Welcome to the City of Treasure Island Commission Workshop. If you wish to speak on a topic which is on today’s agenda, a speaker’s form [available in the rear of the room] must be completed and given to the City Clerk. Please do not address the Commission from your seat, but rather from the podium where your comments can be heard by all and recorded as required by Florida law. Unscheduled topics may be presented under the Public Comments section of the agenda.

I. CITY MANAGER AND CITY ATTORNEY REPORT

II. DISCUSSION

1. Ordinance 2019-09; Amending Purchasing Policy and Ordinance

2. FY 2020 Dental, Life and Long Term Disability Insurance Renewal with Lincoln Financial Group

3. FY 2020 Group Health Insurance Renewal with Public Risk Management

4. Non-Exclusive License Agreement with Ice Depot

5. Award of Contract with Waste Pro of Florida, Inc. for Compactor Services and Execution of three Non-Exclusive License Agreements each with Ricky T’s Bar & Grille, VIP Lounge & Mexican Restaurant, and CJ’s on the Island for Compactor Services

6. Execution of a “Piggy Back” Contract to Ajax Paving Industries of Florida, LLC using an Annual Asphalt Pavement Rehabilitation Contract from Pasco County in the total amount of $2,046,310.00

7. Execution of a Contract to Right of Way Contracting, LLC for the 125th Avenue Drainage Improvements and Beautification in the amount of $143,482.45 to include $20,000 in Contingency.

8. Execution of a Work Authorization with Advanced Engineering & Design, Inc. for the design of the East Causeway Roadway and Stormwater Improvements in the Amount of $193,700 for a total amount of $243,700 for FY2019

III. OLD BUSINESS

IV. CITY COMMISSION REPORTS

V. PUBLIC COMMENT

VI. ADJOURN

For any person desiring to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she 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 to be based [F.S. 286.0105]. NOTE: Any transcript shall be requested and made by the individual requesting same at his or her own expense. Therefore, a court reporter may be desired or required accordingly.

Any person with a disability who needs any accommodation in order to participate in this proceeding is entitled to assistance at no cost. Please contact the Office of the City Clerk in writing at 120 108th Avenue, Treasure Island, FL, 33706 or by phone at (727) 547-4575 at least two working days prior to the meeting to advise what assistance is needed.
DATE: July 16, 2019
TO: Garry Brumback, City Manager
FROM: Mike Munger, Purchasing Coordinator/Management Analyst
SUBJECT: Ordinance 2019-09: Amendments to Purchasing Ordinance

BACKGROUND

The City’s current Purchasing ordinance has not been substantively modified since October 2010. This is a request to amend, establish, and repeal sections of Chapter 2, Article VI, Division 1 and 2, Purchasing of the Code of Ordinances to update some regulations and increase purchasing thresholds.

POLICY / PURPOSE

To request that the City Commission adopt these changes and schedule a first and second reading of the ordinance on July 23, 2019 and August 6, 2019, respectively.

STRATEGIC PLAN RELEVANCE

These changes will support the City’s Goal 1 (Strengthen the financial stability of the City in an ever-changing economic environment) by making necessary changes to our policies to allow for better City and vendor relations while increasing the fiscal safeguards.

ANALYSIS / DISCUSSION

Staff has undergone a review process of the City’s current Ordinance and Administrative Policy governing the City’s purchasing and procurement activities. Certain aspects of both the Ordinance and Policy have begun to have an operational impact on City business by delaying the procurement of necessary goods and services, and discouraging vendor participation in City business. The proposed amendments to the Ordinance can largely be categorized as described below.

Sec. 2-276 “Purchasing Procedures for Goods, Materials, and Services” is requested to be amended to increase and standardize spending thresholds, and eliminate the provisions allowing for late bids.
Sec. 2-277 “Authorization of purchases; emergencies” is requested to be modified to clarify the language providing discretion to the City Manager in emergency situations, and the methods of reporting and retroactive spending authorization.

Sec. 2-278 “Governmental entity bids; purchases without bids” is requested to be modified to add language ensuring piggybacked contracts are sourced from an open competitive process.

Sec. 2-279 “Purchasing procedures” is requested to be added to codify the status and oversight of the Administrative Policy, and dictating what it must entail.

Division 2, “Construction Contracts and Materials” and Section 2-301 “Construction work and materials; form of notice for bids” are requested to be repealed from the ordinance, as oversight of such solicitations and contracts are proposed to be moved to the Administrative Policy.

The City has reviewed surrounding Cities’ thresholds and policies and have discovered that ours are out of line in comparison. In the nearly ten years since the thresholds, ordinance, or policy have been amended, the cost of routine goods and services have increased dramatically. This means that purchases that used to fall under the current $10,000 limit have now surpassed that threshold and require a much more cumbersome and lengthy process to procure. This lengthier and complex process of a formal solicitation requires that vendors submitting bids comply with a significant level of paperwork and documentation just to submit a small bid.

Such requirements are causing a number of unintended consequences. Vendors are showing hesitancy in bidding on these smaller projects as the administrative burden of compiling the required documentation is only economical if they win the bid. While staff has taken steps to streamline the process making it more user-friendly, there are certain necessary conditions the City must maintain for larger projects that are not as vital for smaller, routine procurements.

The request to accept these changes to the City’s Purchasing Ordinance corresponds with a significant overhaul of the Administrative Policy for Purchasing (AP-26). Some of the ordinance changes repeal sections; these regulations and oversight will be moved to AP-26 where they can more easily be updated and modified as state and local laws may change. Additionally, the draft ordinance changes create Sec. 2-279 which mandates the essential contents of the Administrative Policy, and codifies the City Manager’s responsibility to maintain and enforce the policy. It is staff’s intent to have all of these changes be effective October 1, 2019 to coincide with the FY20 budget and to allow for necessary training before the end of the FY19.

Staff believes these ordinance and policy changes will: open up more City business to a greater number of potential vendors, allowing the City to potentially get better prices; make both the ordinance and administrative policy more user-friendly for both vendors and City departments; standardize and mandate documentation of quotes and solicitations; and ultimately increase the efficiency of City operations while maintaining or expanding the fiscal and ethical safeguards.

**FUNDING**

n/a

**RECOMMENDATIONS**

Staff recommends that the City Commission schedule Ordinance No. 2019-09 for 1st and 2nd Reading, with all required advertising.
ATTACHMENT(S)

- DRAFT Ordinance 2019-09
- Comparison of Purchasing Thresholds for Other Communities
- REVISED Administrative Policy for Procurement and Purchasing (AP-26)

MOTION

I move to approve and adopt Ordinance No. 2019-09 amending, establishing, and repealing sections of Chapter 2, Article VI, Division 1 and 2, Purchasing of the Code of Ordinances.
ORDINANCE NO. 2019-09

AN ORDINANCE OF THE CITY OF TREASURE ISLAND, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TREASURE ISLAND, FLORIDA, BY AMENDING ARTICLE VI “PURCHASING” DIVISION 1 “GENERAL” BY AMENDING SECTION 2-276 “PURCHASING PROCEDURES FOR GOODS, MATERIALS AND SERVICES” TO REFLECT NEW EXPENDITURE THRESHOLDS, ALTERNATIVE PROCUREMENT METHODS AND REMOVE ACCEPTANCE OF LATE BIDS; AMENDING SECTION 2-277 “AUTHORIZATION OF PURCHASES; EMERGENCIES” TO CLARIFY THE PROCUREMENT PROCESS; AMENDING SECTION 2-278 “GOVERNMENTAL ENTITY BIDS; PURCHASES WITHOUT BIDS” TO REFLECT USE OF COMPETITIVE SOLICITATION; ESTABLISHING SECTION 2-279 “PURCHASING PROCEDURES” TO PROVIDE THE CITY MANAGER WITH DIRECTION AND AUTHORITY TO ESTABLISH PROCUREMENT PROCEDURES; AND REPEALING DIVISION 2 “CONSTRUCTION CONTRACTS AND MATERIALS” BY REPEALING SECTION 2-301 “CONSTRUCTION WORK AND MATERIALS; FORM OF NOTICE FOR BIDS”; PROVIDING FOR SEVERABILITY; CONFLICT; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, pursuant to the authority of the City’s Charter and its home rule powers, the City Commission of the City of Treasure Island, Florida possesses the power to amend the Code of Ordinances for the City of Treasure Island, Florida; and

WHEREAS, the City desires that Section 2-276, “Purchasing procedures for goods, materials and services”, of the Code of Ordinances of the City of Treasure Island, Florida, be amended to: (i) reflect new expenditure thresholds; (ii) allow alternative procurement methods for expenses between $2,500 and $25,000; and (iii) remove acceptance of late bids; and

WHEREAS, the City desires that Section 2-277, “Authorization of purchases; emergencies”, of the Code of Ordinances of the City of Treasure Island, Florida, be amended to clarify process of authorizing emergency purchases; and

WHEREAS, the City desires that Section 2-278, “Governmental entity bids; purchases without bids”, of the Code of Ordinances of the City of Treasure Island, Florida, be amended to reflect the use of competitive solicitation; and

WHEREAS, the City desires to establish Section 2-279, “Purchasing procedures”, in the Code of Ordinances of the City of Treasure Island, Florida, to provide the City Manager with authority and direction to establish purchasing procedures; and

WHEREAS, the City desires that Division 2, “Construction Contracts and Materials”, Section 2-301, “Construction work and materials; form of notice for bids”, be repealed from the Code of Ordinances of the City of Treasure Island, Florida; and
NOW, THEREFORE, THE CITY OF TREASURE ISLAND DOES ORDAIN:

SECTION 1. The recitals set forth in the “Whereas” clauses above are ratified and confirmed as true and correct, and are hereby adopted as legislative findings by the City Commission of the City of Treasure Island, Florida for the adoption of this Ordinance.

SECTION 2. Section 2-276 “Purchasing procedures for goods, materials and services” of the Code of Ordinances of the City of Treasure Island, Florida, is hereby amended to read as follows:

Sec. 2-276. – Purchasing procedures for goods, materials and services.

(a) **Expenditures up to $10,000.00 $25,000.00.** The city manager is authorized to approve expenditures up to $10,000.00 $25,000.00 without prior approval of the city commission for the purchase of goods, materials, equipment or services, upon receipt of at least two written bids, telephone quotes or proposals, provided sufficient funding is available in the approved city budget. The $25,000 City Manager’s expenditure authority is not exceeded when budgeted individual identical items are purchased throughout a fiscal year, each costing less than $25,000.00 individually, even if cumulatively those items total more than $25,000.00.

(b) **Expenditures in excess of $10,000.00 $25,000.00.** The city commission may authorize an expenditure in excess of $10,000.00 $25,000.00 for goods, materials, equipment or services after the issuance of a request for proposal or bid and the receipt of sealed bids or proposals, which shall be publicly opened in a manner set forth in an administrative policy established by the city manager for bidding expenditures in excess of $10,000.00 a public, formal, sealed-bid solicitation process or any other procurement method so authorized.

(c) **Exceptions.** The requirements of subsection (b) are not intended to apply to routine operating expenses such as salaries, utilities, and supplies, and medical payments as required by law for which budget appropriations have been made. Performance bonds and bid bonds may be required if deemed necessary by the city manager.

(d) **Award of contract.** The city commission shall award the contract to the lowest responsive and responsible bidder. For the purpose of determining the lowest responsive and responsible bidder, the city commission may consider factors including the cost of the product or service; qualifications of the bidder; prior experience of the bidder in similar activities; prior work performed by the bidder on behalf of the city or other units of government or their agencies; and any other factors deemed relevant by the city commission in its sole discretion. If the city manager recommends the acceptance of a bid other than the bid with the lowest total price, the reason for the recommendation shall be given.

(e) **Rejection.** The city commission may reject any or all bids if it is deemed in the best interests of the city to do so, and to rebid the proposed purchase. All bid proposals submitted to the city must address and conform to the bid specifications and the scope of the work to be performed. Any deviations or substitutions from the bid specifications or the scope of work must be identified with a written explanation. Failure to comply with the provisions of the bid specification may result in a rejection of the bid proposal. Incomplete bid proposals may be rejected by the city. The city reserves the right to waive minor technical defects in a bid submittal as determined in its sole discretion. A
late-filed bid may be accepted if it has been postmarked, dropped off with a delivery service or otherwise placed in transit to the city prior to the time of bid opening so that the city is reasonably certain that the prices contained within the bid could not have been altered as a result of the opening of the bids that had been submitted by the time established for bid opening.

(g) Applicability. The bid requirements set forth in this section shall not apply to professional services covered by the Florida Consultant’s Competitive Negotiations Act which services shall be obtained following the procedures set forth by state statute. To the extent the monetary amounts or subject matters set forth in the Consultant’s Competitive Negotiations Act are inapplicable to a proposed service agreement, the city shall follow the procedures set forth in this section. The requirements of this division may be waived by the city manager when purchasing used or surplus equipment provided that such a purchase is in the best interest of the city.

(bf) Exemptions. Unless otherwise prohibited by law, the following situations are exempted or modified from the competitive bid requirements of this section:

(1) Professional services. Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, are exempt from the competitive bidding requirements of this section; however, a formal, written contract, approved by the city commission, shall be required for all such contracts in excess of $25,000.00, and any applicable state law, such as the Consultant’s Competitive Negotiation Act shall be followed.

(2) Noncompetitive supplies. Noncompetitive supplies, available only from one source, such as unique, patented or franchised supplies are exempt from the competitive requirements of this section. The city manager is authorized to purchase and contract for noncompetitive supplies up to $10,000.00, provided authorized funds are available in the annual budget. The city commission must approve purchases in excess of $10,000.00.

(3) No bid received. Where no bid has been received after publication of a bid/proposal; however, such purchases in excess of $25,000.00 require a formal, written contract approved by the city commission.

(4) Unique circumstances. Where the city commission finds unique circumstances to establish that competitive bidding is not in the best interest of the city; however, such purchases in excess of $25,000.00 shall require a formal, written contract approved by the city commission. The city commission, upon request by the city manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the city.

(5) Bids and contracts from other entities. The city manager is authorized to use competitive bids and formal contracts from other entities as provided in section 2-278.

SECTION 3. Section 2-277 “Authorization of purchases; emergencies” of the Code of Ordinances of the City of Treasure Island, Florida, is hereby amended to read as follows:
Sec. 2-277. – Authorization of purchases; emergencies.

In case of an actual or impending emergency that requires the immediate purchase of supplies, repairs or contractual services, the city manager may, without prior city commission approval, secure, by open market procedure at the lowest obtainable price, any supplies or services not exceeding $25,000.00. A full report of the circumstances of all emergency purchases that exceed the City Manager’s expenditure authority shall be filed with the city commission by the city manager at its next regular or special meeting. In the event an emergency requires the expenditure of more than $25,000.00, the city manager may approve the purchase and shall bring the expenditure to the city commission for ratification at the next regular or special emergency meeting of the city commission.

SECTION 4. Section 2-278 “Governmental entity bids; purchases without bids” of the Code of Ordinances of the City of Treasure Island, Florida, is hereby amended to read as follows:

Sec. 2-278. – Governmental entity bids; purchases without bids.

Nothing in this division shall prohibit the city manager or city commission from utilizing approved bid lists resulting from an open, competitive solicitation established by federal, state, county, municipal or other governmental bodies, or government-, educational- or nonprofit-oriented associations or purchasing cooperatives, such as the Florida Sheriffs Association or the Florida Police Chiefs Association and the U.S. Communities Government Purchasing Alliance (U.S. Communities).

SECTION 5. The Code of Ordinances of the City of Treasure Island, Florida, is hereby amended by adding a section, to be numbered, Section 2-279 “Purchasing Procedures”, which said section reads as follows:

Sec. 2-279. – Purchasing procedures.

(a) The City Manager shall develop purchasing procedures that shall apply to all personnel involved in the purchasing process. Such procedures shall be in the form of administrative code and shall be effective upon issuance by the city manager.

(b) The purchasing procedures shall include provisions dealing with recommended competitive procurement methods, fiscal controls, dollar limitations on purchasing authority of the various city officials, protest procedures, and shall be subject to modification, amendment, or expansion as necessary.

SECTION 6. Division 2, “Construction Contracts and Materials”, Section 2-301, “Construction work and materials; form of notice for bids”, of the Code of Ordinances of the City of Treasure Island, Florida, is hereby repealed from the Code of Ordinances:

DIVISION 2. – CONSTRUCTION CONTRACTS AND MATERIALS

Sec. 2-301. – Construction work and materials; form of notice for bids.

(a) Each bid greater than $100,000.00 must be accompanied by a certified check or bidder’s bond executed by the bidder in a sum equal to ten percent of the amount of the bid. The bond is required as a guarantee that if the bid is accepted a contract will
be entered into within ten consecutive calendar days after written notification has been
given of the award of the contract. The city commission may waive the requirement for
a bid bond.

(b) The successful bidder will be required to execute a performance bond acceptable to
the city manager and finance director for contracts over $500,000.00, except for
emergency construction or repairs, in the amount of 100 percent of the contract price.
The performance bond shall be provided to the city within two business day upon
issuance of a "notice to proceed" for the project.

(e) All bids must be plainly marked (description of the work to be done and materials to
be furnished), and in a sealed envelope.

(d) The city reserves the right to reject any or all bids and to waive any formalities.

SECTION 7. SEVERABILITY. It is declared to be the intent of the City Commission that, if any
section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held
invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a
separate, distinct and independent provision, and such holding shall not affect the validity of the
remaining portions thereof.

SECTION 8. CONFLICT. This action supersedes all codes and ordinances of the City or portions
of, in conflict with or inconsistent with this ordinance, to the extent of such inconsistency or conflict.

SECTION 9. CODIFICATION. Sections 2, 3, 4, 5 and 6 of this Ordinance shall be codified in the
Code of Ordinances for the City of Treasure Island, Florida. The codifier is authorized to renumber
or reclassify such other provision of the Code of Ordinance to accomplish such intention. The
codifier is authorized to make editorial changes not affecting the substance of this Ordinance in
the substitution of article, ordinance, section, paragraph, or such other appropriate word or phrase
in order to accomplish such intention.

SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect on October 1, 2019.

