corp for Change Order #2 for the Classroom Area.

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE 1 OF 2 PAGES

TO Owner: City of Green Cove Springs
321 Walnut Street
Green Cove Springs, FL 32043

APPLICATION NO: 2
PERIOD FROM: _____
TO: _____
DISTRIBUTION TO:
 OWNER
 ARCHITECT
 CONTRACTOR
Lender

FROM CONTRACTOR: KBT Contracting Corp

CONTRACT NO: LC 2020-09 CO #2

CONTRACT FOR: Augusta Savage Arts & Community Center Food Bank

CONTRACT DATE: 6/16/2020

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown is now due.

- 1. ORIGINAL CONTRACT SUM \$148,100.00
- 2. Net change by Change Orders \$0.00
- 3. CONTRACT SUM TO DATE (Line 1 ± 2)..... \$148,100.00
- 4. TOTAL COMPLETED & STORED TO DATE \$58,856.50
(Column G on G703)
- 5. Retainage:
 - a. 10 % of Completed Work \$ \$5,885.65
 - b. % of Stored Materials \$ 0
- 6. TOTAL EARNED LESS RETAINAGE \$52,970.85
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$39,955.73
- 8. CURRENT PAYMENT DUE \$13,015.12
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE.. \$95,129.15
(Line 3 less Line 6)

CONTRACTOR: KBT Contracting Corp

By: [Signature] Date: 12/22/2020

State of: Florida County of: Duval

Subscribed and sworn to before me this 2 day of December, 2020

Notary Public: Dawn Marie Lane Johnson

My Commission expires: Aug 14, 2020


ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the OWNER that to the best of the Architects' knowledge, information and belief the Work has progressed as indicated the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT or CONSTRUCTION MANAGER:

By: _____ Date: _____
 This Certificate is not negotiable. the AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this month		
TOTALS	\$0.00	\$0.00
CHANGES by Change Order		

Item #22.

CONTINUATION SHEET

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed Certification is attached.

In tabulation below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 2

APPLICATION DATE: 30-Nov-20

PERIOD FROM: 3-Nov-20

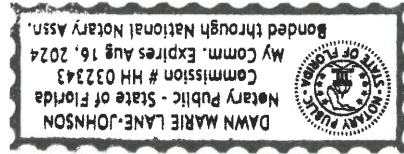
TO: 30-Oct-20

ARCHITECT'S PROJECT NO: Bid No. LC2020-09 CO #2

Augusta Savage Arts & Community Center Food Bank

A ITEM No.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (not in D or E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H BALANCE TO FINISH C - G	I RETAINAGE
			Previous Applications	Applications					
1	Mobilization/Designs/Engineering	\$7,405.00	\$7,405.00				\$7,405.00	\$0.00	\$740.50
2	General Conditions	\$37,025.00	\$9,256.25	\$9,256.25			\$18,512.50	\$18,512.50	\$1,851.25
3	Components	\$17,136.00	\$17,136.00				\$17,136.00	\$0.00	\$1,713.60
4	Framing	\$8,100.00	\$8,100.00				\$8,100.00	\$0.00	\$810.00
5	New Doors, Trims & Hardware	\$12,490.00	\$2,498.00				\$2,498.00	\$9,992.00	\$249.80
6	Roll-up Door	\$2,350.00					\$0.00	\$2,350.00	\$0.00
7	HVAC	\$15,400.00		\$3,080.00			\$3,080.00	\$12,320.00	\$308.00
8	Electrical	\$18,600.00					\$0.00	\$18,600.00	\$0.00
9	ADA Plumbing	\$4,250.00		\$2,125.00			\$2,125.00	\$2,125.00	\$212.50
10	Drywall	\$6,270.00					\$0.00	\$6,270.00	\$0.00
11	Acoustical Ceilings	\$8,550.00					\$0.00	\$8,550.00	\$0.00
12	Wall Painting	\$4,275.00					\$0.00	\$4,275.00	\$0.00
13	Floor Painting	\$5,700.00					\$0.00	\$5,700.00	\$0.00
14	Specialties	\$549.00					\$0.00	\$549.00	\$0.00
15									
16									
17									
18									
19									
20									
21									
22									
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24									
25									
26									
27									
28									
29									
30									
31									
		\$148,100.00	\$44,395.25	\$14,461.25		\$0.00	\$58,856.50	\$89,243.50	\$5,8

Item #22.




Stamp:

Signature of Notary: *Dawn Marie Lane-Johnson*

BEFORE ME, the undersigned officer, personally appeared Rebecca E. Timmons as President of KBT Contracting Corp, who is personally known to me and who did not take an oath, and who is known to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he/she executed said instrument in the capacity and for the purposes therein expressed.

STATE OF Florida
COUNTY OF Duval

Lienor's Name KBT Contracting Corp
Address 5105 Blanding Blvd.
Jacksonville, FL 32210
By 
Printed Name Rebecca Timmons
Title President

DATED on December 2, 2020

This waiver and release does not cover any retention or labor, services or materials furnished after the date specified.

1107 Mattin Luther King Jr. Blvd.
Green Cove Springs, FL

The undersigned lienor, in consideration of the sum of \$13,015.12, hereby waives and releases its lien and right to claim a lien for labor, services or materials furnished through 1/30/2020 to City of Green Cove Springs on the job of Augusta Savage Arts and Community Center Food Pantry to the following described property:

WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: City Council Regular Meeting **MEETING DATE:** December 8, 2020

FROM: Scott Schultz, Asst. Water Utilities Director

SUBJECT: City Council approval of Change Order #2 in the amount of \$400,000.00 (includes \$20,426.00 contingency / permitting) for water and sewer force main extension County Road 209 South, to General Underground, under Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00, Change Order #1 (Cove Subdivision services replacement) in the amount of \$60,245 and this Change Order #2 in the amount of \$400,000.00 for a total amount of \$1,460,244.00. *Scott Schultz*

BACKGROUND

On June 16, 2016 the City Council approved the Rate Study conducted by Staff and Mittauer & Associates.