FIRST READING:

PUBLISHED:

SECOND READING AND PUBLIC HEARING:

PUBLISHED: ______________________, 2019, Tampa Bay Times

______________________________
Lawrence Lunn, Mayor

______________________________
Ruth Nickerson, City Clerk
### PURCHASING SPENDING THRESHOLDS FOR AREA CITIES AND THE COUNTY

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<tr>
<th>CITY</th>
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<th>QUOTES</th>
<th>BIDS</th>
<th>AWARD BY COUNCIL</th>
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<tr>
<td>Indian Rocks Beach</td>
<td>under $5,000</td>
<td>$5,000 – $10,000</td>
<td>over $10,000</td>
<td>over $10,000</td>
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<td>under $1,000</td>
<td>$1,000 – $15,000</td>
<td>over $15,000</td>
<td>over $15,000</td>
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<td>St Pete Beach</td>
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<td>over $25,000</td>
<td>over $10,000</td>
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<tr>
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<td>over $25,000</td>
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<tr>
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<td>over $35,000</td>
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</tr>
<tr>
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<td>over $35,000</td>
</tr>
<tr>
<td>Largo</td>
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<td>$2,500 – $50,000</td>
<td>over $50,000</td>
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<tr>
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<td>$2,500 – $50,000</td>
<td>over $50,000</td>
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<tr>
<td>Pinellas County</td>
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<td>$5,000 – $100,000</td>
<td>over $100,000</td>
<td>over $100,000</td>
</tr>
<tr>
<td>Treasure Island</td>
<td>under $500</td>
<td>$500 – $10,000</td>
<td>over $10,000</td>
<td>over $10,000</td>
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</table>

I would recommend the following limits for the City of Treasure Island and using a minimum of three quotes between $2,500 and $25,000:

<table>
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<th>Treasure Island</th>
<th>Under $2,500</th>
<th>$2,500 – $25,000</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Over $25,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: St Pete Beach allows quote up to $25,000 but any quote over $10,000 needs to be awarded by the City Council.

- Contract Involved
- Business Friendly
- Cumbersome and Costly
- Legal Review
- Advertise
- Limits Responses
CITY OF TREASURE ISLAND
ADMINISTRATIVE POLICY

DATE OF ISSUE: [DATE], 2019
NO.: AP - 26

EFFECTIVE DATE: October 1, 2019

SUBJECT: Procurement and Purchasing Policy

APPROVED: ____________________________  Revision Date: __________
Garry Brumback, City Manager

I. PURPOSE & INTENT

The purpose of this policy is to establish the manner in which the City of Treasure Island will purchase materials, supplies, equipment, and various contractual services; and maintain a high ethical standard for all officers and employees of the City in connection therewith. It is the stated goal of the City that all purchases are executed in the most responsible manner possible taking into account initial cost, long-term value, local and broad impact and sustainability, and an overall duty to public stewardship.

II. POLICY & PROCEDURES

These policies are established for purchasing supplies, materials, services, or commodities necessary for the operation of the City and are consistent with the requirements of Chapter 2, Article VI, Divisions 1 and 2, City of Treasure Island Code of Ordinances.

This policy shall apply to all employees and departments for the expenditure of funds authorized by the City Commission or budget.

This policy shall apply to the purchase of goods and/or services, unless the Purchasing Procedures, the City Commission, or any applicable Federal, State or local law specifically makes that purchase exempt.

A. RESPONSIBILITIES

1. The City Manager is responsible for ensuring that the purchasing policy is applied uniformly and consistently in all City offices and departments. The City Manager or designee is responsible for establishing administrative guidelines for the purchase of commodities, materials, equipment and services for City agencies, departments and offices. Shall also be the party responsible for effective and beneficial negotiations of solicitations, where applicable.

2. The Finance Director shall provide assistance and advice, as necessary, in the administration of, and compliance with, the purchasing policies and procedures.

3. Department Directors—or designee—are responsible for ensuring employees in their department with purchasing authority are fully familiar with and properly trained on federal, state, and local laws, including City policies, regulations and procedures.
regarding the purchase of commodities, materials, equipment and services. All employees shall comply with the provisions of said laws, policies, regulations and procedures.

4. The department director, or their designee, of each department shall be responsible for the following:

   a. Determining the quality and quantity of supplies or services needed and the delivery date required.

   b. Providing specific requisition requirements. Give accurate part numbers and descriptions of articles required in sufficient time to purchase supplies or services on a competitive basis.

   c. Receiving and inspecting items delivered by vendors and reject shipments that fail to meet purchase order requirements. The Purchasing Coordinator should be immediately notified of any problems if items are accepted without inspection.

   d. Obtaining approval for emergency purchases.

   e. Cooperating with the Purchasing Coordinator in establishing standards and specifications.

   f. Ensuring there are adequate funds available for any procurement.

5. The Purchasing Coordinator is responsible for the direction and management of the City’s procurement processes and operations. Also responsible for assisting Departments in preparing specifications for competitive bids to ensure appropriate boilerplate and safeguards are added to avoid challenges to the bidding process, specifications, and award/rejection. This also includes ensuring departments place appropriate legal advertisements, conducting bid openings, and tabulating bids.

6. The Purchasing Coordinator will also propose administrative policies and procedures regarding purchasing; coordinate the sale and disposal of surplus property. The Coordinator will assist departments with obtaining quotes, bids and proposals for the purchase of equipment, supplies and services; reviews and processes requisitions for purchase and checks for accuracy and conformance with the City purchasing policy. The Coordinator will help Departments find prices, available products, and sources of supply; maintain vendor files; and act as the City’s representative with various purchasing Cooperatives.

B. GOVERNING DIRECTIVES

The rules and guidelines established within this Administrative Policy are duly authorized by Chapter 2, Articles II and VI, of the City of Treasure Island Code of Ordinances. (See Appendix 2.) Further, the City of Treasure Island will strive for equitable competition among all vendors regardless of race, color, religion, sex, national origin, gender, sexual orientation, marital status, age, genetic information, or disability.
C. UNAUTHORIZED PURCHASES

Purchases required for the operation of the City are to be coordinated with the Purchasing Coordinator and Finance Director, unless specifically exempt. Any transaction, purchase, or procurement that is $2,500 or more requires a Purchase Order—unless preapproved by the Finance Department—and must be authorized before any City monies can be spent. Unauthorized purchases made by City employees—without obtaining prior appropriate approval—may be subject to cancellation and the employee may be subject to disciplinary action as specified by the Personnel Manual.

D. GENERAL PURCHASING STANDARDS

1. The Purchasing Coordinator shall be the primary conduit for communication between departments and potential vendors immediately before and during a formal solicitation process. This reliance will ensure that purchasing policies and principles are being upheld, and to minimize any appearance of a conflict of interest among the parties.

2. The preparation of specifications for technical equipment, plans, or designs is primarily the responsibility of the requesting department; while the Purchasing Coordinator will be primarily responsible for the final consolidation, review, and publication of solicitations.

3. Unless otherwise exempted, Purchase Orders are required for expenditures of funds of $2,500.00 or more.

4. Purchase Orders are not required for local utility services for City owned or operated facilities, postage expense, City Attorney billing, or non-competitive tangible goods, or other similar routine operating expenses as deemed appropriate by the Finance Director or City Manager.

5. Descriptions or specifications should be written to preclude limiting purchases to a specific brand name which can restrict competition and result in higher price. If the specifications of a brand name and/or model are being used or recommended, the term phrase “or equivalent” is to be included. If the “or equivalent” designation may not be acceptable, the department must submit justification for City Manager consideration.

6. In certain circumstances, the City Manager or City Commission may determine that it is in the best interest of the City to standardize the brand of certain equipment purchased, even though the bid submitted for the equipment is not the lowest. Standardizing can be advantageous to the City in that parts may be interchangeable with other units, the cost of training for the operation, repair and maintenance of the equipment can be reduced, and savings on the inventory of parts for the equipment can be achieved. See Life Cycle Costs in the Glossary section.

7. Where possible, a Department purchasing goods and services commonly required by more than one department should seek to establish an annual contract, utilizing a formal solicitation with the assistance of the Purchasing Coordinator. These contracts, featuring predetermined vendors, terms and conditions, and favorable, consolidated pricing, allow departments to utilize their personnel to accomplish other departmental duties by reducing the necessity for those personnel to perform separate, redundant, and conflicting procurement activities. Annual contracts should be utilized whenever the contract goods and services are appropriate to the needs of the user departments.
E. ETHICAL STANDARDS

1. The avoidance of actual or apparent conflicts of interest is a prime requisite to the efficient and sound operation of government and maintenance of the public trust.

2. All City employees who participate in the purchasing program shall abide by the highest of ethical standards. A special responsibility is imposed on employees who are entrusted with the disposition of City funds. They must therefore adhere to the ethical standards contained in Section 112.313 of the Florida Statutes.

3. Any City employee serving on an evaluation committee must complete the Statement of Non-Conflict indicating that neither they nor any immediate family member could stand to financially benefit directly or indirectly from any given outcome of the solicitation in question.

F. VENDOR RELATIONSHIPS

1. All vendors will be afforded equal opportunity to submit bids and/or quotations and to compete on equal terms.

2. The City will buy from suppliers who have adequate financial strength, high ethical standards, a record of adhering to specifications, maintaining shipping promises, and giving a full measure of service. The City will seek to buy at the lowest and best cost consistent with the quality needed to meet the requirements of the City, taking all life cycle costs into consideration.

3. The City recognizes the goals for Equal Employment Opportunity, Affirmative Action, Americans with Disabilities, Minority Business Enterprises (MBE), Women Business Enterprises (WBE) and other classifications that may be considered Disadvantaged Business Enterprises (DBE) and will encourage such entities to provide goods and services to the City.

4. The City strives to maintain relationships with vendors of proven ability. To accomplish this, purchasing activities will be conducted in such a matter that vendors will place a high value on City business and make every effort to meet these requirements on the basis of quality, service and price. All departments will strive to keep competition open and fair, and specifications clear and concise.

5. It is essential to develop and maintain goodwill between the City and its suppliers. The reputation of the City can be enhanced and promoted by:
   a. Affording all representatives, a full, fair, prompt, and courteous hearing.
   b. Keeping competition open and fair.
   c. Keeping specifications fair, accurate and clear.
   d. Maintaining consistent buying policies and principles.
   e. Observing strict truthfulness in all transactions and correspondence.
   f. Keeping free from any obligation to any vendor.

6. The City should not purchase any goods or services from any City Commission member or City employee, or any business in which a city employee or City Commission member has or may have a financial or beneficial interest except during an emergency situation.
G. THRESHOLDS & APPROVALS

1. Competition requirements for commodities, services, construction, and equipment:
   
a. Less than $2,500
   Approved by the Department Head or designated representative.
   The Department should shop around and solicit quotes regularly to ensure the City is getting the best prices. However, there is no specific requirement to get any set number of quotes for requisitions less than $2,500. Where practical, Purchase Orders should be utilized for greater transparency, but the use of purchasing cards is acceptable.

b. $2,500 - $10,000
   The Department Director shall coordinate the collection of at least two (2) quotes using the most appropriate means necessary. Approval shall be made by the Department Director with concurrence by the Purchasing Coordinator and Finance Director. A purchase order shall be prepared for the purchase.

c. $10,000 - $25,000
   The Department Director should coordinate with the Purchasing Coordinator in the collection of at least three (3) written quotes using a standardized method and/or online portal or platform. The goods/services sought should be specifically itemized so that submitted quotes are as similar as possible. Approval/Rejection of the Quotes shall be made by the City Manager before a purchase order can be finalized.

d. More than $25,000
   Unless otherwise noted, all purchases over this threshold must go through a formal solicitation process (e.g. ITB, RFP, etc.). Approval/Rejection of the bid or proposal shall be made by the City Commission before a purchase order can be finalized.

2. The purchase of services for temporary labor shall have the approval of the City Manager before a purchase order/contract is issued.

3. Personnel authorized to purchase commodities/services shall document procurement transactions to provide a basis for audit and compliance reviews and to establish a written record of the purchasing activity.

4. Required documentation includes the request for quotations, quotations, analysis of the quotations, memos on negotiations, amendments to purchase orders, revisions in specifications, quantities, or delivery and all other pertinent correspondence.
H. SOLICITATION TYPES & PROCEDURES

The following flow chart is provided to provide a visual overview of the most appropriate solicitation based on the circumstances of the procurement. What follows after are the steps and procedures necessary for each type of solicitation. Departments should use this flowchart when they anticipate a procurement to be more than $2,500 and would not be specifically exempted by this policy. All of the following purchases and procurements described below require sufficient funding being available in the approved city budget. These flowcharts are provided as guidance and the ultimate procurement avenue is dictated by federal or state law, local ordinance, or City Manager determination.

Is the procurement related to an immediate emergency?

   YES → Refer to section below on Emergency Procurement

   NO

Is the good or service provided by only one vendor?

   YES → Refer to section below on Sole Source Procurement

   NO

Is this procurement for a tangible good being purchased from a competitively awarded contract from another public entity in Florida?

   YES → Refer to section below on Contract Price Procurement

   NO

Is the good or service estimated to cost more than the City Manager’s limit?

   YES → Refer to the next page for further information...

   NO → Refer to section below on Quotes
Purchases over City Manager Limit

Is this a service that is being procured under an existing contract with a public entity in Florida that was the result of a public, competitive solicitation?

YES
Refer to section below: Piggyback Procurement

NO

Does this procurement have a finite, exact, and well defined scope of services or bid schedule with a basic lowest cost test for evaluation?

YES
Refer to section below: Invitations to Bid

NO

Is this procurement for architecture, professional engineering, landscape architecture, or registered surveying and mapping services; or where the City desires to pursue qualified vendors first, before evaluating pricing?

YES
Refer to section below: Request for Qualifications
(see also, CCNA)

NO

Is this procurement for a good or service where a certain outcome is desired, but there is not a well-defined or scope of work, and where the evaluation will involve quality and price simultaneously?

YES
Refer to section below: Invitation to Negotiate

NO

Is this procurement for a good or service that does not fit into the above categories and where the vendor responses will involve a best value determination?

YES
Refer to section below: Request for Proposals

NO

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General Solicitation Guidelines

The following items are provided to document overall guidance and requirements:

- **Solicitation Evaluation**
  - For most of the solicitation types outlined below, the City’s stated policy is to award solicitations to the vendor that meets the stated qualifications and offers the lowest overall purchase price.
  - For other types as described below, the City’s goal is to execute a “best value” evaluation to determine the vendor that can offer the best product for the lowest overall life cycle cost.
  - If the City recommends the acceptance of a bid other than the bid with the lowest total price, the reason for the recommendation shall be given.

- **Appropriations Requirements**
  - No purchases shall be made, contract executed, or obligation incurred for any item or service that shall exceed the current budget appropriations without a supplemental appropriation by the city commission.

- **External Purchasing Requirements**
  - The City shall follow other Federal, State, and local laws, statutes, ordinances, directives and policies as they apply to local government purchasing.
  - Standards and processes external purchasing requirement adherence will be crafted and maintained by the Purchasing Coordinator and may be amended at any time with the approval of the City Manager.

- **Advertisement of Bids**
  - State law dictates how certain solicitations must be advertised; the most common instance the City will face is any construction project estimated to exceed $200,000.
  - Optionally, departments—with the advice of the Purchasing Coordinator—can choose to advertise, if they have the budget allocated to do so.
  - All formal solicitations will be posted on the City’s website and on the most appropriate online purchasing portal being utilized by the City.

- **Miscellaneous**
  - When possible the City shall utilize an “e-bidding” option to encourage paperless submission of solicitation responses.
  - A tabulation of bids received and those in attendance shall be made publically available for each formal solicitation.
  - Failure by a vendor to properly complete a solicitation response may have it invalidated rendering it noncompliant. Such bids may still be considered if the deficiency is deemed by the Purchasing Coordinator to be minor and not affecting the result of the response.
  - Contracts for the acquisition of multiyear service agreements should not have an initial term of more than three (3) years with a renewal option not to exceed two (2) years; the City Manager can authorize an initial term of up to five (5) years with a two (2) year renewal option, if the services to be acquired are deemed essential and vital to City operations or where public health or safety may be jeopardized in the absence of a contract for the respective services.
  - Once a solicitation is advertised, a “cone of silence” is in place. This means potential bidders may only communicate with the Purchasing Coordinator regarding any information in a given solicitation until the solicitation is closed.
  - The City will follow Florida Statute 287.087 (Drug-Free Workplace) in case of identically-priced bid submissions. When bidders with a Drug-Free Workplace certificate submit identical bids, the City will defer to the most-local vendor starting with city, county, state, and national tests in that order. The City reserves the right to implement any other tie-breaker based on the uniqueness of the solicitation; such modifications will supersede these rules.
Emergency Procurement (EP)

Certain situations may arise as part of City operations when the regulations of this policy cannot be
strictly followed due to an imminent or active emergency event, which is a circumstance in which one of
the following conditions exists:

1. Critical City operations will be affected in an adverse situation.
2. An emergency creates a threat to public health, welfare or safety.
3. A delay in the procurement of goods/services is against the public interest.

If any of these conditions are present, the City Manager and departments are permitted to take any and
all necessary measures to procure the goods/services required to address the imminent emergency
only. The City Manager and departments are urged to pursue the best prices possible in these
situations, bearing in mind the public health and safety concerns. If the emergency occurs and must be
addressed outside of normal operating hours, the respective Department Director is authorized to make
all necessary purchases, in lieu of City Manager authority; it is the Department Director’s responsibility
to justify any emergency purchases. If the totality of the Emergency Procurement is greater than the
City Manager’s purchasing threshold, the department director must get City Manager approval and a
full report of the circumstances shall be filed with the City Commission by the City Manager at its next
regular meeting of the City Commission.

Procedures:
1. An incident or occurrence arises that meets the definition of an “emergency” as indicated above,
and that requires an immediate City response and spending.
2. The City (City Manager and/or Department Director) authorize the expenditure of funds to
purchase the necessary services or supplies required to address the emergency, making all due
effort to get the best price possible based on the severity of the emergency.
3. All direct expenses related to the emergency response will be detailed and serve as backup to
the report that will be presented to the City Commission at the next regular meeting.

Sole Source Procurement (SS)

The City may procure certain goods or services which may only be purchased from or serviced by one
vendor. These Sole Source goods/services—such as unique, patented, or franchised supplies—are
exempt from the requirements within this policy, except as described in this section. Such purchases in
excess of the City Manager’s threshold require approval by the City Commission, unless an emergency
exists as defined in this policy.

Procedures:
1. Department Directors, with the guidance of the Purchasing Coordinator, will complete a
Statement of Sole Source Determination form to detail the specifics of the project.
2. Justification shall contain the following information as a minimum:
   a. How a determination was made that the goods/services being purchased are only
      available from one source.
   b. The contacts (if any) made in an attempt to identify alternate sources.
   c. The rationale that the goods/services being purchased cannot be substituted with similar
      goods/services from other sources.
3. The City Manager is authorized to approve the request directly if the cost is less than or equal to
   the City Manager thresholds.
4. If the costs are anticipated to be greater than the City Manager’s threshold and the City
   Manager agrees with the Sole Source determination, the City will agenda an item for City
   Commission consideration.
Contract Price Procurement (CP)

Often the City will need to acquire goods or supplies that are routinely purchased by other public entities in Florida. When the Departments or Purchasing Coordinator can find competitive pricing from existing contracts from other Florida public entities that meet the City’s needs, Departments are permitted to acquire goods or supplies at or less than the pricelist provided in the source entity’s approved contract. The procurement of contractual or professional services is not allowed under this section—see Piggyback Procurements. Unless specifically exempted by ordinance (specifically Sec. 2-276a), or this policy (Emergency Procurement), Contract Price Procurements must be approved by the Commission if greater than the City Manager’s approved threshold.

Procedures:
1. Upon discovery of a contract that a department may wish to pursue, the department and Purchasing Coordinator will work together to gather the following requirements:
   a. A copy of the original solicitation from the contracting public entity or consortium. This ensures the scope of work, bid schedule, terms & conditions, etc. are all in compliance with City standards and conforming to the goods or supplies required.
   b. A complete copy of the awarded vendor’s response to the original solicitation. This provides the pricing in the submitted solicitation response that produced the winning bid.
   c. A finalized and executed copy of the contract between the vendor and public entity, to ensure the contract was appropriately approved and has not expired.
   d. Communication from the vendor confirming they are willing to extend the prices in the original contract to the City, if not specifically allowed in the original contract.
2. Department or Purchasing Coordinator drafts a memo to the City Manager/City Commission detailing the procurement and requesting permission to pursue pre-negotiated prices.
3. If the goods or supplies acquired are estimated to be less than the City Manager’s threshold, the department can create a Purchase Order with City Manager approval to acquire the products.
4. If the goods or supplies identified are estimated to be more than the City Manager’s threshold, the department must get purchase authorization by the City Commission before a Purchase Order can be issued.
5. Any final Purchase Order must be submitted to the vendor with the approved Purchase Order Terms & Conditions which are required in lieu of a contract with the vendor.

Piggyback Procurement (PB)

Often the City will need to acquire services that are also purchased by other public entities in Florida. When the Departments or Purchasing Coordinator can find competitive pricing from existing contracts between from other Florida public entities that meet the City’s needs, Departments are permitted to enter into a Piggyback contract at or less than the pricelist provided in the original approved contract. Piggyback Procurements are primarily used for the acquisition of professional or contractual services, where a signed contract or agreement is preferred due to the extended and or recurrent nature of the relationship with the vendor.

Procedures:
1. Upon discovery of a contract that a department may wish to pursue, the department and Purchasing Coordinator will work together to gather the following:
   a. Copy of the original solicitation from the contracting public entity. This ensures the scope of work, bid schedule, terms & conditions, etc. are all in compliance with City standards and conforming to the services required.
   b. Complete copy of the awarded vendor’s response to the original solicitation. This provides the pricing in the submitted solicitation response that produced the winning bid.
c. **Finalized and executed copy of the contract** between the vendor and public entity, to ensure the contract was appropriately approved and has not expired.

d. **Proof of communication** from the vendor confirming they would extend the prices in the original contract to the City, if not specifically allowed in the contract.

2. Department and/or Purchasing Coordinator draft a memo to the City Manager/City Commission detailing the procurement and requesting permission to pursue already-negotiated prices.

3. The Purchasing Coordinator will send a Piggyback contract to the vendor for their signature.

4. If the services acquired are estimated to be less than the City Manager’s threshold, the department can create a Purchase Order with City Manager approval to procure the services once the Piggyback agreement is appropriately executed.

5. If the services acquired are estimated to be more than the City Manager’s threshold, the department must get purchase authorization and Piggyback agreement approval by the City Commission before a Purchase Order can be issued.

**Invitations to Bid (ITB)**

When the City needs to solicit interest for a project that is finite and well-defined with a specific scope of work and/or bid schedule, an Invitation to Bid is the most appropriate solicitation. The evaluation of the responses to an ITB is solely based on the lowest price submitted, assuming the vendor meets the minimum qualifications as a vendor and submits a compliant bid.

**Procedures:**

1. The department works with the Purchasing Coordinator to craft a scope of work and bid schedule that will be included in the ITB document.

2. The sections in the ITB will typically consist of the following, but may vary based on unique needs of the project or solicitation:
   a. **Cover sheet:** includes title, solicitation number, and dates
   b. **Statement of No Bid:** included to capture vendor responses should they choose not to submit a solicitation response
   c. **Scope of Work:** customized for each solicitation to convey the specifics of the project and all necessary info for vendors to submit a compliant response
   d. **General Instructions:** generally, boilerplate section with a restatement of dates
   e. **Bid Forms:** standardized documents that get the basic information of the vendor; also includes Drug-Free Workplace Certificate
   f. **General Conditions:** standard information that doesn’t generally change but may be customized based on the needs of the solicitation; **also contains the specific Insurance Requirements for a given solicitation**
   g. **Bid Schedule:** the section that changes with each ITB as it is the form that itemizes the project and will be used to determine lowest bid
   h. **Additional Exhibits:** it may be common to add site plans, Maintenance of Traffic documents, technical specifics, pictures, bonding, or any other files that may assist vendors in formulating the best responses
   i. **Contract:** the draft contracts in the solicitation templates are reflective of contracts approved by the City Attorney and signed by the Commission; can be modified based on the uniqueness of a solicitation but may require legal review if the Purchasing Coordinator or Finance Director determines the change may have legal ramifications
   j. **Checklist:** provided to assist the vendors as a final check to increase the chances of submissions being complaint with the requirements of the ITB; items listed on this checklist but not provided by a bidder may render the bid noncompliant

3. The ITB is posted online utilizing the City’s website and online purchasing portal after being reviewed as follows:
2.1.c

a. **Department:** review technical details and any other department-based info
b. **Risk Management:** verifies the Insurance Requirements in the ITB
c. **Purchasing Coordinator:** overall quality and document control, policy/ordinance compliance assurance, and the specific solicitation process

4. Where advisable or requested by the departments, the solicitation may advertise a pre-bid meeting for potential vendors.
   a. **Mandatory:** such pre-bid meetings are required to be attended by at least one member of each potentially bidding firm; failure to attend a mandatory pre-bid meeting prevents a vendor from submitting a response to the solicitation
   b. **Non-Mandatory:** used when it may be advisable for vendors to have an opportunity to meet with City staff or representatives during the solicitation process

5. The Purchasing Coordinator, in conjunction with the respective department, will respond to submitted questions in the form of addenda which will be posted for public consumption in the same manner in which the solicitation was advertised.

6. When the solicitation closes, the Purchasing Coordinator—with another witness from the City—will publicly open all submission and post a corresponding bid tabulation. Staff will review the lowest bid response to determine if it is effectively compliant with the requirements within the solicitation. The Bid Tabulation document will be posted in a manner so that any respondent may access it. For ITB solicitations the Bid Tabulation shall by default also serve as a Recommendation of Award and Intent to Award.

7. The department will draft an agenda memo to place the approval of the contract at a future regular meeting of the Commission, and—upon approval—communicate a notice to proceed with the vendor and any necessary purchase orders.

8. Upon final Commission approval, the Purchasing Coordinator will post an Award Document to close out the solicitation.

**Request for Qualifications (RFQ)**

When the City desires to procure professional services—specifically those identified in the CCNA statute—a Request for Qualifications solicitation should be utilized. This type of solicitation by definition removes any pricing considerations during the initial evaluation and review process, ensuring the City reviews the vendor submissions based on ability and qualifications rather than any lowest bid criteria. The City will follow the requirements of the CCNA statute when required and will use the same guidelines even when not required so as to maintain continuity and minimize any potential protests.

**Procedures:**
The steps and requirements detailed under the ITB will be followed, except as indicated below.

1. The sections in the RFQ will typically follow those in the ITB, but may vary as follows:
   a. **Selection Process:** details the specific steps in the particular procurement process including dates and meetings; lists the proposed evaluation committee members; provides evaluation criteria for each phase of the solicitation evaluation process, including scoring methodology; and eventual contract negotiation criteria. Should follow or fall within the Scope of Work section.
   b. **The Purchasing Coordinator will post notices of evaluation committee decisions which may include bid tabulation of all submissions, shortlisting of respondents invited to make presentations, ranking of firms after the evaluation of presentations, recommendation of award (which serves as the negotiation ranking), and intent to award (which lists the vendors the City desires to contract with).**
   c. **For CCNA solicitations, the City must reasonably exhaust all efforts to have compliant submissions from at least three respondents, per the requirements of state law.
4. The department will draft an agenda memo to place the final ranking of firms before the City Commission and request authorization to enter into negotiations with each of the firms in ranked order. The Purchasing Coordinator will draft an Intent to Award document and post it publically.

5. Once satisfactory prices are negotiated between the City and ranked firms, the department will draft an agenda memo to place the contract and respective negotiated pricelists before the City Commission for approval.

**Invitation to Negotiate (ITN)**

The City may experience opportunities where it may be advantageous to negotiate directly with vendors to achieve the best value. The process provides an opportunity to interact with vendors that have passed an initial review of qualifications in order to cooperatively develop competitive pricing. Due to the exposure of City officials to vendor representatives and because other types of solicitations are often more appropriate, these types of solicitations are rare but still a vital tool. Negotiations with qualified vendors can occur consecutively or concurrently as detailed below.

**Procedures:**

The steps and requirements detailed under the ITB will be followed, except as indicated below.

1. The department and Purchasing Coordinator work together to develop a scope of work that details the desired outcome and a list of required qualifications.

2. The sections in the ITN will typically consist of the following, but may vary based on unique needs of the project or solicitation:
   a. **Letter of Invitation:** since these type of solicitations will likely focus specifically on a few providers within a small market of vendors, it is advisable to include a personalized memo specifically inviting each identified vendor to respond
   b. **Scope of Work:** will detail the ultimate goal of the process and the minimum qualifications required to be considered; describe if the City will negotiate consecutively or concurrently; whether or not with City reserves the right to enter into multiple agreements with more than one vendor

3. Once the solicitation closes, the Purchasing Coordinator will review submissions to check for response completeness and vendor qualifications.

4. The department will draft an agenda memo to place the list of qualified firms before the City Commission and request authorization to enter into negotiations based on the specifications in the advertised ITN document.

5. **Negotiations**
   a. **Consecutive:** if the City wishes to negotiate with one qualified vendor at a time, the advertised ITN document must list criteria by which vendors will be ranked before negotiations can begin; the City can only move onto the next qualified vendor when the parties fail to reach amicable services and terms and cannot return to the previous vendor
   b. **Concurrent:** when the City wishes to negotiate with all qualified vendors, it must implement safeguards to ensure all qualified vendors are treated equally; such safeguards may include simultaneous communications between the City and the vendors, definitive deadlines for responses, and randomization of in-person negotiations

6. When the City and vendor(s) have reached amicable terms, the department will draft an agenda memo to place the list of qualified firms before the City Commission and request approval of the contract(s) and any corresponding pricelists. The Purchasing Coordinator will draft an Intent to Award document and post it publically.


Request for Proposals (RFP)

For all other formal solicitations that do not fit into any of the types herein, the City will utilize an RFP. This solicitation type is used when the City has an intended type of product or service outcome is desired, but does not desire to be prescriptive as to detailed specifics. While price is a primary factor, the City may also consider best value in terms of life cycle costs, history with a particular brand or vendor, or any other considerations that may be specified in an individual RFP document. Any advertised RFP needs to specify what the City intends to consider in its deliberation so vendors know how to tailor their responses; such review criteria must be well thought out adhered to during the process so as to minimize the chance of bid protests.

Procedures:
The steps and requirements detailed under the ITB will be followed, except as indicated below.

1. The sections in the RFQ will typically follow those in the ITB, but may vary as follows:
   a. Selection Process: must provide the evaluation criteria and any considerations the City may contemplate during the review process. Should follow or fall within the Scope of Work section.

2. After the RFP closes and the City desires to avail itself of the option of negotiating with any of the submitting vendor(s), it can only discuss and negotiate within the constraints of the criteria disclosed in the RFP.
   a. Such negotiations must be confined to unit or extended prices, scale of the project being solicited, terms of the proposed contract, product specifications and equivalents, or any other considerations disclosed in the RFP.
   b. Services or products not included in the original RFP but offered by a vendor during negotiations cannot be accepted without providing an opportunity for other qualified vendors to make comparable revised offers.
   c. The City must also begin any negotiations with the qualified vendor submitting the lowest-priced RFP-conforming proposal and receive any counteroffer from said vendor before it can move onto another vendor.

3. Once a final agreement is finalized the department will draft an agenda memo to place the final agreement(s) and contract(s) before the City Commission. The Purchasing Coordinator will draft an Intent to Award document and post it publically.

Quotes

When a department has an anticipated expenditure estimated to be between $2,500 and $25,000, Quotes should be sought. Departments shall select supplies based on total cost, which considers delivery, freight costs, prices, quality, life cycle costs, warranty, services, and terms and conditions. Within these thresholds is an intermediate threshold of $10,000 that determines the sub-requirements of the Quotes process.

Procedures:
   a. Less than $10,000: the department will create a list of the goods or services required and distribute it to a list of known vendors; if there are no known vendors, the department will work with the Purchasing Coordinator to identify vendors; at least two (2) valid responses are required but departments are strongly encouraged to obtain three (3) to five (5); responses may be written or verbal but must be documented on the Quotes Form; once an acceptable price is obtained and all documentation is complete, the department will submit a Purchase Order to acquire the goods or services.
b. **Greater than $10,000:** the department will need to create a formal itemized inventory of goods or services desired; the department works with the Purchasing Coordinator to reach out to known vendors, post the quotes to the City’s online quotes portal, or both; the department must obtain three (3) to five (5) quotes but more are acceptable; document all responses on the Quotes Form; once an acceptable price is obtained and all documentation is complete, the department will submit a Purchase Order to acquire the goods or services.

**Remedies for Solicitation Unresponsiveness**

When the City follows all of the prescribed steps based on the solicitation type and fails to get the requisite number of responses, steps must be taken to exhaust all options before moving onto other procurement opportunities.

For formal failed solicitations the City should follow the steps below:

1. Consult any submitted Statements of No Bid to determine if the solicitation should be adjusted to encourage greater vendor interest.
2. Re-advertise the solicitation for at least two (2) weeks, but four (4) weeks is preferred.
   a. Compile a list of known or possible vendors and submit the solicitation to them directly during this re-advertising period.
3. If after the re-advertisement the City cannot get any valid responses, the Purchasing Coordinator and/or Department Director will communicate to the City Manager a determination of solicitation unresponsiveness.
4. If Statements of No Bid or any other information gathered during the solicitation process indicates an inability within the economic market to meet the scope of work in the solicitation, the City may wish to delay the solicitation until such time would allow for competitive responses.
5. If the City chooses to continue immediately in the solicitation process, the department should work with the Purchasing Coordinator to transform the formal solicitation to move onto the Quotes process—see Quotes section above.
6. Once all options have been exhausted, the City should cancel the solicitation and develop a strategy to reengage in the solicitation process from the beginning based on the information learned during the first attempt.

**I. BLANKET PURCHASE ORDERS (BPO)**

1. Blanket purchase orders may be established for departments to facilitate order placement and reduce the administrative overhead inherent in repetitive price comparison and order placement. Blanket purchase orders (BPO's) should be used when departments purchase repetitive specified goods or services from the same vendor that requires numerous orders/shipments over specified periods of time. BPOs may be used to consolidate similar orders by various departments (such as office supplies), to allow periodic payments for an on-going service (such as extermination services or maintenance contracts), or to allow for various small equipment repairs (such as electronics, lawn mowers, etc.).

2. A request for Purchase Orders should be prepared by applicable departments at the beginning of each fiscal year, requesting the amount and account for encumbering funds on the Blanket Purchase Order. The Blanket PO shall be reviewed and approved by the Purchasing Coordinator and Finance Director.
3. Ordering against Blanket Purchase Orders:

   a. When a department wants to order against a Blanket Purchase Order, the designated employee will contact the vendor, place the order and notify the Finance Director or designee.

   b. When the material or service is received, the department signs the packing slip and/or invoice and the Blanket Purchase Order slip and forwards it to the Finance Director or designee.

J. CHANGE ORDER

1. A Change Order may not substantially alter the character of the work contracted for and does not vary so substantially from the original specifications as to constitute a new undertaking. Such changes must be reasonably and conscientiously viewed as being in fulfillment of the original scope of the contract. Further, such changes when viewed against the background of the work described in the contract and the language used in the specifications, must clearly be directed either to the achievement of a more satisfactory result or the elimination of work not necessary to the satisfactory completion of the contract.

2. The City Manager is hereby authorized to approve and initiate work on the following types of change orders determined in his/her judgment to be in the public interest, as follows:

   a. All change orders decreasing the cost of the contract to the City; providing, however such decrease does not materially alter the scope of the work defined by the Contract.

   b. Change orders increasing the total cost of the contract by up to 10% with an aggregate maximum of $25,000, provided sufficient documentation is provided. The increase shall not materially alter the scope of work defined by the contract and must have sufficient budgeted funds to cover any overage.

3. All other change orders, unless specifically authorized by the City Commission, must be formally approved by the City Commission before work may be authorized to begin or continue.

4. Change orders shall not be artificially distributed or divided so as to bring the amount within the approval level of the City Manager and any such proposed change order shall include within it all logically connected work required to be done at the time of proposal.

K. SERVICES PERFORMED ON CITY PROPERTY

Vendors performing work on City Property are required to:

1. Be properly licensed under existing Federal, State and City laws.

2. Provide all required Certificates of Insurance with the City named as an additional insured. Evidence of Named Additional Insured status may be provided with a policy declaration page or policy endorsement. This includes insurance for any sub-contractor being utilized.

3. Obtain all permits required, for the nature of the work. Fees may be waived if City funds are being used to procure the services.
L. RECEIVING

1. It is the responsibility of each department to inspect all goods/services received to determine their conformance with the specifications set forth in the contract.

2. If goods/services are not acceptable, the user shall contact the vendor to resolve the problem.

3. If goods/services are acceptable, a receiving report shall be forwarded to the Finance Department immediately in order to authorize payment to the vendor.

M. PROTEST BY VENDORS

1. Bidders or respondents who do not agree with the City’s recommendation for award shall be afforded the opportunity to protest the recommendation by submitting written notice to the Purchasing Coordinator.

2. Such notice shall be given to the Purchasing Coordinator within five (5) working days after notice of award or of the date the petitioner could reasonably be expected to have known of the City’s recommendation.

3. The protest shall state the grounds for the protest and the action requested.

4. Bids or proposals not meeting the minimum published requirements—including specifications, scope of service, or insurance—are not subject to protest. The Department Director with the assistance of the Purchasing Coordinator shall prepare and submit a written determination to the City Manager recommending either approval or disapproval of the petition. The petitioner shall be furnished a copy of the written determination and recommendation.