On March 21, 2017, Council approved a Task Order with Mittauer & Associates for \$50,000.00 for development of a Water Master Plan.

On June 19, 2018, the City Council approved the Water Master Plan conducted by Staff and Mittauer. The Master Plan included a thorough review of the existing Water Capital Improvement Program (CIP) and resulted in an update to the CIP. As a result of the updated CIP, Staff requested an update to the Water portion of the Rate Study to evaluate financing options and alternatives to CIP financing.

On September 4, 2018, City Council approved a Task Authorization with Mittauer & Associates for \$12,000.00 to update the Water Rate Study.

At the March 5, 2019 City Council meeting Staff and Mittauer presented the updated Water Rate Study which was subsequently approved by the City Council. The City Council directed staff to return with an Ordinance authorizing the borrowing of funds to complete the immediate and future CIP needs. Staff was also directed to draft an RFP to secure a loan for the "Priority 1" immediate need CIP projects.

The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000.00

The Priority 2, Harbor Road, Bonaventure and Magnolia Point Cul-de-sac, total design and construction estimate is \$4,850,000.00.

The Priority 3, Reynolds High Service Pumps & Well 2 design and construction estimate is \$2,500,000.00.

The Priority 4, asbestos concrete (AC) pipe replacement. Design and construction estimate is \$6,620,000.00

The Priority 5, Governors Creek Water Main, design, and construction estimate is \$360,000.00

Design and permitting for Priorities 3-5 cost estimate is \$1,424,000.00

Total 2019 Water CIP Cost Estimate is \$17,124,000.00

Council approved Ordinance No. O-07-2019 on First Reading as to Form Only on 3/19/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System.

Council approved Ordinance No. O-07-2019 on Second and Final Reading on 4/2/19 which authorized staff to borrow up to \$18,000,000.00 for capital improvements to the City's Water System

On April 2, 2019 staff was directed to draft an RFP to secure a loan for the "Priority 1" immediate CIP projects. The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000 plus costs and fees related to the issuance of the loan.

On April 2, 2019, Council adopted Ordinance No. O-07-2019 authorizing the borrowing of up to \$18,000,000 for capital improvements to the City's water system. Staff was also directed to draft an RFP to secure a loan for the "Priority 1" immediate CIP projects. The Priority 1, Reynolds Water System Improvements, total design and construction estimate is \$1,370,000 plus costs and fees related to the issuance of the loan.

During the May 21, 2019 meeting, Council authorized staff to award the loan for improvements to the City's water distribution system in Reynolds Park to Synovus Bank. Synovus Bank was chosen to finance the Water Utility Revenue Note, Series 2019 with a fixed 2.63% interest rate for 10 years without premium or prepayment penalty. This loan is secured solely by a pledge of the net revenues of the City's Water Utility System. The net revenues pledge for the Water Utility Revenue Note, Series 2019 will be obligated for the ten year term of the loan. The maturity date for this loan is April 1, 2029.

A formal bid was conducted by city staff and Mittauer for the Reynolds Water System Improvements. Included as an alternate was the extension of water & sewer services to MOBRO which came up at the end of the design and was added.

City staff and the engineer of record have reviewed the received bids and certified General Underground as the qualified bidder.

Through value engineering and project optimization the total amount for the Reynolds improvements was \$684,724.00, far below the \$1,350,000.00 estimate. This enabled staff to include financing for the extension of water services to and across the MOBRO property to them water. MOBRO will be contributing approximately \$150,000.00 of the \$314,275.00 cost of the extension for water and sewer services. The system has been sized for future expansion east on State Road 16.

City Council approved Bid Award LC 2020-06, Reynolds Water System Improvements in the amount of \$685,724.00 (Base Bid), and Alternate #1 (water & sewer extension to MOBRO) in the amount of \$314,275.00 for a total amount of \$1,000,449.00 to General Underground on 5/19/2020.

Staff have had a several recent inquiries for water & sewer services along County Road 209 South. There are portions of water and sewer infrastructure on each end of CR 209. This project will complete the “looping” of the infrastructure allowing for services to vacant parcels and allow water to be fed from two directions should there be a break in the existing infrastructure. The city will realize significant savings utilizing General Underground crews and equipment already mobilized.

This agenda item is for approval of Change Order #2 in the amount of \$400,000.00.

FISCAL IMPACT

- \$265,069.50 to the Water Fund CIP Budget
- \$114,504.00 to the Wastewater CIP Budget
- \$20,426.50 contingency / permitting will be allotted to the appropriate fund if expended.

RECOMMENDATION

Approve Change Order #2 in the amount of \$400,000.00 (includes \$20,426.50 contingency / permitting) for water and sewer force main extension County Road 209 South, to General Underground, under Bid Award LC 2020-06, Reynolds Water System Improvements bringing the total contract amount to \$1,460,244.00.