5. The City Manager shall review and either approve or disapprove the recommendation of the Director. The petitioner shall be furnished a copy of such action.

6. The City Manager may employ any reasonable means to reach the decision on the petition.

7. Decisions of the City Manager may be appealed to City Commission by submission to the City Clerk of a written request for hearing within five (5) working days from the date of the City Manager’s written decision. The written request shall state the grounds for the appeal and the action requested of the City Commission.

8. A final decision under this section shall be conclusive and represent the position of the City.

9. In the event of a timely protest and/or appeal, the City shall not proceed further with the award unless the City Manager can justify such action as protecting the public health, welfare, or safety of the City.
N. BONDS

1. There are three (3) major types of bonds used by the City in the competitive procurement process. Those bonds, along with their utilization, are summarized below.

   a. Bid Bonds are used when bid security is required to ensure that the vendor awarded a contract will subsequently enter into a contract with the City. When deemed necessary, bidder's security may be required in an amount described in the notices inviting bids. Bidders shall be entitled to return of bid security, provided that the successful bidder does not refuse or fail to execute a contract. The City may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest bidder. The lowest bidder's security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

      i. Solicitations estimated at greater than $100,000 should include a requirement of a bid bond in a sum equal to 10% of the bid.

      ii. The City may require a bid bond for solicitations less than $100,000.

      iii. The City Manager may waive the bid bond requirement, provided they draft a memo stating their reasons why.

   b. Performance Bonds are used when a guarantee is required to ensure that a vendor that has entered into a contract with the City will complete the project within the terms of the agreement. Performance Bonds are typically required in construction projects greater than $200,000 or for other similar contracts where such protections are advisable. If required, the form and amount of the bond shall be described in the notice inviting bids. Contractors should provide a 100% performance bond after the Notice to Proceed is issued.

   c. Payment Bonds for Labor and Material are used to ensure the payment of all indebtedness incurred for labor furnished, materials, equipment or supplies used or consumed in connection with, or in or about, the construction, improvements or repairs. If required, payment bonds are normally written in an amount equal to one hundred percent (100%) of the award amount.

2. Cashier's Checks, Certified Checks or other security deposits, (i.e. irrevocable letter of credit) may be considered in lieu of a bond, if acceptable to the Finance Director and the City Attorney.

3. Bond Requirements:

   A payment and performance bond with a surety insurer authorized to do business in Florida as surety shall be provided to the City pursuant to Florida State Statute 255.05 for the pursuit and completion of a public work, or for repairs upon a public building or public work.
O. INSURANCE

1. Certificates of insurance shall be provided by the successful bidder to assure that the City's insurance program will not be called upon to respond to losses from, and that the contractor is financially capable of responding to, claims resulting from the contractor's operations, activities or services for the City. Further, the Contractor agrees to hold harmless and indemnify the City for any claims that may arise as a result of the Contractor's actions.

2. Non-routine solicitations with unique circumstances, may require insurance coverages and limits that deviate from typical requirements. It is best practice to have the City's Risk Manager review any solicitation that based on a determination of the department, Purchasing Coordinator, or City Manager may benefit from additional coverage.

3. Construction and service contractors shall provide evidence of commercial general liability, property damage, worker's compensation and automobile liability coverage. Limits of coverage may vary based on the scope of work.

   a. Professional services and environmental contractors should provide evidence of professional liability, commercial general liability, worker's compensation, automobile liability coverage, and any other coverage Risk Management deems necessary.

   b. The certificate of insurance shall be issued to:

      City of Treasure Island
c/o Purchasing Coordinator
120 108th Avenue
Treasure Island, FL 33706

   c. The certificate shall evidence thirty (30) day cancellation clause and the inclusion of the City of Treasure Island, Florida, as additional insured where applicable.

   d. Depending on the services requested in the procurement, additional or specialty coverages or specific limits of coverage may be required at the discretion of the City Manager. The amounts and types of insurance required will be detailed in the bidding or purchase document.
P. AUTHORIZATION FOR DISBURSEMENT AND PURCHASING CARDS

1. Purpose of Authorization for Disbursement and Purchasing Cards permits purchasing of goods and services when the total expenditure is less than $2,500. This allows for efficient day-to-day procurement of small dollar value requirements.

2. The Authorization for Disbursement or use of a Purchasing Card is a legally binding contract to procure goods or services for the issuing department. The City's funds will be committed to pay for such items. Care must be taken when committing City funds to obtain the best possible price. Use of Authorization for Disbursement or Purchasing Cards

   a. Internal Control: Each department shall establish internal controls to insure, whenever possible and practical:

      i. That commodities are obtained at competitive prices;
      ii. That competing vendors are provided equal opportunity to quote on City requirements; and,
      iii. That like requirements are combined to obtain prices favorable to the City.

   b. The Department Director, or designated representative, may issue and approve Authorizations for Disbursement or utilize Purchasing Cards, and shall establish Authorization for Disbursement/Purchasing Card files for internal audit review as required. At a minimum, files shall contain

      i. The document(s), which established the requirement(s) for purchase (e.g., work order, requisition);
      ii. A copy of the Authorization for Disbursement, charge ticket or receipt and a copy of the vendor's sales slip, invoice, or delivery ticket as evidence of receipt.
      iii. If telephone quotes were obtained, a copy of the quotations should also be included. Invoice processing and payment procedures for all purchase made by Authorization for Disbursement/Purchasing Cards shall be prescribed by Finance.

3. Even though purchases of $2,500 or less are exempt from competitive bidding, the Department Director may require written, sealed, or competitive quotes whenever it is in the best interest of the City. In those instances, the department or Purchasing Coordinator should conduct the solicitation of quotations.

4. Recurring Requirements for identical or similar items should not be repetitively purchased on Authorizations for Disbursement or with Purchasing Cards. Rather, recurring requirements should be described, estimated in quantity and submitted to the Purchasing Coordinator for bid/quote processing and award of a blanket purchase order.

5. Splitting Orders to avoid exceeding the $2,500 limit is also prohibited. This will be a subject for continuing review by both the Finance Department and the annual audit. Department Directors are requested to give this area special attention.
III. GLOSSARY

1. Award: means the acceptance of a bid or proposal; the presentation of a purchase agreement to a bidder.

2. Best Bid: means a bid which is not necessarily the lowest, but rather best fits the needs and interest of the City when taking into account the responsibility of the bidders.

3. Best Interest of the City: means a term granting a purchasing official the authority to use discretion to take action felt to be the most advantageous to the City, including award of a contract to the lowest best bid.

4. Bid: means an offer, as a price, whether for payment or acceptance, given to the City by a bidder on a City contract; see also Response and Statement(s) of Qualification.

5. Bid Bond: means an insurance agreement in which a third party surety agrees to be liable to pay a certain amount of money in the event that the bidder’s bid is accepted by the City and the bidder fails to accept the contract as awarded and approved as to form by the City Attorney.

6. Brand Name or Equal Specification: means a specification that cites brand names, model numbers, or other identifications as representing quality or performance called for, when inviting bids on comparable items or products of any manufacturer.

7. Competitive Consultant’s Negotiation Act (CCNA): included in Section 287.055 of Florida Statutes and governs the procurement of professional individuals/firms for architectural, engineering, landscape architecture, land survey, and mapping services; almost always procured using an RFQ solicitation.

8. Change order: means a modification to an executed contract, due to unanticipated conditions or developments relating to that contract.

9. City Manager: chief executive of the City; shall include any duly authorized designee.

10. Cooperative procurement: the combining of the requirements of two or more public entities to obtain the advantages of volume purchases, improved specifications, reduced administrative costs, and increased intergovernmental cooperation.

11. Emergency: A situation or occurrence of a serious nature involving urgent matters of public health; safety and welfare of employees and/or the citizens of the City or for the safeguard of City assets. An emergency purchase may be made without following the normal purchasing procedures in order to obtain goods or services to meet an urgent and unexpected requirement.

12. Environmentally preferable goods: Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This includes products that contain recycled material, reduce toxicity and pollution, conserve energy, conserve water and prevent waste.

13. Formal Solicitation: any procurement process that involves the compiling, publication, and broadcast of bid documentation for broad public consumption and vendor response; consists of but not limited to ITB, ITN, RFP, and RFQ processes.
14. **Informal Solicitation**: any procurement process that involves the distribution of a scope of work, bid schedule, or equivalent to known vendors and providers in order to elicit a certain number of quotes as required herein; also known as *Quotes*.

15. **Intangible Good**: a product, often digital in nature, that typically has per-unit pricing for a finite product; (example: site licenses to access proprietary software would be considered "intangible goods," but a contract to perform maintenance on that same software would be a "professional service.")

16. **Invitation to Bid (ITB)**: are written documents issued by the City inviting potential vendors to submit sealed, written pricing for specific goods and/or services in conformance with specifications, terms, conditions and other requirements described in the bid documents.

17. **Invitation to Negotiate (ITN)**: are written documents for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services; used when a certain outcome is desired without any particular chosen path to get there; can be thought of "design/build" contracts for certain professional services or the delivery of intangible goods.

18. **Life Cycle Cost**: A procurement technique that takes into account demonstrable and documented operating maintenance, the cost of money, other cost of ownership and usage and resale or residual value in addition to acquisition price in making an award on low total cost.

19. **Lowest Responsible Bidder**: The bidder submitting the lowest initial price that has a reputation based on past performance and financial capabilities sufficient to demonstrate an ability to perform the required work.

20. **Lowest Responsive Bidder**: means the bidder submitting the lowest bid that meets all the basic, essential requirements of the solicitation.

21. **Non-Competitive Purchase (Sole Source)**: the award of contracts for goods or services available from only one source, such as: unique, patented, proprietary, or franchised supplies; or by the unique nature of the requirement, the vendor, the impracticality of obtaining competition or market conditions.

22. **Noncompliant (bid or solicitation response)**: any response to a solicitation which is significantly and substantively deficient based on the stated requirements within the respective solicitation.

23. **Procurement**: an expenditure of City funds for goods or services after conducting any of the specified solicitation types described and regulated within this policy (e.g. Quotes, ITB, Piggyback); such transactions must utilize Purchase Orders; see *Purchase*.

24. **Professional Services**: means those services which are essentially intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. Professional services involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional services include, but are not limited to, services performed by accountants, auditors, analysts, consultants, lawyers, physicians, planners, artists, engineers, and architects. Preferred method of procurement of Professional Services is using RFQs (CCNA) or RFPs.
25. **Property:** Tangible property of a non-consumable nature, with a value of five-thousand dollars ($5,000) or more and normal expected life of one (1) year or more; also called “Fixed Assets.”

26. **Proprietary:** refers to goods and services owned by a private individual or corporation under a trademark or patent.

27. **Project:** a planned set of tasks with a desired outcome that has a finite and defined end date; the estimated cost of a project—barring any special determination within this policy—dictates the steps and requirements for procurement.

28. **Protest:** means a written statement concerning an unresolved disagreement or controversy arising out of the solicitation or award of a contract.

29. **Purchase:** any expenditure related to an irregular, ad hoc acquisition of goods/services that does not fit well into a strategic procurement process and has a total project cost of less than the threshold for Quotes; chiefly for the acquisition of Routine Operating Expenses.

30. **Purchase Order:** The City’s official legal record of contract between the City and vendor, issued separately or in conjunction with other documents, which delineates the responsibilities of both parties in the provision of and payment for goods and services required by the City. The purchase order also is the mechanism by which budgetary and cash balances are encumbered in the City’s accounting system.

31. **Purchase Requisition:** means any communication whereby a department requests that a purchase be made or contract be entered into for a specific need; may include the description of a request item, delivery schedule, transportation data, criteria evaluation, suggested source of supply, and information supplied for the making of a written determination.

32. **Purchasing Cooperative:** any public organization or entity that develops solicitations, pricelists, and contracts for commonly purchased goods or supplies (i.e. vehicles); examples include the Florida Sheriffs Association, the Florida Police Chiefs Association, and the U.S. Communities Government Purchasing Alliance.

33. **Request for Proposals (RFP):** the solicitation document used for competitive proposals, the customary method used for the purchase of professional services, and other goods or services when there is an uncertainty of the exact product or service that is required. The Request for Proposal allows for negotiations after proposal(s) have been opened to allow clarification and changes in the proposal.

34. **Request for Qualifications (RFQ):** the solicitation document used for the procurement of certain services as dictated by the CCNA, or in any other instance where it would be advantageous for the City to specifically pursue a level of quality before negotiating pricing among the qualified respondents; “quality before price.”

35. **Routine Operating Expenses:** for the purposes of this policy, is defined as salaries, utilities, goods, and supplies for which budget appropriations have been made; generally, exempt from the regulations in this policy except for those goods and supplies that have a specific procedure for procurement in this policy or where better pricing may be obtained from a formal or informal solicitation.
36. **Services, Contractual**: includes but is not limited to printing; custodial services; purchase, installation, rental, repair and maintenance of equipment, machinery, and other personal property; lease of real property and office space by the City; and all other contractual supplies, materials, equipment and services not specifically excluded from these procedures.

37. **Strategic Procurement (solicitation)**: a formalized purchasing process specifically guided by the rules within this policy and which is largely differentiated based on the estimated costs of a given project; can be used when it may be economical to obtain bulk tangible goods or recurring contractual services.

38. **Supplies**: includes all physical materials and equipment other than property.

39. **Tangible Goods**: the umbrella definition for the terms Property and Supplies.

40. **Transaction**: any one-time exchange of City monies for goods/services; there may be multiple transactions per project, purchase, or procurement; all transactions for a project must be calculated cumulatively to determine the requirements for acquisition per this policy.

**IV. ADDITIONAL INFORMATION, REQUIREMENTS AND RESPONSIBILITY**

It shall be the responsibility of the City Manager to keep this policy current.

AP-26, Purchasing Policy revised [DATE]
APPENDIX 1

Purchasing – Code of Ordinances

The section of the City’s Code of Ordinances are included below for reference. The language below is reflective of the ordinance as of October 1, 2019. Any subsequent modifications to the ordinance will supersede any language below as this Appendix is being provided for convenience.

Sec. 2-276. – Purchasing procedures for goods, materials and services.

(a) **Expenditures up to $25,000.00.** The city manager is authorized to approve expenditures up to $25,000.00 without prior approval of the city commission for the purchase of goods, materials, equipment or services, provided sufficient funding is available in the approved city budget. The $25,000 City Manager’s expenditure authority is not exceeded when budgeted individual identical items are purchased throughout a fiscal year, each costing less than $25,000.00 individually, even if cumulatively those items total more than $25,000.00.

(b) **Expenditures in excess of $25,000.00.** The city commission may authorize an expenditure in excess of $25,000.00 for goods, materials, equipment or services after a public, formal, sealed-bid solicitation process or any other procurement method so authorized.

(c) **Exceptions.** The requirements of subsection (b) are not intended to apply to routine operating expenses such as salaries, utilities, supplies, and medical payments as required by law for which budget appropriations have been made.

(d) **Award of contract.** The city commission shall award the contract to the lowest responsive and responsible bidder. For the purpose of determining the lowest responsive and responsible bidder, the city commission may consider factors including the cost of the product or service; qualifications of the bidder; prior experience of the bidder in similar activities; prior work performed by the bidder on behalf of the city or other units of government or their agencies; and any other factors deemed relevant by the city commission in its sole discretion. If the city manager recommends the acceptance of a bid other than the bid with the lowest total price, the reason for the recommendation shall be given.

(e) **Rejection.** The city commission may reject any or all bids if it is deemed in the best interests of the city to do so, and to rebid the proposed purchase. All bid proposals submitted to the city must address and conform to the bid specifications and the scope of the work to be performed. Any deviations or substitutions from the bid specifications or the scope of work must be identified with a written explanation. Failure to comply with the provisions of the bid specification may result in a rejection of the bid proposal. Incomplete bid proposals may be rejected by the city. The city reserves the right to waive minor technical defects in a bid submittal as determined in its sole discretion.

(f) **Exemptions.** Unless otherwise prohibited by law, the following situations are exempted or modified from the competitive bid requirements of this section:

(1) **Professional services.** Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, are exempt from the competitive bidding requirements of this section; however, a formal, written contract, approved by the city commission, shall be required for all such
contracts in excess of $25,000.00, and any applicable state law, such as the Consultant's Competitive Negotiation Act shall be followed.

(2) **Noncompetitive supplies.** Noncompetitive supplies, available only from one source, such as unique, patented or franchised supplies are exempt for the competitive requirements of this section. The city manager is authorized to purchase and contract for noncompetitive supplies up to $25,000.00, provided authorized funds are available in the annual budget.

(3) **No bid received.** Where no bid has been received after publication of a bid/proposal; however, such purchases in excess of $25,000.00 require a formal, written contract approved by the city commission.

(4) **Unique circumstances.** Where the city commission finds unique circumstances to establish that competitive bidding is not in the best interest of the city; however, such purchases in excess of $25,000.00 shall require a formal, written contract approved by the city commission. The city commission, upon request by the city manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the city.

(5) **Bids and contracts from other entities.** The city manager is authorized to use competitive bids and formal contracts from other entities as provided in section 2-278.

**Sec. 2-277. – Authorization of purchases; emergencies.**

In case of an actual or impending emergency that requires the immediate purchase of supplies, repairs or contractual services, the city manager may, without prior city commission approval, secure, by open market procedure at the lowest obtainable price, any supplies or services. A full report of the circumstances of all emergency purchases that exceed the City Manager's expenditure authority shall be filed with the city commission by the city manager at its next regular meeting of the city commission.

**Sec. 2-278. – Governmental entity bids; purchases without bids.**

Nothing in this division shall prohibit the city manager or city commission from utilizing approved bid lists resulting from an open, competitive solicitation established by federal, state, county, municipal or other governmental bodies, or government-, educational- or nonprofit-oriented associations or purchasing cooperatives.

**Sec. 2-279. – Purchasing procedures.**

(a) The City Manager shall develop purchasing procedures that shall apply to all personnel involved in the purchasing process. Such procedures shall be in the form of administrative code and shall be effective upon issuance by the city manager.

(b) The purchasing procedures shall include provisions dealing with recommended competitive procurement methods, fiscal controls, dollar limitations on purchasing authority of the various city officials, protest procedures, and shall be subject to modification, amendment, or expansion as necessary.
APPENDIX 2

The Consultants Competitive Negotiations Act (CCNA), Chapter 287 FS, applies to contracts awarded to Architects, Engineers, Surveyors, and Landscape Architects. The CCNA lists five purchasing categories or thresholds amount:

- Category One: $20,000
- Category Two: $35,000
- Category Three: $65,000
- Category Four: $195,000
- Category Five: $325,000

A Request for Qualifications (RFQ) is required when professional services must be purchased in conjunction with a project where the construction cost is estimated by the agency to exceed the threshold amount provided in Category Five ($325,000) and for all planning or study activities where the fee is for professional services exceeds the threshold amount in Category Two ($35,000). The exception to this is in cases of valid public emergencies certified by the head of the municipal government or agency. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

In response to the published RFQ, the City will receive Proposals or Statements of Qualifications (SOQ) from the interested professional firms. Based upon their SOQ, the profession firms are evaluated on their qualifications, which include an analysis of their capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the City to be applicable to the particular project requirements.

A chosen number of professional firms, usually 5 to 7, are then selected for interview by staff. From the interview, the top three (3) firms are tentatively ranked and an item is placed on the Commission Workshop to authorize the staff to attempt to negotiate a contract beginning with the highest ranked firm and execute same once agreement is reached.

The City’s continuing contracts with professional Engineering, Surveying, Architecture or Landscape Architecture firms, are not restricted to the requirements listed above. In summary, projects that fall beneath the thresholds required for compliance with CCNA are as follows:

1. A professional services contract for Engineering, Surveying, Architecture or Landscape Architecture for projects with an estimated construction cost of up to $325,000 or a planning or study activity up to $35,000; and
2. Under an existing continuing contract Engineering, Surveying, Architecture or Landscape Architecture services for projects with an estimated construction cost up to $2 million or a planning or study activity up to $200,000.

Upon meeting either of these two conditions, the City must comply only with the municipal or agency purchasing policy.
DATE:

TO:

FROM: Tiffany Makras, Human Resources Director

SUBJECT: FY 2020 Dental, Life and Long Term Disability Insurance Renewal with Lincoln Financial Group

BACKGROUND
Treasure Island currently offers dental, life, and long term disability insurance to full time employees through Lincoln Financial Group (LFG).

The City has been offering these coverages through LFG since FY 2017 as a result of LFG providing the most favorable quote during a marketing effort performed by our current ancillary broker, Wallace, Welch & Willingham. At that time LFG presented a 10.4% overall savings and issued a rate guarantee for two years (FY17 & FY18). Rates increased in FY19 for dental (3%), life (5%), and long term disability (4%) with life insurance and long term disability rates guaranteed for another two years. In comparison to the dental, life, and long term disability insurance offered by our group health pool, PRM, our current program with LFG offers comparable benefits at lower premium costs.

Staff will be initiating a Request For Proposal (RFP) process in the coming months to market our entire healthcare and ancillary benefits package to ensure the most competitive and cost effective plans for FY 2021.

STRATEGIC PLAN RELEVANCE
Goal six of the Strategic Plan states “Hire, develop, support and retain a diverse workforce that is focused on customer service and delivering high quality services to the City.” Renewing our dental, life, and long term disability insurance while maintaining our current plan design is a huge benefit to our employees that assists us with “supporting” and “retaining” our employees by offering a competitive benefits package.

ANALYSIS / DISCUSSION
The City offers employees one dental plan and pays 100% for employee dental premium and 25% of dependent dental coverage costs.

Page 1
The City provides basic life insurance and long term disability for all full time eligible employees at no cost to the employee. And employees who elect to purchase voluntary life are responsible for 100% of that premium cost.

**FUNDING**
The FY 2020 dental renewal rate is 3% which is an approximate increase of $700.00; the life and long term disability insurance renewals are flat with no increase in premium amounts. The approximate total cost to LFG for dental, life, and long term disability insurance is $71,770; of which the City would pay $48,195 for employee coverage and the remaining amount of $23,575 would be paid by staff who elect a combination of either dependent dental coverage and/or voluntary life insurance.

Funding is included in the personnel budgets in all funds in the proposed FY 2020 budget.

**RECOMMENDATIONS**
Staff is recommending approval of the renewal of dental, life, and long term disability insurance with Lincoln Financial Group.

**MOTION**
I move to approve and authorize the renewal of dental, life, and long term disability insurance with Lincoln Financial Group for FY 2020.
DATE:

TO: Garry Brumback, City Manager

FROM: Tiffany Makras, Human Resources Director

SUBJECT: FY 2020 Group Health Insurance Renewal with Public Risk Management

BACKGROUND
Treasure Island currently offers medical and vision insurance to full time employees through a group health insurance pool with Public Risk Management (PRM).

The City has been offering medical and vision insurance through the PRM pool since FY 2010. Over the past decade we have enjoyed the benefit of belonging to the pool because some years the City had a significant utilization rate and a high claim usage, however we were able to maintain renewals better than trend. For example there were several years the City experienced a utilization rate of over 140% yet maintained a renewal rate of 10%.

In 2017 we partnered with our current ancillary broker, Wallace, Welch & Willingham, to take our health plans to market via the Request for Proposal (RFP) procurement process. The results of the RFP verified that our current rates with PRM were the most competitive for our health and vision plans. That being said, staff is already looking ahead and will revisit the RFP process in the coming months to market our entire healthcare benefits package so that we can ensure we are delivering the most competitive and cost effective plans for FY 2021.

STRATEGIC PLAN RELEVANCE
Goal six of the Strategic Plan states “Hire, develop, support and retain a diverse workforce that is focused on customer service and delivering high quality services to the City.” Renewing our group health and vision insurance while maintaining our current plan design is a huge benefit to our employees that assists us with “supporting” and “retaining” our employees by offering a competitive benefits package.

ANALYSIS / DISCUSSION
The City offers employees three health plan options. The base plan is an HMO and provides a rich level of benefits. The City pays 100% for employee health care coverage and 25% of dependent care coverage cost. The second plan is also an HMO and provides a greater level of
benefits and the employee can choose to pay the additional cost for this plan over the cost of the base plan. The third plan is a low cost option that is in compliance with the Affordable Care Act and provides a high deductible health plan (HDHP) option for a significantly lower premium.

There is one voluntary vision plan offered by the City and employees who elect coverage are responsible for 100% of the premium.

**FUNDING**
The FY 2020 health insurance and vision renewal rate is flat (0%) with no increase in premium amounts. The approximate total cost to PRM for group health and vision insurance is $1,422,571; of which the City would pay $1,272,005 for employee coverage and the remaining amount of $150,566 would be paid by staff who elect a combination of either vision coverage, a more robust healthcare plan, and/or dependent healthcare coverage.

Funding is included in the personnel budgets in all funds in the proposed FY 2020 budget.

**RECOMMENDATIONS**
Staff is recommending approval of the renewal of group health and vision insurance with Public Risk Management.

**MOTION**
I move to approve and authorize the renewal of group health and vision insurance with Public Risk Management for FY 2020.
DATE: July 1, 2019

TO: Garry Brumback, City Manager

FROM: Cathy Hayduke, Recreation Director

SUBJECT: Non-Exclusive License Agreement with Ice Depot

BACKGROUND

Bill Taylor of The Ice Depot LLC approached the City Manager regarding the installation of Ice Vending Machines in various public locations throughout the City.

POLICY / PURPOSE

Commission approval is required to enter into a Non-Exclusive License Agreements.

STRATEGIC PLAN RELEVANCE

Goal 1: Strengthen the financial stability of the City in an ever-changing economic environment

Goal 2, Objective 3: To increase usability and functionality while working towards self-sustaining recreation facilities

ANALYSIS / DISCUSSION

Recreation staff reviewed high volume public locations with the necessary utilities needed for the vending machine operations and decided that Gulf Front Park and the Beach Pavilion would provide suitable locations.

The City Attorney has drafted a Non-Exclusive License Agreement between The Ice Depot LLC and the City to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A. The Non-Exclusive License Agreement grants permission to The Ice Depot LLC to install and operate ice vending machines on the publicly owned lands by the City. The Ice Depot, LLC will be permitted to install a wrap graphic on its ice machines and as approved by the City Commission as shown in Exhibit B.
The ice vending machines are 36 inches deep, 72 inches wide and 114 inches tall. The machines have an 800 pound capacity for ice. The vending machines can produce approximately 150 bags per day. Payment options include credit/debit cards, currency and coins. The cost per 10 pound bag will be $2.00. The Ice Depot LLC will provide the bags and ties. Additionally, the vending machine ice dispenser is wide enough to fill a cooler to the equivalent of a 10 pound bag. The vending machines have counters/trackers to provide a monthly sales report to the City on the number of bags sold and monies collected.

The Ice Depot LLC will be responsible for the cost to install the required 220v, 30 amp electrical service at each of the facilities, which will remain on City property should the ice vending machines be removed from the property. City staff will provide the water connection from the facility to the ice machine. The Ice Depot LLC will be solely responsible for the maintenance and operations of the ice vending machine installed on City property. In the event of a tropical storm or hurricane and as determined by the City, The Ice Depot LLC shall remove the ice vending machines from the permitted use areas and store in a location outside of the City.

The Ice Depot LLC has provided a letter from the Florida Department of Environmental Protection concluding that the operation of the automated vending machine units does not result in discharge of industrial wastewater and therefore, an industrial wastewater permit is not required at this time.

The Ice Depot LLC will be required to provide the necessary insurance coverages as outlined in the Non-Exclusive License Agreement such as Comprehensive General Liability Insurance and Workman’s Compensation Insurance. The term of the agreement is for one (1) year, which may be renewed twice for a period of one year each.

Kylie Lemmer, CEO of the Ice Depot LLC has agreed to the conditions as outlined in the Non-Exclusive License Agreement. Kylie Lemmer or Bill Taylor will be in attendance at the Commission Meeting.

**FUNDING**

The Ice Depot LLC will pay to the City thirty-percent (30%) of all revenue from the ice vending machines.

**RECOMMENDATIONS**

City staff has determined that there is a public benefit by granting The Ice Depot LLC permission to provide ice vending machines at Gulf Front Park and the Beach Pavilion. Staff recommends that the City Commission authorize the City Manager to enter into a Non-Exclusive License Agreement with The Ice Depot to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A.

**ATTACHMENTS**

- The Ice Depot LLC proposal
- Non-Exclusive License Agreement
• DEP Approval
• Exhibit A, Photos of proposed locations
• Exhibit B, Ice machine wrap
• USA Voltage quote

**MOTION**

I move to approve and authorize the City Manager to enter into a Non-Exclusive License Agreement with The Ice Depot LLC to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A.
Simple, Reliable and Affordable

- 24/7
- Sell Ice Around The Clock
- Quick ROI
- Simple Operation & Maintenance
- No Franchise Fees

ON SITE ICE VENDING

Ice Factory
- 50% less Emissions Released

Trucking
- 95% less Carbon Pollution

Plastic Bags
- 75% less Plastic Pollution

Cumulative
- 80% more Positive Impact
Why

Generate a new stream of income
Own your own movable money generating asset
Huge profit margins
Easy business model - be your own boss, work your own hours. No staff required.
Green business
Remote wireless business management systems available
Annuity income
It is the way of the future

Where

Any high traffic, easily visible retail location
Camp Grounds / RV Parks / State Parks
Gas Station / Car Wash
Marina’s / Boat Ramps
Bait Stores
Construction Sites
Stand Alone Locations
Liquor Stores
Shopping Centers Etc.

How

It is quick and easy.
With a little guidance from us
you can start your own business today.
Find a location, choose the correct machine, and
just duplicate the model to expand your business.
Payment Options:
Credit/Debit, Vend
Cash, Coins & Bills

Electrical Service for ice maker 220v
30 amps

Large bin capacity
800 lbs

Small Footprint:
Depth - 36in
Width - 72in
Height - 114in

Drain line size is
1/2 in and drain capacity is 5 gal

120 - 350 bags per day. Bags 10lbs or straight into cooler

Aluminum Frame
Made in USA

FOR MORE INFO CONTACT: (727) 742 - 4278
WWW.THEICEDEPOT.COM
NON-EXCLUSIVE LICENSE TO USE AGREEMENT
BETWEEN
CITY OF TREASURE ISLAND, FL AND ICE DEPOT FLORIDA, LLC

THIS NON-EXCLUSIVE LICENSE TO USE AGREEMENT (hereinafter referred to as “License”) is made this ___ day of _____________, 2019, by and between the CITY OF TREASURE ISLAND (“the City”), a municipal corporation of the State of Florida, having its principal place of business at 120 108th Avenue, Treasure Island, Florida 33706, and ICE DEPOT FLORIDA, LLC (“Licensee”), a Florida corporation, having its principal place of business at 5914 15th Avenue South, Gulfport, Florida 33707 (collectively, the “Parties”).

WITNESSETH

WHEREAS, the City holds certain publicly owned and controlled lands in trust for the public located within the City of Treasure Island, located at 10400 Gulf Boulevard, Treasure Island, Florida 33706 and 8000 West Gulf Boulevard, Treasure Island, Florida 33706; and

WHEREAS, Licensee is the owner and operator of ice vending machines; and

WHEREAS, Licensee wishes to obtain, and the City is willing to grant a non-exclusive, non-transferable License for the term and specific purpose set forth in this Agreement to install and operate ice vending machines on publicly owned and controlled lands within the City of Treasure Island; and

WHEREAS, the City has determined that there will be a public benefit by granting this License to Licensee for the limited purpose of providing ice vending machines for usage by the residents, tourists and visitors to the City of Treasure Island; and

WHEREAS, Licensee is granted permission to install and operate ice vending machines on the publicly owned and controlled lands within the City of Treasure Island; and

WHEREAS, Licensee, by executing this License, consents to and agrees to be bound by all conditions of the granting of this License;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants, agreements, and other good and valuable consideration, as set forth herein, the City and Licensee agree as follows:

1. Recitals Acknowledged. The foregoing recitals are true and correct and are incorporated in this License by reference.

2. Purposes, Scope, Uses, Equipment. The principle purpose of the City granting the privileges under this License is to permit the Licensee to operate ice vending machines in specified Permitted Use areas, and is strictly limited to the following conditions:
a. **Permitted Use Areas:** The Licensee is permitted to install one (1) ice vending machine in a location approved by the City at Gulf Front Park, 10400 Gulf Boulevard, Treasure Island, Florida 33706 and one (1) ice vending machine in a location approved by the City at the Beach Pavilion, 8000 West Gulf Boulevard, Treasure Island, Florida 33706, as depicted in Exhibit A. Licensee is prohibited from operating ice vending machines outside of the Permitted Use Areas.

b. **Permitted Uses:** The Licensee is permitted to provide ice vending machines in the Permitted Use Areas. The Licensee agrees to provide all consumable and services required of the ice vending machines. The ice vending machines will remain the property of the Licensee.

Licensee is prohibited from installing any other equipment, other than the ice vending machines on City property.

Licensee may install wrap graphic on its ice machine with prior written approval from the City.

c. **Maintenance & Repairs:** Licensee agrees that it will be solely responsible for the maintenance and operation of the ice vending machines that it installs in the Permitted Use Areas.

d. **Severe Thunderstorm, Tornado, Tropical Storm or Hurricane Warning:** In the event a severe thunderstorm warning or tornado warning is issued by the National Weather Service for the Treasure Island area, Licensee must secure, remove and return Licensee’s rental equipment. In the event a tropical storm or hurricane warning is declared for the City of Treasure Island, the Licensee shall remove all ice vending machines from the permitted use area and store same in an enclosed building if within the City, or elsewhere outside of the City.

3. **Term of Agreement.** The initial term (“Term”) of this License shall be for a term of one (1) year, beginning on the effective date of this License and terminating one (1) year thereafter unless otherwise extended. Upon expiration of the initial term, this Agreement may be automatically renewed twice for a period of one (1) year each(“Renewal Term”), unless at least thirty (30) days prior to the renewal date either party gives written notice of its intent not to continue the License Agreement.

4. **Fees and Payments.**

   (a) The Licensee shall pay all of the electrical cost, to install a 1-30 Amp 240V receptacle in each Permitted Use Area.

   (b) The City shall incur the cost to provide water to the ice vending machines.

   (c) The Licensee shall maintain and submit a monthly paper report to the City of all transaction from the ice vending machines in the Permitted Use Areas.
(d) Licensee shall pay the City 30% of all revenue from the ice vending machines in the Permitted Use Area. Licensee shall remit payment to the City within ten (10) days after the end of each calendar month, along with a copy of the monthly paper report.

The Licensee shall be required to obtain and keep current a Local Business Tax License with the City.

5. **No Waiver of Applicable Regulations.** Nothing in this License will be construed to exempt the Licensee from full compliance with all applicable federal, state and local laws and regulations. Prior to using the Permitted Use Areas and throughout the term of this License, the Licensee further agrees to obtain all necessary permits and to otherwise fully comply with all requirements of the City, Pinellas County and the State of Florida pertaining to any licenses and permits as may be required by law for the operation of its business. The Licensee will use the designated Permitted Use Areas only for the purposes stated and no unlawful uses will occur whatsoever.

6. **Encumbrances.** The granting of this License does not vest in the Licensee any interest in the Permitted Use Areas, as defined in this License. The Licensee will not mortgage, encumber or lien the Permitted Use Areas, and the Licensee will not cause or create any interests in real estate or any encumbrances upon any such real property.

7. **Hold Harmless and Indemnity.** Regardless of insurance coverage, the Licensee will indemnify and hold harmless the City, its officers, agents and employees of the City from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys’ fees and costs arising out of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether concurring or contributory) of the Licensee, or the officers, agents, independent contractors, employees or invitees of the Licensee, arising out of or in connection with, directly or indirectly, the License, or in the use of the Permitted Use Areas. This indemnification provision will survive three (3) years following the termination or expiration of this License.

Nothing contained in this License will be construed as a waiver of any immunity from or limitation of liability the City may have under this doctrine of sovereign immunity or Section 768.28, Florida Statutes.

8. **Insurance.** Licensee agrees to maintain the insurance coverages defined below in accordance with the laws of the State of Florida. The amount of insurance required in this License may be amended from time to time by the City, upon reasonable notice to the Licensee. The City will be named as an additional insured in any comprehensive liability insurance policy required below, and those policies will contain a provision waiving all subrogation rights against the City. Licensee will deliver to the City, upon execution of this License and prior to beginning use of the Permitted Use Areas, for each year thereafter during the term of this License, certified copies of the below policies or a certificate evidencing their existence. In the event a binder is delivered, it will be replaced within ten days by a certified copy of the policy. Each such copy or certificate must contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving ten days’ written notice thereof to the City. Licensee will
deliver to the City, at least fifteen (15) calendar days prior to a policy’s expiration date, a renewal policy, except for any policy expiring on the expiration date of this License.

a. **Comprehensive General Liability Insurance**: Licensee further agrees to execute and deliver to the City at the time of acceptance and execution of this License a comprehensive liability insurance policy, including public liability and property damage, acceptable to and approved by the City, covering the Permitted Use Areas and the operations to be conducted on the Permitted Use Areas including but not limited to, premises operations, products/completed operations, products liability, contractual liability, independent contractors, personal injury and advertising injury and $1,000,000 per occurrence and $2,000,000 general aggregate and $2,000,000 products/completed operation aggregate.

b. **Workman’s Compensation Insurance**: Licensee will maintain adequate workman’s compensation insurance in the amounts as required by law for employees. The limits will be statutory for Worker’s Compensation.