4" FM & 12" WM, S CR 209

Item	Description	Qty		Unit Price
1	Mobilization 4%	1	LS	\$ 14,599.00
2	Preconstruction Video	1	LS	\$ 3,000.00
3	4" Connection to Exsistng Main	1	LS	\$ 2,000.00
4	12" Connection to Exsistng Main	1	EA	\$ 5,000.00
5	12" FPVC	3500	LF	\$ 65.00
6	4" FPVC	3500	LF	\$ 25.00
7	4" Gate Valve	2	EA	\$ 1,100.00
8	12" GV	3	EA	\$ 3,500.00
9	2" Blow off Assembly (FM)	1	EA	\$ 2,775.00
10	Temporary Sample Tap	2	EA	\$ 1,000.00
11	Sod Restoration	5000	Sqft	\$ 1.00
12	Dewatering	1	EA	\$ 7,500.00
13	Asbuilts	1	Ea	\$ 10,000.00

Total

Total

\$ 14,599.00
\$ 3,000.00
\$ 2,000.00
\$ 5,000.00
\$ 227,500.00
\$ 87,500.00
\$ 2,200.00
\$ 10,500.00
\$ 2,775.00
\$ 2,000.00
\$ 5,000.00
\$ 7,500.00
\$ 10,000.00

\$ 379,574.00

FMPA Monthly Report

December

Rate Call

The average price of natural gas for the month was \$2.33. Daily natural gas prices have held their upward movement. Prices during November remained in the have been in the \$2.75-3.30 range. The forward pricing curve continues to be above the FY21 gas budgeted target.

The peak for the month occurred on 8 October at 4PM. The median Load Factor (LF) was 56.8%. The Green Cove Springs LF was 51.7%.

Natural gas accounted for 78% of the generation mix. Coal was 14% and nuclear was 5%. Solar generation was 1%.

The Vero Beach cost recovery account stands at \$7.2 million. This is \$6.2 million below the planned target.

Board of directors

There were no action items on the BoD agenda this month.

Information items were a proposed charter amendment for the Policy Makers Liaison Committee, an Electric Vehicle market update, update on the Transmission Rate cases and a review of Moody's Cybersecurity Readiness Report for Electric Utilities.

Executive Committee

There were no action items on the Executive Committee agenda this month.

The only information item was a discussion of extending the Economic Rate Development Rate Rider.



CITY OF GREEN COVE SPRINGS POLICE DEPARTMENT

Executive Summary



Derek S. Asdot, Chief of Police 1001 Idlewild Avenue · Green Cove Springs, FL 32043 · Main (904) 297-7300 · Fax (904) 284-1436

The following is the official summary of activity conducted by members of the Green Cove Springs Police Department for the month of October 2020:

Total # Calls for Service: **907**
 Total # Arrests: **27**
 Total # Traffic Stops: **465** Total # Citations: **184** % Citations to stops: **40%**
 Total # Building and business security checks: **2040**
 Total # Police Related Services: **4970**
 Response Times: Priority 1: **5M01sec** Priority 2: **0m48sec** Priority 3: **4M35sec**
 Dispatch Phone Communication: 911 calls: **284** Non-Emergency calls: **375** Walk-In: **10**

Marine Enforcement: Marine enforcement was conducted on the following dates.

None

Red Light Camera Program:

Video Review:

Ofc. Gann reviewed 1186 violations, approved 1088 and rejected 98.

Sgt. Luedtke reviewed 0 violations, approved 0 and rejected 0.

Total violations reviewed for the month: **1186** Approval Rating: **91.74%**
 Total hours reviewing video: **15.02**

Individual Officer Initiative:

Sergeant Luedtke:

Traffic Enforcement:

Times: 8 # Citations: 7 # Warnings: 9

Locations:

Orange Avenue and Bay Street

1517 Idlewild Ave

611 S. Oakridge Ave

Arrests: 1

2020002071 Failure to Appear

P.O.P Project:

Stop sign at Center and Citizen not per code

Community Involvement:

Updated the Cities sex offender database

Participated in trick or treat event at the police department

Other Significant Accomplishments:

Assisted with UCR

Monitor the pay box on City Pier

Checked several shifts reports due to being short staffed

Officer Henderson:**Traffic Enforcement:**

Times: 15 # Citations: 2 # Warnings: 29

Locations:

611 South Oakridge Avenue

1104 Idlewild Ave

Arrests: 1

2020002138 Disorderly Intoxication

P.O.P Project:

Street sign at W. Joey Circle needs to be replaced

Community Involvement:

Educated several citizens about the cruise lights on police cars

Participated in trick or treat event at the police department

Other Significant Accomplishments:**Sergeant Hess:****Traffic Enforcement:**

Times: 0 # Citations: 0 # Warnings: 0

Locations:**Arrests: 0****P.O.P Project:****Community Involvement:****Other Significant Accomplishments:***Sgt. Hess is on extended medical leave.***Officer Morando:****Traffic Enforcement:**

Times: 17 # Citations: 44 # Warnings: 47

Locations:

1400-BLK S ORANGE AV

611 S. OAKRIDGE AV

800-BLK LEONARD C TAYLOR PKWY

1300-BLK IDLEWILD AVE

1200-BLK IDLEWILD AVE

1300 N ORANGE AVE

1200-BLK HOUSTON ST

400-BLK S ROBERTS ST

Arrests: 2

2020-002116 FTA Warrant

2020-002181 FTA Warrant

P.O.P Project:

Proposed the City build an app to assist with self-reporting power outages, by-passing the police dispatch.

Community Involvement:

Assisted dispatch with fielding calls during a power outage

Handed out Badge Stickers to kids while out on patrol

Taught Girl Scouts about processing a crime scene and finger printing

Other Significant Accomplishments:*Acting Sergeant duties*

Officer Babcock:**Traffic Enforcement:****# Times: 27 # Citations: 11 # Warnings: 33**

S OAKRIDGE AVE

LCT

COLONIAL DR

N ORANGE AVE

S WEST ST

S ROBERTS

Arrests: 3

Case #: 2020-002058 PETIT THEFT

Case #: 2020-002115 DUI

Case #: 2020-002128 SHOPLIFTING

P.O.P Project:

Enforcing illegally parked vehicles in Magnolia West

20 School Zone enforcements yielding 17 State Citations and 13 warnings

Community Involvement:

Spoke with a Dunkin Donuts employee about information on our ride along program. I provided her with a ride along application.

Gave two kids stuffed animals on a child abuse call.