9. **Compliance with Laws.** Licensee agrees to comply with all applicable federal, state and local laws and regulations. Licensee will not discriminate on the basis of race, religion, age, sex, color, disability, sexual orientation, political affiliation, national or ethnic origin, or veteran status.

10. **Termination.** This License is subject to, and the Licensee acknowledges that this License is revocable at will by the City, that it is subject to being withdrawn and terminated by the City at any time, for any reason. The City, in its sole discretion, will have the authority to determine whether to terminate this License, and the Licensee agrees that the City’s discretion in any termination of this License will not be subject to judicial review or challenge, but will be final.

Additionally, the Licensee may terminate this License with 60 days advance written notice to the City if the Licensee’s ice sales are less than 15,000 bags per year, after the first year of this term.

11. **Assignment.** Licensee shall not assign or transfer voluntarily or involuntarily any of its rights, duties or obligations under this Agreement without the express written consent of City.

12. **Construction of License.** The Licensee agrees that in the event of any litigation concerning the construction of this License or the interpretation of any language used in the License, that this License and any of its provisions will be interpreted in favor of the City. No provisions in this License will be construed against the City by virtue of this License having been drafted by the City.
11. **Governing Law.** The terms and provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida and the United States of America, without regard to conflict of law principles. Venue and jurisdiction shall be in Pinellas County, Florida, for all purposes, to which the Parties expressly agree and submit.

13. **Entire Agreement.** The License embodies the entire agreement of the City and the Licensee. There are no promises, terms, conditions, or allegations other than those contained in this License, and this License supersedes all previous communications, representations and/or agreements, whether written or verbal, between the Parties. This License may be modified or revoked at any time, for any reason, by the City, by delivering a copy of any modifications or superseding agreement to the Licensee, at the Licensee’s address provided in this License. The obligations in this License will survive the termination of this License. This License is governed by Florida laws and venue for purposes for any legal action will lie in Pinellas County.

14. **Severability.** If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

15. **Notices.** Any notice or communication which the City may desire to give the Licensee is agreed to as sufficiently rendered or given if the notice is in writing and sent by personal delivery, or via certified mail, return receipt requested, addressed to: Ice Depot Florida, LLC, and/or any agent or employee at 5914 15th Avenue South, Gulfport, Florida 33707, and/or delivered to the Licensee’s Registered Agent. The time of rendition of such notice or communication is the time when the notice is mailed, or personally delivered. Any notice or communication which Licensee may desire to give the City is agreed to as rendered or given if the notice is in writing and sent by certified mail, return receipt requested, addressed to: City Manager, City of Treasure Island, 120 108th Avenue, Treasure Island, FL 33706, and the time of rendition of such notice or communication is the time when the notice is mailed. Either party may provide a change of address notice, and the change of address notice is effective upon receipt.

16. **Public Records.** Licensee agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701, Florida Statutes. Documents which are considered public records under Florida law include, but are not limited to: records related to the entry, management and implementation of the License; emails/correspondence between the City and the Licensee related to the License; emails or correspondence from all other entities related to the License (i.e. suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and all vendor invoices. The Licensee agrees, to the extent required by law, to:

a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the License; and
b. Provide the public with access to the public records under the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided for by law; and

c. Ensure that the public records that are exempt or confidential, and exempt from public record disclosure requirements, are not disclosed, except as authorized by law; and

d. Meet all requirements where retained public records and transfer, at no cost, to the City, all public records in possession of the Licensee, upon termination or completion of the License and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the Licensee agrees that all records stored electronically will be provided to the City in a format that is compatible with the information technology systems of the City. The Licensee will promptly provide the City with a copy of any request to inspect or copy public records that Licensee receives with a copy of the Licensee’s response to each request. The Licensee understands and agrees that failure to provide access to the public records will be material breach of the License and grounds for termination.

IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LICENSE, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

City Clerk, City of Treasure Island
120 108th Avenue
Treasure Island, FL 33706
Tel: (727) 547-4575
Fax: (727) 547-4582
rnickerson@mytreasureisland.org

IN WITNESS WHEREOF, the City Commission of the City of Treasure Island, Florida, has executed this License effective the date first written above.

CITY OF TREASURE ISLAND, FLORIDA
Attest:

By: ___________________________   ____________________________
Garry Brumback, City Manager   Ruth Nickerson, City Clerk
ACKNOWLEDGEMENT OF CONDITIONS

Licensee accepts the grant of the License contained in this License, and agrees to be bound by all terms, conditions and limitations imposed upon the Licensee pursuant to the License.

ICE DEPOSIT FLORIDA, LLC

WITNESSES:

By: ___________________________   ___________________________
Printed Name: ______________________   Printed Name:

As its: ___________________________

_______________________________
Printed Name:

01145727-3
March 30, 2017

Sent by Electronic Mail to: (Chris@theicedepot.com)

Mr. Chris Lemmer
The Ice Depot
818 43rd St S
St. Petersburg, FL 33711

RE: Permit Determination Request
The Ice Depot

Dear Mr. Lemmer:

Reference is made to your inquiry and the March 27, 2017 email correspondence in which you requested information concerning whether an industrial wastewater permit for the operation of automated ice vending machine as described in the above correspondence is required. Based on the information provided by you indicating that the operation of these automated ice vending units does not result in discharges of industrial wastewater, the Industrial Wastewater Program has concluded that an industrial wastewater permit will not be required at this time.

This determination is based on the fact that the activity as described does not constitute a "discharge of wastes" as defined in Chapter 62-620, F.A.C. Specifically, Rule 62-620.200(14), F.A.C., states "discharge of wastes" means the introduction or addition to waters of sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that may pollute or tend to pollute any waters of the State. Activities which do not discharge wastes as defined by Rule 62-620.200(13), F.A.C., but cannot be exempted pursuant to Rule 62-620.300(2), F.A.C., will not require permitting.

The Department is required by law to enforce against violations of water quality standards should we become aware of problems at a particular site. Therefore, it is recommended that the responsible authority of the facility take steps to prevent potential environmental impacts.

Please note that the permit determination does not exempt you from obtaining any other necessary permits from other program areas within our agency. Likewise, this does not exempt you from obtaining any other necessary permits from other local governmental agencies should they be required.

Thank you for your inquiry about the disposal requirements for your activity. Please contact Abel Agosto at abel.agosto@dep.state.fl.us or at 850-245-8603 if you have any questions concerning this matter.
Mr. Chris Lemmer  
Page 2  
March 30, 2017

Sincerely,

Elsa A. Potts

Enclosure  
Fact Sheet

Copies furnished by email to:

Brenda Morris – DOACS (brenda.morris@freshfromflorida.com)
Ed Barranco – DOH (ed.barranco@flhealth.gov)
Tom Kallemeyn, DEP Jacksonville (thomas.kallemeyn@dep.state.fl.us)
Nolin Moon, DEP Ft. Myers (nolin.moon@dep.state.fl.us)
Wanda Parker, DEP Orlando (wanda.parker@dep.state.fl.us)
Cindy Zhang-Torres, DEP Temple Terrace (cindy.zhang-torres@dep.state.fl.us)
Kent Edwards, DEP West Palm Beach (kent.edwards@dep.state.fl.us)
Bill Evans, DEP Pensacola (bill.evans@dep.state.fl.us)
EXHIBIT A

104th Ave

Treasure Island, Florida

Google Street View - Mar 2014

Image capture: Mar 2014 © 2019 Google

https://www.google.com/maps/@27.766553,-82.7687815,3a,26.3y,240.26h,89.16u/data=!3m6!1e1!3m4!1sS70n3jtl0fhWl_hns5HITg%2e01!1o01!t01!d27.766553,-82.7687815!3z0S70n3jtl0fhWl_hns5HITg%2e01!3z0S70n3jtl0fhWl_hns5HITg%2e01
Exhibit B

Attachment: Exhibit B, Ice Machine Wrap (2099 : Ice Depot)
USA Voltage LLC, Electrical Contractors  
11060 70th Avenue, Seminole, FL 33772  
License #: EC13004856

Office Phone #: (727)914-8900

Date: 5/1/2019

<table>
<thead>
<tr>
<th>TYPE OF REQUEST:</th>
<th>SERVICE</th>
<th>PROPOSAL</th>
<th>INVOICE</th>
<th>OTHER</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Customer Information:**
- City of Treasure Island  
  Attn: Cathy Hayduke  
**Project Information:**
- Gulf Front Park at 10400 Gulf Blvd., Treasure Island, FL 33706  
- Beach Pavillion, 8000 West Gulf Blvd., Treasure Island, FL 33706

**Customer Phone Number:** 727-547-4575 Ext.238  
**Customer Email:** chayduke@mytreasureisland.org

**PROJECT INFORMATION:**
- Date Started:  
- Date Completed:  
- PO#: 19-385  
- Regular priority: X  
- Emergency: 

**DESCRIPTION OF ISSUE / SERVICE CALL:**

**Gulf Front Park at 10400 Gulf Blvd:**
- Supply and install 1-30 Amp 240v receptacle at Gulf Front Park. $800.00

**Beach Pavillion at 8000 West Gulf Blvd:**
- Supply and install 1-30 Amp 240v receptacle at Gulf Front Park. $800.00

**TOTAL:** $1,600.00

**REPAIRS COMPLETED (Continued):**

**SERVICE CALL FEE:**  
**LABOR:** $-

**MATERIALS:** $-

**TOTAL COSTS:** $1,600.00

Attachment: USA Voltage Quote Gulf Front and Beach Pavl (2099 : Ice Depot)
DATE: July 5, 2019

TO: Garry Brumback, City Manager

FROM: Stacy Boyles, Asst Director of Public Works

SUBJECT: Award of Contract with Waste Pro of Florida, Inc. for Compactor Services and Execution of three Non-Exclusive License Agreements each with Ricky T's Bar & Grille, VIP Lounge & Mexican Restaurant, and CJ's on the Island for Compactor Services

BACKGROUND
Located in the downtown area, Ricky T's, VIP, and CJ's are lacking the necessary space to provide adequate waste capacity to serve their businesses. As of October 1, 2019, this issue will become more apparent as Public Works plans to eliminate its Sunday waste collection service. To address this issue, the City issued Request for Proposals No. 18-19-15 for a compactor and collection services to be used jointly by the businesses listed above.

POLICY / PURPOSE
The purpose of this item is to request execution of a contract to lease a compactor with associated service rates and to enter into non-exclusive service agreements with three downtown businesses for use of the compactor.

STRATEGIC PLAN RELEVANCE
Goal 4 of the City’s Strategic Plan, Objective 3 is to “support residents, business owners, and visitors alike to be good stewards of our environment”.

ANALYSIS / DISCUSSION
Due to lack of space, Ricky T's and VIP are often in violation of the City’s Recycling and Waste Management Ordinance due to failure to place all of their waste within existing dumpsters with closed lids. The use of a compactor will correct these violations and negate the need for enforcement. Staff also understands that these businesses wish to have recycling services, once the compactor provides them with space to do so. CJ's was included in the compactor agreement because they are currently using City property for their dumpsters without a license agreement, as of yet.
Staff believes that utilizing the procured compactor is in the best interest of the businesses, the public, and the City as it will consolidate waste dumpsters to make the area more aesthetically pleasing and eliminate odorous liquids that are generated from restaurant activities, which will reduce the City’s asphalt maintenance. Sharing the compactor fees keeps the cost reasonable for all involved. Exhibit B of the attached license agreements has a comparison of fees using each businesses’ current waste generation rates with dumpster fees versus the FY2020 compactor fees. The monthly cost of using the compactor with a service frequency of once per week is less expensive for each business.

Proposals were received from two compactor service providers in response to the Compactor Services RFP advertised and due by June 26th, are shown below:

<table>
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<tr>
<th>Base Collection Pricing</th>
<th>1/wk</th>
<th>2/wk</th>
<th>3/wk</th>
<th>4/wk</th>
<th>5/wk</th>
<th>On-demand</th>
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<td>Waste Connections</td>
<td>$345.34</td>
<td>$546.34</td>
<td>$747.34</td>
<td>$948.34</td>
<td>$1,149.34</td>
<td>$200.00</td>
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<td>Waste Pro</td>
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<td>$486.47</td>
<td>$665.09</td>
<td>$843.71</td>
<td>$1,022.33</td>
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<table>
<thead>
<tr>
<th></th>
<th>One Time Delivery Fee</th>
<th>Year 2 Inflator</th>
<th>Year 3 Inflator</th>
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<tbody>
<tr>
<td>Waste Connections</td>
<td>NA</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Waste Pro</td>
<td>$1,800.00</td>
<td>4.62%</td>
<td>4.66%</td>
</tr>
</tbody>
</table>

Waste Pro was selected as the most cost-effective service provider over the 3-year term of the contract with compactor services to begin October 1, 2019. The compactor location can be seen on the map provided in Exhibit A of the attached agreements. A six-foot tall fence will be placed around the compactor and the businesses will be provided with a gate code for secured access.

Site work will be performed to prepare the area for the installation of the compactor, which will not exceed $32,000. The three businesses will reimburse the City in one lump-sum payment or can choose to pay over a three-year period without interest, per the attached agreements. The cost comparison also includes this capital reimbursement to the City over 36 months.

**FUNDING**

The compactor services, if approved, will be added to the proposed FY 2020 budget in both the expenditure and off-setting revenue within the Solid Waste Fund. Additionally, the site improvements will be performed this fiscal year to prepare for compactor service beginning on October 1, 2019 and reimbursements for the site improvements will be included in the projected revenue to the Solid Waste Fund in the coming years.

**RECOMMENDATIONS**

Staff recommends the award of a 3-year contract to Waste Pro of Florida, Inc. for compactor services beginning October 1, 2019.
Staff also recommends, as a companion item to the compactor service, the execution of the three non-exclusive license agreements with each, Ricky T’s Bar & Grille, VIP Lounge & Mexican Restaurant, and CJ’s on the Island for use of the compactor services.

ATTACHMENTS
Non-Exclusive License Agreement with Ricky T’s Bar & Grille
Non-Exclusive License Agreement with VIP Lounge & Mexican Restaurant
Non-Exclusive License Agreement with CJ’s on the Island
Waste Connections Bid
Waste Pro Bid
Waste Pro Compactor Services Contract

MOTION
I move to approve and authorize the award of a 3-year contract to Waste Pro of Florida, Inc. for compactor services beginning October 1, 2019.

I move to approve and authorize the City Manager to execute the Non-Exclusive License Agreements with Ricky T’s Bar & Grille, VIP Lounge & Mexican Restaurant, and CJ’s on the Island for Compactor Services.
NON-EXCLUSIVE LICENSE FOR COMPACTOR SERVICES
BETWEEN
CITY OF TREASURE ISLAND, FLORIDA AND RICKY T’S BAR & GRILLE, LLC

This Non-Exclusive License for Compactor Services (the “Agreement”), is entered into this ___ day of _________________, 2019, by and between CITY OF TREASURE ISLAND (the “City”), a municipal corporation of the State of Florida, having its principal place of business at 120 108th Avenue, Treasure Island, Florida 33706, and RICKY T’s BAR & GRILLE, LLC, a Florida Corporation, authorized to do business in the State of Florida and having its principle place of business at 10601 Gulf Boulevard, Treasure Island, Florida 33706 (the “Customer”), (collectively the “Parties”).

WITNESSETH

WHEREAS, the Customer currently disposes of Commercial Solid Waste, as defined by section 38.03 of the City’s Code of Ordinances, which is collected by the City; and

WHEREAS, the Customer and several neighboring property owners have limited space at their properties to house the appropriate number or size of Containers (as defined by section 38.03 of the City’s Code of Ordinance) or a waste compactor needed for collection of their Commercial Solid Waste, but a nearby City-owned property has sufficient space for a waste compactor; and

WHEREAS, the coordinated shared use of a compactor would enable several neighboring businesses to share in cost savings and free-up space on private and/or City property to allow for recycling containers while increasing the refuse capacity; and

WHEREAS, a compactor will also address liquids control, which will help address environmental concerns of the neighboring area while providing a cost savings to the City from reduced asphalt repair; and

WHEREAS, a compactor will enhance the downtown business area by improving odor control and creating consolidated waste area that will provide for a more aesthetically pleasing environment for customers and residents; and

WHEREAS, the City has performed an evaluation of generated waste volumes for the Customer and several neighboring property owners to determine each ones’ volume of Commercial Solid Waste and used those volume estimates in establishing the size of the compactor and a basis for the proration of the services fees applicable to each participating property owner; and

WHEREAS, based on the City’s findings and Customer’s representations it will begin to recycle, the City estimated the Customer’s volume of Commercial Solid Waste and determined its prorated service fee; and

WHEREAS, based on the City’s evaluation of generated waste volumes and the Customer’s and neighboring parties’ representations and interests in a compactor service, the City
contracted with a third party provider to provide the compactor and its associated waste collection services (the “Compactor Services Contract”); and

WHEREAS, the City is agreeable to allowing Customer a non-exclusive right to use a compactor located on the City-owned property identified in this Agreement; and

WHEREAS, the Parties agree that the City is providing the real property for the compactor and is merely acting as a pass through to the Customer for the costs associated with the Compactor Services Contract; and

WHEREAS, the Parties agree that the compactor service and real property provided by the City is for the good and betterment of the community and in the best interest of the public; and

WHEREAS, it is desirable that the duties and responsibilities of the respective Parties be set forth in a written agreement.

NOW THEREFORE, in consideration of the above recitals and in consideration of the mutual promises made in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and Customer agree as follows:

1. **Recitals.** The recitals contained above are true and correct and form a factual basis for the Parties entering into Agreement.

2. **Permitted Use Area and Permitted Uses.** City grants Customer a non-exclusive right to use the compactor on City-owned property located at 3 Milliken Court, Treasure Island, FL 33706, as depicted in Exhibit “A” (the “Facility”). The Facility serves as the Customer’s Container for Commercial Solid Waste; however, this Agreement in no way authorizes any amendment or relieve any of the Customer’s obligations under Customer’s site plan. Specifically, this Agreement does not authorize Customer to eliminate its existing Container site or use that area for any purpose other than waste disposal and recycling. Should this Agreement be terminated or expire, Customer will be responsible for housing an appropriate sized and number of Containers for Commercial Solid Waste on its property. The City and/or its agents or assigns will provide Customer with collection, management, transportation, and disposal for Customer’s Commercial Solid Waste deposited at the Facility. Customer agrees that all Commercial Solid Waste that is generated, handled and/or collected by Customer shall be disposed of in the Facility, which is provided and collected exclusively by the City and/or its agents or assigns during the Term (hereinafter defined below) of this Agreement. Should the Commercial Solid Waste needs of any of the users of the waste compactor increase or decrease, the City may, at its sole discretion, adjust the size of the compactor accordingly and revise the costs of the provision of the compactor (as depicted in Exhibit B) and its associated services. Customer agrees to comply with all applicable laws and regulations related to the collection and disposal of solid waste including but not limited to Chapter 38 of the City’s Code of Ordinances.