Participated in a narcotics detail on the 14th.

Other Significant Accomplishments:

Trained Ofc. Arnold during this month for phase 4.

Sergeant Perry:**Traffic Enforcement:****# Times: # Citations: # Warnings:****Locations:****Arrests:****P.O.P Project:****Community Involvement:****Other Significant Accomplishments:**

Sgt. Perry is performing light duties due to work related injury

Officer Graham:**Traffic Enforcement:****# Times: 10 # Citations: 18 # Warnings: 35**Orange and Oak**Idlewild and Roberts****Leonard C. Taylor and Slow Tide****Arrests: 5**

2020002017 Possession of Drug Paraphernalia

2020002158 Possession of LSD

2020002159 Possession of Controlled Substance

2020002185 Possession of Crack Cocaine

2020002226 Possession of Marijuana <20 Grams

P.O.P Project:

We have increased our patrols on the pier due to complaints of drinking and trash being left by the shrimpers.

Community Involvement:

Spoke with numerous kids about trick or treat safety on Halloween

Spoke with an elderly couple who were looking to buy a house in Green Cove Springs. They were co
with the crime trends in particular areas within the city.

Other Significant Accomplishments:

A/Sgt duties

Officer Ruoss:

Traffic Enforcement:

Times: 15 # Citations: 20 # Warnings: 27

Locations:

S Oakridge and Thomas

Orange and Governors

S Orange and Oak

Arrests: 0

P.O.P Project:

While out on patrol I observed many lights that were out on Houston St. I notified Public Works of the outages. One of the residents called and I met them to be shown the area of concern.

Traffic Assignment, South Roberts speeding

Community Involvement:

Talked with a group of kids at Highland Apts about being the Police and about Halloween, costumes and safety while trick or treating

Other Significant Accomplishments:

Sergeant Miller:

Traffic Enforcement:

Times: 0 # Citations: 0 # Warnings: 0

Locations:

Arrests:

P.O.P Project:

Community Involvement:

Other Significant Accomplishments:

Sgt. Miller is on extended medical leave and did not submit a monthly report

Officer Camp:

Traffic Enforcement:

Times: 1 # Citations: 0 # Warnings: 0

N Orange Ave

Arrests: 4

2020-002098 VOP

2020-002104 DUI Property Damage

2020-002141 DUI

2020-002232 FTA Hit and Run

P.O.P Project:

1100-1200 block of North St. Increased patrol due to narcotics activity

Community Involvement:

Did birthday parade for Make-a-Wish Child

Other Significant Accomplishments:

Ofc. Camp is Acting Sergeant while Sgt. Miller is on leave

Officer: Newton**Traffic Enforcement:**

Times: 10 # Citations: 7 # Warnings: 8

Locations:Leonard C Taylor Pkwy
800-BLK Cove St
1500-BLK Idlewild Av
S. Roberts/ Sally St.**Arrests: 5**2020-002065 Violation of Probation
2020-002106 Violation of Probation
2020-002143 Disorderly Intoxication
2020-002160 Violation of Probation
2020-002207 Violation of Probation**P.O.P Project:****Community Involvement:**

Conducted a "Birthday Parade" with CCSO on Myrtle St. for a Make-a-wish foundation child.

Other significant Accomplishments:**Officer Crider and K-9 Grit:****Traffic Enforcement:**

Traffic Stops: 15 # Citations: 2 # Warnings: 1

Locations:

City Wide Enforcement

Arrests: 22020-002026 FTA
2020-002070 Poss Paraphernalia**K-9 Activities:**

Shifts Training: 4 Total Time Spent Training: 36 hrs

of Apprehensions: 0

Mutual Aid Calls: 3

of K-9 Searches: 10 # Finds: 4 # No Finds: 6

Narcotics Detection Log:2020-002017 Paraphernalia
2020-002070 Paraphernalia
2020-002082 Fentanyl
2020-002133 Meth**K-9 Demonstrations: 0****P.O.P. Project:****Community Involvement:****Other Significant Accomplishments:**Attended 40 hours training Radar/Laser.
Attended 36-hour K-9 seminar hosted by K-9's United

Part Time Officers:**Officer Gann:**

(Responsible for Red Light Camera Program)

Hrs Worked: 122.5

Arrests: 0

Other Significant Accomplishments:

Reviewed RLC video and issued citations

Worked Several patrol shifts

Officer Smith:

Hours Worked: 60

Traffic Enforcement:

Traffic Stops: 14 # Citations: 0 # Warnings: 14

Locations:

Citywide

Arrests: 0

Community Involvement/ POP:

Other Significant Accomplishments:

Officer Gibbs:

Hours Worked: 31.5

Background Investigations: 2

of Open Cases: 2

of Cases Cleared by Arrest: 0

Total # Cleared Cases for Month: 0

Significant Accomplishments:

Worked a patrol shift on election day for extra coverage

School Resource Officers:**Officer: Lee (Junior High School)****Incidents at School:**

Code Yellow Lock-down Subjects on North St. pulled out firearms during a disturbance.

Cases Worked: 1

2020002202 Trespass on School Property

Safety Issues/Intelligence:

Other Significant Accomplishments:

Officer Rulon: (Charles E Bennet Elementary)**Incidents at School:**

Students walked out of class. Talked them into going back

Lockdown code yellow due to incident at the JR High.

A mother contacted me in reference to bullying. Forwarded the information

A parent was supposed to be standing by the crossing guard to pick up her kindergarten student.

The student did not say anything and walked to the JR high.

Disruptive parent due to him not wanting to wear a face mask. He was asked to leave the building.

A student was leaving notes in a shared desk wishing the other student was dead. Student was counseled on his behavior.

5-year-old had a seizure. I recognized it was a seizure not him falling and contacted fire rescue.

Cases Worked:

Safety Issues/Intelligence:

Participated in fire drill and lock down drill

Other Significant Accomplishments:

Officer's in Field Training:

SIGNIFICANT OFFICER ACTIVITY D.E.A. TASK FORCE

Detective: Carpenter

Green Cove Narcotics Cases: 5

GCSPD 2019002237 – Ongoing Methamphetamine investigation.

GCSPD 2020001360

GCSPD 2020001281

GCSPD 2020001802

DEA/GCSPD – Methamphetamine DTO investigation

DEA Cases: 6

GCSPD 2019002237 – Ongoing Methamphetamine investigation.

DEA – Methamphetamine DTO investigation

DEA – Heroin/Fentanyl

DEA – Cocaine, Heroin, Controlled Subst, Marijuana

DEA – Fentanyl, Heroin, Methamphetamine

2 Illicit drug Money transportation cases

Seizures:

\$256,000 cash

1 oz Fentanyl

2 oz Heroin

2 oz Cocaine

6 lbs Methamphetamine

2 lbs Marijuana

2017 Chevrolet Camaro (slated for GCSPD)

Significant events:

2 trash pull

25+ hours surveillance

2 jail interviews

1 confidential informant cultivated

5 JIA Interdiction

1 search warrants completed

SIGNIFICANT DETECTIVE ACTIVITY**Detective Patterson:****# of Open Cases: 9****# of Cases Cleared by Arrest: 0****Total # Cleared Cases for Month: 2****Significant Case Developments:**

2020-001399 Arrest Warrant Processing with the SAO

2020-000990 Arrest Warrant Processing with the SAO

2020-001210 Received results back from FDLE lab. Awaiting results from sexual assault kit to move forward with the case.

Significant Accomplishments:

Completed a background for Communications Officer

Started a background for full time Police Officer

Detective Vineyard:**# of Open Cases: 6****# of Cases Cleared by Arrest: 1****Total # Cleared Cases for Month: 2****Significant Case Developments:**

2020000490 Inactive

2020001319 Warrant issued/arrested 10/15

2020001038 Locating subjects

2020000783 Follow Up

2020001819 CCSO case / Green arrested 9/19/2020

2020001126 Before state/One died

Significant Accomplishments:

Conducted Honor Guard Training

Significant Evidence Custodian Activity**Part Time Evidence Technician Barton**

- Barcoded Items: 30 Items
- Destroyed Items: 24 Items
- To FDLE: 2 Items
- Return from FDLE: 0 Items
- Assisted SAO: 0 cases
- Returned to Owners: 6 cases



ELECTRIC DEPARTMENT

Significant activities for the month of October 2020

- 6 Streetlights repaired
- 2 Permanent meters installed
- 3 Temporary meters installed
- 1 Reverse meter installed
- 5 New Poles installed
- 3 Poles replaced
- 2 Voltage check
- 8 Utility Verifications
- 1 Surge suppressor inspected

In addition to the activities listed above, the Electric Department also:

- Conducted daily morning safety meetings.
- Conducted daily truck inspections.
- Trimmed limbs and vines from power lines and poles.
- Unloaded transformers and supplies when they come in.
- Inspect/locate ROW permits.
- Conduct warehouse inventory/order supplies
- Magnolia Ave. & Bay St., removed LA's on cross arm and replaced steel L bracket with fiberglass.
- 201 Ferris St., pole on fire no electric issue.
- 4169 CR 15A., disconnected transformer for repairs.
- 410 Palm St., removed power to location for repairs.
- 1325 Energy Cove Ct., installed conduit and pad-mount.
- 1509 Elsie St., removed low hanging wire by the mailboxes.
- Spring Park., moved temporary pole for Christmas lights.
- 215 Magnolia St., installed LA and bird wire.
- Palmetto Ave, & Oak St., installed three fault indicators.
- 623 Oak St., changed out switch, 9kv arrestors and steel brackets to fiberglass.
- Magnolia Ave & Cove St., remove two LA's on cross arm on B and C phase.
- 903 St Johns Ave., removed tree limbs from lines.
- 1705 Elsie St., installed hand hole on lot line and run URD.
- 1435 S Orange Ave. re-feed three phase pad-mount transformer from new line behind building.
- 900 St Johns Ave., straightened pole, backfilled and tamped it.
- 1289 Harbor Rd., changed out three phase pad-mount for water well.
- 840 Cooks Ln., set switch gear and terminate URD.

During the month of October, the Electric Department responded to the following outages:

10/03/2020 – Between 9:50 a.m. – 11:30 a.m., 531 Magnolia Ave., squirrel cause power outage, 20 customers affected.

10/13/2020 – Between 11:30 p.m. – 3:00 a.m., 1009 Bunker Ave., blown lateral fuse, cause unknown, 3 customers affected.

10/19/2020 – Between 4:19 p.m. – 5:00 p.m., 1334 River Rd., lighting strike damage 3 transformers, 10 customers affected.

10/23/2020 – Between 5:00 p.m. – 5:45 p.m., 1517 Ball Rd., tree limb on B phase blown lateral fuse, 1 customer affected.

10/25/2020 – Between 10:00 p.m. – 11:30 a.m., 3323 River Rd., squirrel blown transformer fuse, 2 customers affected.