3. **Frequency of Collection.** Commercial Solid Waste collection from the Facility shall be collected once per week, or as provided by the City Manager. The City may determine the observance of any holidays by suspension of collection service on the holiday. In such event,
City will collect Commercial Solid Waste on an otherwise non-scheduled day during the calendar week in which the holiday occurs. Should additional compactor collections be needed in excess of the weekly pickup, City will invoice Customer for the additional pickups.

4. **Term of Agreement.** The initial term of this Agreement shall be thirty-six months (36) months, beginning on October 1, 2019 and terminating September 30, 2022 (the “Initial Term”), unless renewed. In the City’s sole discretion, this Agreement may be renewed for additional two terms of twelve (12) months each (a “Renewal Term”), with notice not less than thirty (30) days prior to the expiration of the Agreement. The “Term” of this Agreement includes the Initial Term and any Renewal Term.

5. **Charges and Payments.** As compensation for the provision of the land and improvements housing the compactor, the compactor, and its collection services, the Customer shall pay the City a Provision Fee and a Service Fee (hereinafter defined below). For the City providing the land, improvements, housing the compactor, and paying a delivery fee, Customer shall pay City a one-time provision fee of an estimated amount not to exceed $16,000. The actual amount to provide the land and improvements housing the compactor will be provided to the Customer in writing by no later than October 1, 2019 (the “Provision Fee”). The Provision Fee is due within 15 days of date of the written notice of the actual amount of the Provision Fee is provided to the Customer; however, the Customer may pay the Provision Fee over the Initial Term at a monthly rate of the actual amount of the Provision Fee divided by thirty six months until the Provision Fee has been paid in full.

For each month of the Term, Customer shall also pay the monthly service rate based on the sum of a once per week collection service, as adopted annually by Resolution of the City Commission, multiplied by the Customer’s allocation of the pass-through cost, the actual tipping fees incurred by the City for the month multiplied by the Customer’s allocation of the pass-through cost, and a 10% administrate fee applied to the Customer’s portion of the collection service (collectively the “Service Fee”). Additionally, if there are any additional compactor related charges, including but not limited to charges for additional collections, damage to the Facility, or blocked access to the Facility, Customer shall pay the City the Customer’s allocation of the pass-through cost for the additional charge. The Customer’s allocation of pass-through costs equals 49%, and is the prorated amount based on the City estimate of the Customer’s volume of Commercial Solid Waste to the total compactor users’ volume of Commercial Solid Waste. This allocation of pass-through is depicted on Exhibit B and is subject to change in accordance with the paragraph entitled Service Fee Adjustments. The City or its designee shall invoice the Customer directly for any additional compactor charges, which will be included in the Customer’s regular bill. For balances not paid within thirty (30) days of the date of the invoice, the City reserves the right to charge a late fee no greater than that allowed by law.

6. **Service Fee Adjustments.** At the City’s sole discretion, the City may adjust the Customer’s allocation of pass-through costs, resulting in an adjusted Customer’s Service Fee. An adjustment to the Customer’s allocation of pass-through costs would be made to account for a change in the operations of the users of the waste compactors that result in impacts to their waste collection, including but not limited to business expansion, business closure, loss of recycling service. The Customer will be provided written notice explaining any adjustment to the Customer’s
allocation of pass-through costs at least 30 days in advance of the adjustment. Additionally, if any user of the compactor fails to contract for recycling service by November 1, 2019, or the recycling collection capacity is insufficient, the City may adjust the size of the compactor, or the frequency of collection, thereby increasing the Service Fee charged to Customer. Any monthly service rate change will occur no more than one time per year and by Resolution of the City Commission. An adjustment to the monthly service rate change is likely to occur if there is a change in the: (1) City’s Compactor Services Contractual rate; (2) uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges and acts of God such as floods, fires, etc. Increases in the Service Fee for reasons other than as provided above require the consent of Customer which shall be evidenced in writing or by the actions and practices of the Parties. Customer shall pay the rates in full within thirty (30) days of receipt of each invoice from City or designee.

7. **Facility Access.** Customer and its employees shall only access the Facility for the sole purpose of offloading the Customer’s Commercial Solid Waste in the manner directed by the City. Customer’s employees are prohibited from using the Facility for their personal waste disposal or any other waste disposal. Customer may not overload, move, or alter the Facility and must use the compactor only for its intended purpose. Customer shall provide unobstructed access to the Facility. If the City is charged by a third party for any service modifications caused by or resulting from Customer’s failure to provide access to the Facility, Customer will pay those additional costs. Customer shall comply with, and shall ensure that its employees comply with, all rules and regulations of the Facility, as amended. City may reject any waste, deny Customer or its employees’ entry to Property, and/or terminate this Agreement in the event of Customer’s or its employees failure to follow Facility rules and regulations or the terms of this Agreement. City shall have perpetual access to and rights to visit, inspect, and conduct waste audits of the Facility.

8. **Security.** During the Term of this Agreement Customer will be issued a key(s) and/or a key code to access the Facility. Customer will sign for each key and each key will be returned to the City when access to that area is no longer authorized, or at the end of the Agreement Term, whichever is applicable. Should the key(s) become lost or stolen, Customer must immediately notify the City. A charge will be assessed for all expenses incurred by the City, including the replacement of locks, lock cores, keys, and other materials necessary to ensure the City’s security level is returned to the same level existing prior to the loss of the key(s). In the event that Customer is provided with a key code to the Facility, Customer may not disclose the key code to anyone other than Customer’s employee(s) or assigns designated to dispose of Customer’s Commercial Solid Waste.

9. **Insurance.** Customer shall obtain and continuously maintain throughout the Term of this Agreement insurance of the kind and in the amounts specified as follows:

A. **The Customer is required, at its own cost and expense, to acquire, maintain, and provide evidence of the minimum insurance policies and limits, and keep specified insurance in force until the City accepts that the Customer has**
satisfactorily completed all work required under the Contract; and cause Subcontractor(s), if utilized, to acquire and maintain the same.

1. The Customer, if selected, will provide the City with a Certificate or Certificates of Insurance showing the existence of coverage as required by the Agreement prior to the start of any work under this Agreement. In addition, the Customer will provide to the City, if requested in writing, certified copies of all policies of insurance. New certificates and new certified copies of policies shall be provided to the City whenever any policy is renewed, revised, or obtained from other insurers. The City of Treasure Island shall be named as the Certificate Holder.

The address where such certificates and certified policies shall be sent or delivered is as follows:
City of Treasure Island
Attention: Purchasing Coordinator
120 108th Avenue
Treasure Island, FL 33706

2. All required policies providing liability coverage(s), other than Professional Liability and Workers’ Compensation policies, for both Customer and Subcontractor(s) shall be endorsed to include The City of Treasure Island as an Additional Insured.

3. The Named Insured on the Certificate of Insurance must match the entity’s name entering this Agreement with the City.

4. Customer shall notify the City within twenty-four (24) hours of receipt of any notice of policy expiration, cancellation, nonrenewal, or adverse material change in the required coverages received by Customer from its insurer.

B. Specific Insurance Coverages and Limits
All requirements in this Insurance Section shall be complied with in full by the Customer unless excused from compliance in writing by the City. The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to the City.

Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the term of this Contract for all employees engaged in this work under this Contract, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:
1. **Workers’ Compensation**: Florida Statutory Requirements

   Employer’s Liability:  
   - $1,000,000 Each Employee
   - $1,000,000 Each Employee Disease
   - $1,000,000 Aggregate Disease

2. **Commercial General Liability Insurance**: The Customer shall provide for all operations, including but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. Projects with a Completed Operations exposure are required to maintain coverage for a period of two (2) years beyond final acceptance by the City.

   - $1,000,000 Per Occurrence
   - $1,000,000 Products/Completed Operations Aggregate
   - $1,000,000 Personal/Advertising Injury
   - $1,000,000 General Aggregate

3. **Property Insurance**: Customer will be responsible for all damage to its own property, equipment, and/or materials.

   C. These insurance requirements shall not limit the liability of the Customer and/or Subcontractor(s).

   D. All policies shall be written on a primary, non-contributory basis.

   E. Insurance Policies, other than Professional Liability, shall include waivers of subrogation in favor of the City.

   F. Companies issuing the insurance policy, or policies, shall have no recourse against the City for payment of premiums or assessments for any deductibles which are all at the sole responsibility and risk of the Customer.

   G. All insurance policies must be placed with insurers duly authorized to do business in the State of Florida and have a current AM Best rating of A- VII or better.

   H. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Customer to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

   I. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage that is required, does not constitute a waiver of the Customer’s obligation to fulfill the insurance requirements specified in this Agreement.

   J. Precaution shall be exercised at all times by the Customer for the protection of all persons, including employees, and property. The Customer shall be expected to comply
with all applicable laws, regulations, or ordinances related to safety and health, and shall make special efforts here appropriate to detect hazardous conditions, and shall take prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped if conditions exist that present immediate danger to persons or property. The Customer acknowledges that such stoppage will not shift responsibility for any damages from the Customer to the City.

K. No Waiver

Neither approval nor failure to disapprove insurance furnished by the Customer or its Subcontractors will relieve the Customer or Subcontractor from responsibility to prove insurance as required.

10. **Hold Harmless and Indemnity and Assumption of Risk.** The Customer shall indemnify and hold harmless the City, its officers, agents and employees of the City from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys’ fees and costs arising out of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether concurring or contributory) of the Customer, or the officers, agents, independent contractors, employees or invitees of the Customer, arising out of or in connection with, directly or indirectly, this Agreement, use of the compactor, or in the use of the Permitted Use Area. Such obligation must not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in the Agreement. This indemnification provision will not be limited to the amount of insurance required by this Agreement.

Nothing contained in this Agreement will be construed as a waiver of any immunity from or limitation of liability the City may have under this doctrine of sovereign immunity or Section 768.28, Florida Statutes. This provision will survive the termination or expiration of this Agreement.

The Customer understands and acknowledges the inherent risks and hazards associated in operating or using a compactor or the Facility. In consideration of the opportunity to operate and use of the compactor and Facility, the Customer hereby RELEASES, WAIVES, DISCHARGES AND COVENANT NOT TO SUE the City, its Commissioners, officers, representatives, agents, and employees (collectively refer to as “Releasees”) from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that Customer and its employees or agents may sustain to its person and/or its property while operating and using the compactor and Facility. Customer agrees that its operation and use of the compactor and Facility is voluntary and it assumes FULL RESPONSIBILITY FOR ANY RISK OF LOSS, PROPERTY DAMAGE OR PERSONAL INJURY, that may be sustained as a result of Customer’s, its employees’ or agents’ operation and use of the compactor and Facility. To the extent Customer provides any Releases of Liability and Acknowledge of Assumption of Risk related to this Agreement, the City must be included.
11. **Termination.** Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time:

A. by the City in the event of Customer’s breach of any term or provision of this Agreement, including failure to pay on a timely basis or within thirty (30) days after written notice of nonpayment from City provided City has given the Customer thirty (30) days written notice of such alleged breach, and Customer failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event that the City terminates the Agreement before the end of the Term due to a breach, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

B. by the City, without Cause, by giving sixty (60) days written notice of such termination to Customer. In the event of such termination, Customer shall have no further obligations under this Agreement. Failure by the City to extend the Term for any Renewal Term shall not be a termination of this Agreement without cause.

C. by the Customer in the event of City’s material breach of any term or provision of this Agreement, provided Customer has given the City thirty (30) days written notice of such alleged breach, and City failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event of such termination, Customer shall have no further obligations under this Agreement.

D. by the Customer, without Cause, by giving sixty (60) days written notice of such termination to the Customer. In the event that Customer terminates the Agreement without cause before the end of a Term, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the Permitted Use and supersedes all prior negotiations, representations or agreements relating thereto, written or oral, except to the extent that they are expressly incorporated in this Agreement. Unless otherwise provided in this Agreement (i.e. paragraph entitled “Service Fee Adjustment”), no amendments, changes, alternations or modifications of this Agreement shall be effective unless in writing signed by each of the Parties.

13. **Severability.** If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
14. **Waiver.** No waiver of any default under this Agreement will constitute or operate as a waiver of any subsequent default of this Agreement, and the failure by either party to exercise any right under this Agreement will not constitute a waiver of that right.

15. **Assignment.** Customer may not assign or transfer voluntarily or involuntarily any of its rights, duties or obligations under this Agreement without the express written consent of the City Commission.

16. **Notice.** All notices required in this Agreement must be in writing and will be considered delivered when received by certified mail, return receipt requested, or personal delivery to the addresses designated for the Parties on the first page of this Agreement.

17. **Governing Law.** The terms and provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida. Venue and jurisdiction shall be in Pinellas County, Florida, for all purposes, to which the Parties expressly agree and submit.

18. **Force Majeure.** Each Party will be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of such prevention to the other Party. Such excuse will be continued so long as the condition constituting force majeure continues. The Party affected by such force majeure also shall notify the other Party of the anticipated duration of such force majeure, any actions being taken to avoid or minimize its effect after such occurrence, and shall take reasonable efforts to remove the condition constituting such force majeure. For purposes of this Agreement, “force majeure” shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, acts of war (whether war be declared or not), labor strike or lock-out, civil commotion, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, hurricane, storm or like catastrophe. The payment of invoices due and owing under this Agreement shall in no event be delayed by the payer because of a force majeure affecting the payer.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts will together constitute the same instrument.
IN WITNESS WHEREOF the Parties have executed the Agreement on the day and date first above written.

CITY OF TREASURE ISLAND, FLORIDA

By: ____________________________
   Garry Brumback, City Manager

Attest:

CITY OF TREASURE ISLAND, FLORIDA

By: ____________________________
   Ruth Nickerson, City Clerk

CUSTOMER: Ricky T’s Bar & Grille, LLC

By: ____________________________
   Printed Name: ____________________________
   As Its ____________________________

WITNESSED:

By: ____________________________
   Printed Name: ____________________________

Printed Name: ____________________________

Printed Name: ____________________________
EXHIBIT B
Waste Capacities & Fee Tables

Current Restaurant Capacities & Average Monthly Amounts Billed

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>36</td>
<td>49%</td>
<td>(2) 3CY @6x/wk</td>
<td>$1,788.48</td>
</tr>
<tr>
<td>VIP</td>
<td>18</td>
<td>24%</td>
<td>(1) 3CY @6x/wk</td>
<td>$894.24</td>
</tr>
<tr>
<td>CJs</td>
<td>20</td>
<td>27%</td>
<td>(1) 3CY + (1) 1CY @5x/wk</td>
<td>$993.60</td>
</tr>
<tr>
<td>Total</td>
<td>74</td>
<td>100%</td>
<td></td>
<td>$3,676.32</td>
</tr>
</tbody>
</table>

Appropriate Capacity Amounts & Associated Collection Charges

<table>
<thead>
<tr>
<th>Business</th>
<th>Actual Weekly Capacity Produced</th>
<th>Appropriate Percentage Distribution</th>
<th>FY2019 Monthly Cost**</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>42</td>
<td>49%</td>
<td>$2,086.56</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling.</td>
</tr>
<tr>
<td>VIP</td>
<td>24</td>
<td>28%</td>
<td>$1,192.32</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling. Amount does not reflect additional capacity needed if VIP expands.</td>
</tr>
<tr>
<td>CJs</td>
<td>20</td>
<td>23%</td>
<td>$993.60</td>
<td>CJ's has adequate capacity today. Recycling is not taken into account because there is no room without leasing additional City property.</td>
</tr>
<tr>
<td>Total</td>
<td>86</td>
<td>100%</td>
<td>$4,272.48</td>
<td></td>
</tr>
</tbody>
</table>

*Current percentage distribution is unequitable because CJ's has appropriate capacity, while Ricky T's and VIP are lacking space needed to provide adequate waste capacity.

**Monthly cost shows what the rates would be under the FY2019 dumpster rate schedule with appropriate capacity.

Proposed Draft Monthly Commercial FY2020 Compactor Rates

<table>
<thead>
<tr>
<th>Business</th>
<th>Percentage Distribution</th>
<th>Provision Fee</th>
<th>Service Fee</th>
<th>Tipping Fee</th>
<th>Admin Fee</th>
<th>TOTAL (Provision &amp; Service Fee)</th>
<th>Est. Compactor Monthly Savings Compared to Appropriate Capacity FY2019 Dumpster Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>49%</td>
<td>$434.11</td>
<td>$651.50</td>
<td>$663.76</td>
<td>$65.15</td>
<td>$1,814.51</td>
<td>$272.05</td>
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<tr>
<td>VIP</td>
<td>28%</td>
<td>$248.06</td>
<td>$372.28</td>
<td>$379.29</td>
<td>$37.23</td>
<td>$1,036.86</td>
<td>$155.46</td>
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<tr>
<td>CJs</td>
<td>23%</td>
<td>$206.72</td>
<td>$310.24</td>
<td>$316.07</td>
<td>$31.02</td>
<td>$864.05</td>
<td>$129.55</td>
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<tr>
<td>Total</td>
<td></td>
<td>$32,000.00</td>
<td>$1,334.02</td>
<td>$1,359.12</td>
<td>$133.40</td>
<td>$3,715.43</td>
<td>$557.05</td>
</tr>
</tbody>
</table>

Notes:
Monthly FY2020 compactor rates are estimated under the following assumptions:
- Full compactor with an average density of 550 lb/CY using FY2020 Pinellas County Landfill tipping fees
- Once weekly collection based on a full compactor capacity of 105 CY
- 10% administrative fee applied to the vendor service
- 36 month payback of site improvements to include concrete, electrical and fencing not to exceed a total of $32,000, which includes a one-time compactor delivery fee of $1,800. After the initial 36 month period, this overhead fee will be discontinued and will reduce the monthly fees by the “Site Improvement” amounts shown in the table above.
NON-EXCLUSIVE LICENSE FOR COMPACTOR SERVICES 
BETWEEN 
CITY OF TREASURE ISLAND, FLORIDA AND VIP LOUNGE & MEXICAN RESTAURANT 

This Non-Exclusive License for Compactor Services (the “Agreement”), is entered into this ____ day of _________________, 2019, by and between CITY OF TREASURE ISLAND (the “City”), a municipal corporation of the State of Florida, having its principal place of business at 120 108th Avenue, Treasure Island, Florida 33706, and VIP LOUNGE & MEXICAN RESTAURANT, a Florida Corporation, authorized to do business in the State of Florida and having its principle place of business at 10625 Gulf Boulevard, Treasure Island, Florida 33706 (the “Customer”), (collectively the “Parties”). 