Electric Utility Top Consumption Customers (kwh/meter) for October:

NAME	SERVICE ADDRESS	KWH	AMOUNT
Clay County Jail	901 N. Orange Ave.	348,800	\$31,269.20
St. Johns Landing	1408 N. Orange Ave.	276,860	\$28,289.72
BD Of County Commissioner	825 N. Orange Ave.	265,200	\$23,901.80
Winn Dixie Stores, Inc	3260 Hwy. 17 N.	207,400	\$18,988.00
Kindred Health	801 Oak St.	203,400	\$18,110.00
National Gypsum Company	1767 Wildwood Rd.	154,880	\$14,154.80
Clay County Court House	825 N. Orange Ave.	151,360	\$13,292.40
BD Of Public Instruction	2025 State Road 16	133,600	\$14,303.60
Tamko Roofing Products	914 Hall Park Rd.	115,200	\$11,546.00
Governors Creek #436	803 Oak St.	104,800	\$ 9,780.00
Clay County Driver's License	477 Houston St.	93,440	\$ 9,111.60
Garber Realty/GMC	3340 Highway 17	86,080	\$ 8,546.00
VAC-CON	954 Hall Park Rd.	66,640	\$ 5,742.80
City of Green Cove Springs	Set Street Lights	66,392	\$ 6,983.16
City of Green Cove Springs	1277 Harbor Road	64,480	\$ 5,742.80
Pegasus Technologies	932 Pilot Dr.	61,080	\$ 6,201.80
Board of Public Instruction	1 N Oakridge Ave.	59,280	\$ 7,331.60
Coral Ridge Foods	1165 N Orange Ave.	57,680	\$ 5,470.80
BD Of Public Instruction	801 Center St.	57,120	\$ 6,020.40
Board of Public Instruction	Clay High School	47,760	\$ 5,610.80
City of Green Cove Springs	925 S R 16 East South Wwtp	46,240	\$ 4,272.80
Direct TV/AT&T Services Inc.	512 Center St.	45,920	\$ 4,282.80
Board of Public Instruction	1220 Bonaventure Ave.	45,280	\$ 4,778.80

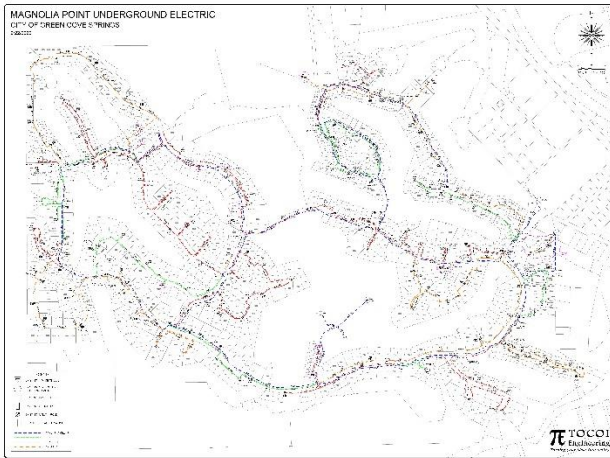
Electric Utility Department Capital Projects:

Pole top switch replacement

This project began 09-18-2019 with the installation of switches at Governors Creek for restoration plan if isolation of north feeder across Governors Creek Bridge during extreme emergencies. Project is now in the inspection and evaluation process involving Chapman 2 extension to Harbor Rd and load transfer of Chapman 1 to Chapman 2.

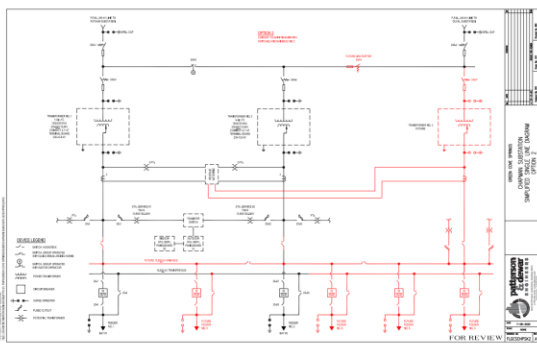
Magnolia Point Reconductor

The City has provided survey and equipment rating information to Toco Engineering. The project is 100% designed. The backbone switchgear and wire have been ordered and received. Work is expected to start in January 2021 with completion by Winter 2021. Work will be completed by City crews with support from contractors as necessary.



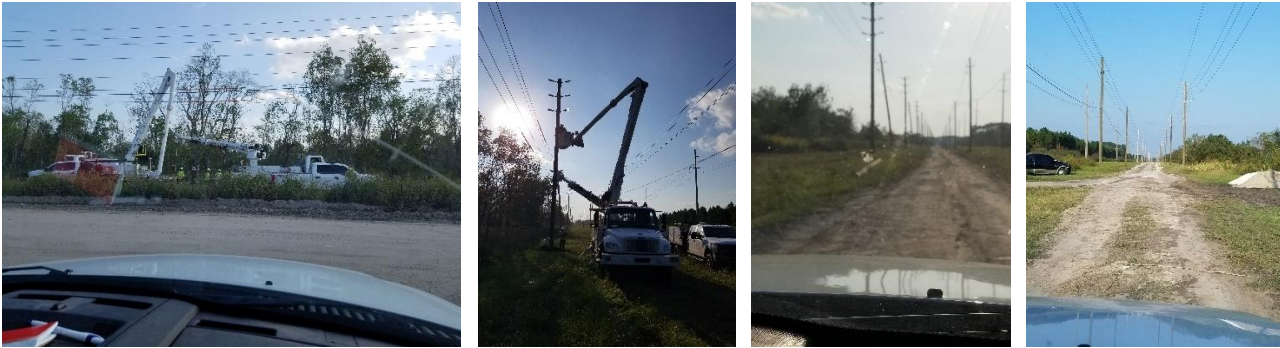
Chapman Substation upgrade

Patterson and Dewar is the City’s engineering firm for this project. The transformer has been specified and ordered. Patterson and Dewar is designing the rest of the improvements to the substation as well as SCADA to be installed throughout the system. Design is approximately 85% complete. There are three other material bids currently advertised with one more material bid and the actual construction contractor bid to follow in early November. Construction is anticipated to start in January 2021 with the project coming online in July 2021.



Chapman 3RD Circuit

IRBY Construction began September 21, 2020 with an expected completion date of January 31, 2020. The construction is approximately 35% complete.



Chapman 1 / Chapman 2

Express circuit feed project of Chapman 1 to north of Governors Creek (a.k.a. **Magnolia Point Third Feed**) and Chapman 2 extension to Harbor Rd project have been combined to balance future load requirements north of Governors Creek and to supply additional restoration procedure options involving electric outages north of Governors Creek. Conductor had been installed on Roberts St. for Chapman 1 alternate path. City crews are now working on additional new line on south right of way that will enable Reynolds Park load to be transferred from Chapman 1 circuit to Chapman 2. Materials for this portion of the project are being funded by a DEO Grant.

Houston St. re-conductor

Planning for the re-conductoring of Chapman 2 with 477 AAC from Martin Luther King Blvd. to Palmetto Ave. has begun. This will support a second circuit extending north of Governors Creek for restoration involving Magnolia Point, provide an alternate tie between Chapman 1 and Chapman 2 (was not possible before due to conductor size) and support AMMCON, PASS and other future expansion north of Governors Creek. Materials for this project are being funded by a DEO Grant.

13kV to 23kv Conversion – US17 from Harbor Road to CR 315

Planning for this project has begun. This project will continue the Chapman 1 and Chapman 2 circuits north of Harbor Road to provide capacity and reliability for existing and future customers north of Governors Creek. Materials for this project are being funded by a DEO Grant.

Governors Creek Hardening Project

This project will allow the overhead conductor crossing Governors Creek to be placed underground from Grove Street to Harbor Road. This project has been split into two phases; (1) design and permitting and (2) construction. It is being 75% funded by a FEMA HMGP grant. Phase 1 is complete. The project is now being evaluated by FDEM and FEMA funding for the construction phase. Once funding is in place and a contract is executed, bidding and construction should take approximately 9 months. This project will also support to extension of Chapman 1 and Chapman 2 circuits north of Governors Creek to provide additional capacity and reliability for all customers north of Governors Creek.



Public Works Monthly Executive Summary October 2020

Street Department

During the month of October, The Street Department has been busy throughout the City. Additional activities included:

- Clean storm drains City Wide.
- Food Pantry Improvement project (CARES Act).
- 2 Critter Control removal.
- Chapman Substation road improvements.

The Street Department completed 25 additional work orders that pertained to street issues.

Parks Department

During the month of October, the Parks Department mowed, weed-eated, and edged all areas one time including the DOT right-of-ways, City Parks, and FCT property. Additional activities included:

- Monthly playground equipment inspection and necessary repairs.
- Upgrade flower beds on Walnut Street East.
- Clean storm drains City Wide.
- Cleaned the pool 4 times.

The Parks Department completed 2 additional work orders outside of their normal daily work schedules.

Equipment Maintenance

The Equipment Maintenance Shop, as always, works hard to keep the equipment and vehicles going so the city can continue to provide our citizens with the exceptional service they are accustomed to. During the month of August, Danny, John and Donald completed 78 work orders.

Tradesworker

During the month of October, 35 work orders were completed.

Solid Waste Department

Cove Life, Litter Cleanup Program & New Services:

- Picked up everything around the rollout cans including large piles of furniture and trash.
- Picked up as much loose trash, palm fronds, and sticks as possible on the streets, along the R.O.W. and ditches regardless of if it is near a container or not.
- Picked up debris in the parks and cleaned the park restrooms on Fridays.
- Delivered 10 trash cans and 20 recycle bins to new customers
- Delivered 6 blue bins to current customers
- Repaired 2 trash cans.
- Replaced 5 trash cans.

This month, the City collected:

- 333.58 tons of Class I garbage (9.5% increase)
- 20.16 tons of recycling (12% increase)
- 140.38 tons of yard waste. (69% increase)

For comparison during October 2019, the City collected:

- 304.86 tons of Class I garbage
- 18.00 tons of recycling
- 83.00 tons of yard waste

Water/Wastewater

- W/WW crews/management had personal interaction with several citizens regarding water/sewer issues.
- Contacted all customers on water and irrigation “Highest Users” report that had unusual consumption (not usually on report)
- Staff continues to refine the scope and financials of the consolidated AWWTP, expanded reclaimed water system, wastewater collection system improvements and water system capital improvements to obtain maximum grant potential, optimize loan conditions and minimize impact to customers.
- W/WW/RW Projects;
 - Design of the improvements to the city’s wastewater treatment system (all phases) is complete. In order to maximize grant opportunities, the initial construction phase was split into two pieces, for a total of four phases;
 - Phase I is construction of the on-site reclaimed water system (storage tanks, high service pumps, electrical) at the existing Harbor Road Facility, and rehabilitation of Master Lift Stations #2 and #4. This phase went out to bid in January in two parts – plant reclaimed water improvements & lift station #2 & #4. Construction is in progress with the plant portion at approximately 75% completion and lift stations #2 & #4 at 85% completion. The total Phase I cost is \$6,120,600. Staff received \$4,063,425.00 in “Principal Forgiveness” (grant) from FDEP (SRF). **Project Complete June 2020**
 - Phase II:
 - Construction of the new 1.25 million gallon per day (MGD) advanced wastewater treatment plant (AWWTP) at the Harbor Road site. **Submitting Request for Inclusion (loan application) for Phase II June 2020**

- Phase III:
 - A new force main from Lift Station #2 diverting the sewage from the South Plant to Harbor Road (all sewage generated in the City will be treated at the new Harbor Road AWWTP).
 - Decommissioning and “mothballing” of the South Wastewater Treatment Plant. The permit will remain in place and the plant could be re-commissioned at a later date depending on future activities at the Reynolds site.
 - Phase IV (future – determined by growth) is a second identical 1.25 MGD AWWTP built at the Harbor Road site.
 - Phase V (future – determined by growth) is a third identical 1.25 MGD AWWTP built at the Harbor Road site.
 - Sanitary Sewer Evaluation Survey (SSES) of the Core City wastewater collection system is **complete**, including Mittauer final report. Staff utilizes this data daily in evaluating collection system repairs and requests for sewer connections.
 - Continuing to work with FDOT on utility relocations associated with the First Coast Expressway.
 - Updated Water Rate Study **complete**.
- Staff and Mittauer have initiated a full review of the future capital needs of the water system. A comprehensive capital improvement program (CIP) has been developed as part of the Water Master Plan. As in the past, timing of these improvements is largely driven by future activities in Reynolds Industrial Park. The city has received an FDEP – SRF loan for Planning and Engineering of several of the CIP improvements so that as the need for the improvements occur, the City is ahead of the game and can apply very quickly to SRF for actual construction dollars as “shovel-ready” projects. The total design project cost is \$356,800.00, with a \$178,400.00 (50%) principal forgiveness (grant), leaving an actual loan of \$180,100.00.
- Reynolds Water System Improvements: In May 2020 the City awarded construction of the upgrades to the system to General Underground. The system improvements include;
 - New water mains along two primary streets to remedy fire hydrants that are inadequate.
 - New 12” water main crossing under SR 16 to replace aging mains that endanger the integrity of the road. This will eliminate four existing crossings.
 - New water main along Red Bay Road to eliminate existing aging and leaking pipes. In addition will remedy fire hydrants that are inadequate.
 - New water main and sewer force main extension from Reynolds Park to and across the MOBRO complex. This extension is designed to supply water, fire protection & sewer needs to MOBRO and future developments to the east.
 - The City Manager and staff have applied for a grant to ease the financial burden on MOBRO and the City for this project.
- The City has received grants from the State of Florida Hazard Mitigation Grant Program (HMGP) to install auxiliary generators at 17 sewage lift stations, and install generators / raise infrastructure at four additional stations. The grant funds 75% of the improvements. This project is underway.
- Continued remediation of malfunctioning or out-of-service hydrants.
- Operated and maintained the Harbor Rd. and South Wastewater Treatment Plants as well as the Harbor Rd. and Reynolds Water Treatment Plants to meet the requirements of Regulatory Agencies.
- Continued to make process control adjustments at the Harbor Rd. and South WWTP in efforts to further lower Total Nitrogen and Total Phosphorus levels being discharged to the St. Johns River.
- Continued landscape maintenance at Water and Wastewater Treatment Facilities as well as lift stations.

- Continued preventative maintenance on all treatment facility generators.
- Completed 13 new services.
- Completed 138 water related work orders.
- Completed 44 sewer related work orders.
- Responded to 160 utilities locate requests.

TOP 10 WATER CUSTOMERS October 2020

Largest (By Consumption)		Largest (By Dollar Amount)	
Rank	CONSUMER	Rank	CONSUMER
1	Sheriff's Department	1	Sheriff's Department
2	Garden Highway SE LLC	2	Garden Highway SE LLC
3	Kindred Health	3	Kindred Health
4	Public Instruction	4	Clay High
5	Governors Creek #436	5	Governors Creek #436
6	Clay High	6	Public Instruction
7	Clay County Court House	7	Clay County Court House
8	Premier Surface Design LLC	8	Green Cove Spring Junior High
9	R C Bannerman Learning Center	9	Premier Surface Design LLC
10	Green Cove Springs Junior High	10	Garden Highway SE LLC

TOP 10 IRRIGATION CUSTOMERS October 2020

Largest (By Consumption)		Largest (By Dollar Amount)	
Rank	CONSUMER	Rank	CONSUMER
1	Magnolia Point Investments	1	Magnolia Point Investments
2	Magnolia Point Association	2	Magnolia Point Association
3	National Gypsum Company	3	Edgewater Landing HOA of Clay
4	Vallencourt Construction	4	National Gypsum Company
5	Governors Creek #436	5	Vallencourt Construction
6	Edgewater Landing HOA of Clay	6	Governors Creek#436
7	Sheriff's Department	7	Sheriff's Department
8	AMH Development LLC	8	AMH Development LLC
9	Sheriff's Department	9	AHM Development LLC
10	AMH Development LLC	10	AHM Development LLC

TOP 10 SEWER CUSTOMERS October 2020

Largest (By Consumption)		Largest (By Dollar Amount)	
Rank	CONSUMER	Rank	CONSUMER
1	St Johns Landing	1	St. John's Landing
2	Sheriff's Department	2	Sheriff's Department
3	Garden Highway SE LLC	3	Garden Highway SE LLC
4	Kindred Health	4	Kindred Health
5	Public Instruction	5	Clay High
6	Governors Creek #436	6	Governors Creek#436
7	Clay High	7	Public Instruction
8	Clay County Court House	8	Clay County Court House
9	Premier Surface Design LLC	9	R C Bannerman Learning Center
10	R C Bannerman Learning Center	10	Premier Surface Design LLC

Wastewater Plant Capacity Status

South Plant: TMDL Capacity 0.350 MGD*,

- Current Loading 0.266 MGD*, 76% Capacity (September 2020 Annual Average)
- Current & Committed (.033) Loading 0.300 MGD*, 86% Capacity
- Current, Committed & Requested (0) Loading 0.300 MGD*, 86% Capacity

Harbor Road: TMDL Capacity 0.650 MGD*

- Current Loading 0.495 MGD*, 76% Capacity (September 2020 Annual Average)
- Current & Committed (.092) Loading 0.590 MGD*, 91% Capacity
- Current, Committed & Requested (0) Loading 0.576 MGD*, 91% Capacity

*MGD = Million Gallons per Day

Note: No Reynolds growth or loading projections included in above.