WITNESSETH 

WHEREAS, the Customer currently disposes of Commercial Solid Waste, as defined by section 38.03 of the City’s Code of Ordinances, which is collected by the City; and 

WHEREAS, the Customer and several neighboring property owners have limited space at their properties to house the appropriate number or size of Containers (as defined by section 38.03 of the City’s Code of Ordinance) or a waste compactor needed for collection of their Commercial Solid Waste, but a nearby City-owned property has sufficient space for a waste compactor; and 

WHEREAS, the coordinated shared use of a compactor would enable several neighboring businesses to share in cost savings and free-up space on private and/or City property to allow for recycling containers while increasing the refuse capacity; and 

WHEREAS, a compactor will also address liquids control, which will help address environmental concerns of the neighboring area while providing a cost savings to the City from reduced asphalt repair; and 

WHEREAS, a compactor will enhance the downtown business area by improving odor control and creating consolidated waste area that will provide for a more aesthetically pleasing environment for customers and residents; and 

WHEREAS, the City has performed an evaluation of generated waste volumes for the Customer and several neighboring property owners to determine each one’s volume of Commercial Solid Waste and used those volume estimates in establishing the size of the compactor and a basis for the proration of the services fees applicable to each participating property owner; and 

WHEREAS, based on the City’s findings and Customer’s representations it will begin to recycle, the City estimated the Customer’s volume of Commercial Solid Waste and determined its prorated service fee; and
WHEREAS, based on the City’s evaluation of generated waste volumes and the Customer’s and neighboring parties’ representations and interests in a compactor service, the City contracted with a third party provider to provide the compactor and its associated waste collection services (the “Compactor Services Contract”); and

WHEREAS, the City is agreeable to allowing Customer a non-exclusive right to use a compactor located on the City-owned property identified in this Agreement; and

WHEREAS, the Parties agree that the City is providing the real property for the compactor and is merely acting as a pass through to the Customer for the costs associated with the Compactor Services Contract; and

WHEREAS, the Parties agree that the compactor service and real property provided by the City is for the good and betterment of the community and in the best interest of the public; and

WHEREAS, it is desirable that the duties and responsibilities of the respective Parties be set forth in a written agreement.

NOW THEREFORE, in consideration of the above recitals and in consideration of the mutual promises made in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and Customer agree as follows:

1. **Recitals.** The recitals contained above are true and correct and form a factual basis for the Parties entering into Agreement.

2. **Permitted Use Area and Permitted Uses.** City grants Customer a non-exclusive right to use the compactor on City-owned property located at 3 Milliken Court, Treasure Island, FL 33706, as depicted in Exhibit “A” (the “Facility”). The Facility serves as the Customer’s Container for Commercial Solid Waste; however, this Agreement in no way authorizes any amendment or relieve any of the Customer’s obligations under Customer’s site plan. Specifically, this Agreement does not authorize Customer to eliminate its existing Container site or use that area for any purpose other than waste disposal and recycling. Should this Agreement be terminated or expire, Customer will be responsible for housing an appropriate sized and number of Containers for Commercial Solid Waste on its property. The City and/or its agents or assigns will provide Customer with collection, management, transportation, and disposal for Customer’s Commercial Solid Waste deposited at the Facility. Customer agrees that all Commercial Solid Waste that is generated, handled and/or collected by Customer shall be disposed of in the Facility, which is provided and collected exclusively by the City and/or its agents or assigns during the Term (hereinafter defined below) of this Agreement. Should the Commercial Solid Waste needs of any of the users of the waste compactor increase or decrease, the City may, at its sole discretion, adjust the size of the compactor accordingly and revise the costs of the provision of the compactor (as depicted in Exhibit B) and its associated services. Customer agrees to comply with all applicable laws and regulations related to the collection and disposal of solid waste including but not limited to Chapter 38 of the City’s Code of Ordinances.
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4. **Term of Agreement.** The initial term of this Agreement shall be thirty-six months (36) months, beginning on October 1, 2019 and terminating September 30, 2022 (the “Initial Term”), unless renewed. In the City’s sole discretion, this Agreement may be renewed for additional two terms of twelve (12) months each (a “Renewal Term”), with notice not less than thirty (30) days prior to the expiration of the Agreement. The “Term” of this Agreement includes the Initial Term and any Renewal Term.

5. **Charges and Payments.** As compensation for the provision of the land and improvements housing the compactor, the compactor, and its collection services, the Customer shall pay the City a Provision Fee and a Service Fee (hereinafter defined below). For the City providing the land, improvements, housing the compactor, and paying a delivery fee, Customer shall pay City a one-time provision fee of an estimated amount not to exceed $9,000. The actual amount to provide the land and improvements housing the compactor will be provided to the Customer in writing by no later than October 1, 2019 (the “Provision Fee”). The Provision Fee is due within 15 days of date of the written notice of the actual amount of the Provision Fee is provided to the Customer; however, the Customer may pay the Provision Fee over the Initial Term at a monthly rate of the actual amount of the Provision Fee divided by thirty six months until the Provision Fee has been paid in full.

    For each month of the Term, Customer shall also pay the monthly service rate based on the sum of a once per week collection service, as adopted annually by Resolution of the City Commission, multiplied by the Customer’s allocation of the pass-through cost, the actual tipping fees incurred by the City for the month multiplied by the Customer’s allocation of the pass-through cost, and a 10% administrate fee applied to the Customer’s portion of the collection service (collectively the “Service Fee”). Additionally, if there are any additional compactor related charges, including but not limited to charges for additional collections, damage to the Facility, or blocked access to the Facility, Customer shall pay the City the Customer’s allocation of the pass-through costs for the additional charge. The Customer’s allocation of pass-through costs equals 28%, and is the prorated amount based on the City estimate of the Customer’s volume of Commercial Solid Waste to the total compactor users’ volume of Commercial Solid Waste. This allocation of pass-through is depicted on Exhibit B and is subject to change in accordance with the paragraph entitled Service Fee Adjustments. The City or its designee shall invoice the Customer directly for any additional compactor charges, which will be included in the Customer’s regular bill. For balances not paid within thirty (30) days of the date of the invoice, the City reserves the right to charge a late fee no greater than that allowed by law.

6. **Service Fee Adjustments.** At the City’s sole discretion, the City may adjust the Customer’s allocation of pass-through costs, resulting in an adjusted Customer’s Service Fee. An adjustment to the Customer’s allocation of pass-through costs would be made to account for a
change in the operations of the users of the waste compactors that result in impacts to their waste
collection, including but not limited to business expansion, business closure, loss of recycling
service. The Customer will be provided written notice explaining any adjustment to the Customer’s
allocation of pass-through costs at least 30 days in advance of the adjustment. Additionally, if
any user of the compactor fails to contract for recycling service by November 1, 2019, or the
recycling collection capacity is insufficient, the City may adjust the size of the compactor, or the
frequency of collection, thereby increasing the Service Fee charged to Customer. Any monthly
service rate change will occur no more than one time per year and by Resolution of the City
Commission. An adjustment to the monthly service rate change is likely to occur if there is a
change in the: (1) City’s Compactor Services Contractual rate; (2) uncontrollable circumstances,
including, without limitation, changes in local, state or federal laws or regulations, imposition of
taxes, fees or surcharges and acts of God such as floods, fires, etc. Increases in the Service Fee
for reasons other than as provided above require the consent of Customer which shall be evidenced
in writing or by the actions and practices of the Parties. Customer shall pay the rates in full within
thirty (30) days of receipt of each invoice from City or designee.

7. **Facility Access.** Customer and its employees shall only access the Facility for the
   sole purpose of offloading the Customer’s Commercial Solid Waste in the manner directed by
   the City. Customer’s employees are prohibited from using the Facility for their personal waste disposal
   or any other waste disposal. Customer may not overload, move, or alter the Facility and must use
   the compactor only for its intended purpose. Customer shall provide unobstructed access to the
   Facility. If the City is charged by a third party for any service modifications caused by or resulting
   from Customer’s failure to provide access to the Facility, Customer will pay those additional costs.
   Customer shall comply with, and shall ensure that its employees comply with, all rules and
   regulations of the Facility, as amended. City may reject any waste, deny Customer or its
   employees’ entry to Property, and/or terminate this Agreement in the event of Customer’s or its
   employees failure to follow Facility rules and regulations or the terms of this Agreement. City
   shall have perpetual access to and rights to visit, inspect, and conduct waste audits of the Facility.

8. **Security.** During the Term of this Agreement Customer will be issued a key(s)
   and/or a key code to access the Facility. Customer will sign for each key and each key will be
   returned to the City when access to that area is no longer authorized, or at the end of the Agreement
   Term, whichever is applicable. Should the key(s) become lost or stolen, Customer must
   immediately notify the City. A charge will be assessed for all expenses incurred by the City,
   including the replacement of locks, lock cores, keys, and other materials necessary to ensure the
   City’s security level is returned to the same level existing prior to the loss of the key(s). In the
   event that Customer is provided with a key code to the Facility, Customer may not disclose the
   key code to anyone other than Customer’s employee(s) or assigns designated to dispose of
   Customer’s Commercial Solid Waste.

9. **Insurance.** Customer shall obtain and continuously maintain throughout the Term
   of this Agreement insurance of the kind and in the amounts specified as follows:
A. The Customer is required, at its own cost and expense, to acquire, maintain, and provide evidence of the minimum insurance policies and limits, and keep specified insurance in force until the City accepts that the Customer has satisfactorily completed all work required under the Contract; and cause Subcontractor(s), if utilized, to acquire and maintain the same.

1. The Customer, if selected, will provide the City with a Certificate or Certificates of Insurance showing the existence of coverage as required by the Agreement prior to the start of any work under this Agreement. In addition, the Customer will provide to the City, if requested in writing, certified copies of all policies of insurance. New certificates and new certified copies of policies shall be provided to the City whenever any policy is renewed, revised, or obtained from other insurers. The City of Treasure Island shall be named as the Certificate Holder.

The address where such certificates and certified policies shall be sent or delivered is as follows:
City of Treasure Island
Attention: Purchasing Coordinator
120 108th Avenue
Treasure Island, FL 33706

2. All required policies providing liability coverage(s), other than Professional Liability and Workers’ Compensation policies, for both Customer and Subcontractor(s) shall be endorsed to include The City of Treasure Island as an Additional Insured.

3. The Named Insured on the Certificate of Insurance must match the entity’s name entering this Agreement with the City.

4. Customer shall notify the City within twenty-four (24) hours of receipt of any notice of policy expiration, cancellation, nonrenewal, or adverse material change in the required coverages received by Customer from its insurer.

B. Specific Insurance Coverages and Limits
All requirements in this Insurance Section shall be complied with in full by the Customer unless excused from compliance in writing by the City. The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to the City.
Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the term of this Contract for all employees engaged in this work under this Contract, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:

1. **Workers’ Compensation:** Florida Statutory Requirements
   - Employer’s Liability: $1,000,000 Each Employee
   - $1,000,000 Each Employee Disease
   - $1,000,000 Aggregate Disease

2. **Commercial General Liability Insurance:** The Customer shall provide for all operations, including but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. Projects with a Completed Operations exposure are required to maintain coverage for a period of two (2) years beyond final acceptance by the City.
   - $1,000,000 Per Occurrence
   - $1,000,000 Products/Completed Operations Aggregate
   - $1,000,000 Personal/Advertising Injury
   - $1,000,000 General Aggregate

3. **Property Insurance:** Customer will be responsible for all damage to its own property, equipment, and/or materials.

C. These insurance requirements shall not limit the liability of the Customer and/or Subcontractor(s).

D. All policies shall be written on a primary, non-contributory basis.

E. Insurance Policies, other than Professional Liability, shall include waivers of subrogation in favor of the City.

F. Companies issuing the insurance policy, or policies, shall have no recourse against the City for payment of premiums or assessments for any deductibles which are all at the sole responsibility and risk of the Customer.

G. All insurance policies must be placed with insurers duly authorized to do business in the State of Florida and have a current AM Best rating of A- VII or better.

H. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Customer to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

I. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage that
is required, does not constitute a waiver of the Customer’s obligation to fulfill the insurance requirements specified in this Agreement.

J. Precaution shall be exercised at all times by the Customer for the protection of all persons, including employees, and property. The Customer shall be expected to comply with all applicable laws, regulations, or ordinances related to safety and health, and shall make special efforts here appropriate to detect hazardous conditions, and shall take prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped if conditions exist that present immediate danger to persons or property. The Customer acknowledges that such stoppage will not shift responsibility for any damages from the Customer to the City.

K. **No Waiver**

Neither approval nor failure to disapprove insurance furnished by the Customer or its Subcontractors will relieve the Customer or Subcontractor from responsibility to prove insurance as required.

10. **Hold Harmless and Indemnity and Assumption of Risk.** The Customer shall indemnify and hold harmless the City, its officers, agents and employees of the City from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys’ fees and costs arising out of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether concurring or contributory) of the Customer, or the officers, agents, independent contractors, employees or invitees of the Customer, arising out of or in connection with, directly or indirectly, this Agreement, use of the compactor, or in the use of the Permitted Use Area. Such obligation must not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in the Agreement. This indemnification provision will not be limited to the amount of insurance required by this Agreement.

Nothing contained in this Agreement will be construed as a waiver of any immunity from or limitation of liability the City may have under this doctrine of sovereign immunity or Section 768.28, Florida Statutes. This provision will survive the termination or expiration of this Agreement.

The Customer understands and acknowledges the inherent risks and hazards associated in operating or using a compactor or the Facility. In consideration of the opportunity to operate and use of the compactor and Facility, the Customer hereby RELEASES, WAIVES, DISCHARGES AND COVENANT NOT TO SUE the City, its Commissioners, officers, representatives, agents, and employees (collectively refer to as “Releasees”) from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that Customer and its employees or agents may sustain to its person and/or its property while operating and using the compactor and Facility. Customer agrees that its operation and use of the compactor and Facility is voluntary and it assumes FULL RESPONSIBILITY FOR ANY RISK OF LOSS, PROPERTY DAMAGE OR PERSONAL INJURY, that may be sustained as a result of Customer’s, its employees’ or agents’ operation and use of the compactor and
Facility. To the extent Customer provides any Releases of Liability and Acknowledge of Assumption of Risk related to this Agreement, the City must be included.

11. **Termination.** Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time:

A. by the City in the event of Customer’s breach of any term or provision of this Agreement, including failure to pay on a timely basis or within thirty (30) days after written notice of nonpayment from City provided City has given the Customer thirty (30) days written notice of such alleged breach, and Customer failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event that the City terminates the Agreement before the end of the Term due to a breach, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

B. by the City, without Cause, by giving sixty (60) days written notice of such termination to Customer. In the event of such termination, Customer shall have no further obligations under this Agreement. Failure by the City to extend the Term for any Renewal Term shall not be a termination of this Agreement without cause.

C. by the Customer in the event of City’s material breach of any term or provision of this Agreement, provided Customer has given the City thirty (30) days written notice of such alleged breach, and City failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event of such termination, Customer shall have no further obligations under this Agreement.

D. by the Customer, without Cause, by giving sixty (60) days written notice of such termination to the Customer. In the event that Customer terminates the Agreement without cause before the end of a Term, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the Permitted Use and supersedes all prior negotiations, representations or agreements relating thereto, written or oral, except to the extent that they are expressly incorporated in this Agreement. Unless otherwise provided in this Agreement (i.e. paragraph entitled “Service Fee Adjustment”), no amendments, changes, alternations or modifications of this Agreement shall be effective unless in writing signed by each of the Parties.

13. **Severability.** If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be
construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

14. **Waiver.** No waiver of any default under this Agreement will constitute or operate as a waiver of any subsequent default of this Agreement, and the failure by either party to exercise any right under this Agreement will not constitute a waiver of that right.

15. **Assignment.** Customer may not assign or transfer voluntarily or involuntarily any of its rights, duties or obligations under this Agreement without the express written consent of the City Commission.

16. **Notice.** All notices required in this Agreement must be in writing and will be considered delivered when received by certified mail, return receipt requested, or personal delivery to the addresses designated for the Parties on the first page of this Agreement.

17. **Governing Law.** The terms and provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida. Venue and jurisdiction shall be in Pinellas County, Florida, for all purposes, to which the Parties expressly agree and submit.

18. **Force Majeure.** Each Party will be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of such prevention to the other Party. Such excuse will be continued so long as the condition constituting force majeure continues. The Party affected by such force majeure also shall notify the other Party of the anticipated duration of such force majeure, any actions being taken to avoid or minimize its effect after such occurrence, and shall take reasonable efforts to remove the condition constituting such force majeure. For purposes of this Agreement, “force majeure” shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, acts of war (whether war be declared or not), labor strike or lock-out, civil commotion, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, hurricane, storm or like catastrophe. The payment of invoices due and owing under this Agreement shall in no event be delayed by the payer because of a force majeure affecting the payer.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts will together constitute the same instrument.
IN WITNESS WHEREOF the Parties have executed the Agreement on the day and date first above written.

CITY OF TREASURE ISLAND, FLORIDA

By: __________________________
Garry Brumback, City Manager

Attest:

Ruth Nickerson, City Clerk

CUSTOMER: VIP Lounge & Mexican Restaurant

By: __________________________
Printed Name: ____________________
As Its __________________________

WITNESSED:

Printed Name: ____________________

Printed Name: ____________________

Printed Name: ____________________
## Current Restaurant Capacities & Average Monthly Amounts Billed

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>36</td>
<td>49%</td>
<td>(2) 3CY @6x/wk</td>
<td>$ 1,788.48</td>
</tr>
<tr>
<td>VIP</td>
<td>18</td>
<td>24%</td>
<td>(1) 3CY @6x/wk</td>
<td>$ 894.24</td>
</tr>
<tr>
<td>CJs</td>
<td>20</td>
<td>27%</td>
<td>(1) 3CY + (1) 1CY @5x/wk</td>
<td>$ 993.60</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>74</strong></td>
<td><strong>100%</strong></td>
<td></td>
<td><strong>$ 3,676.32</strong></td>
</tr>
</tbody>
</table>

*Current percentage distribution is unequitable because CJ’s has appropriate capacity, while Ricky T’s and VIP are lacking space needed to provide adequate waste capacity.

## Appropriate Capacity Amounts & Associated Collection Charges

<table>
<thead>
<tr>
<th>Business</th>
<th>Actual Weekly Capacity Produced</th>
<th>Appropriate Percentage Distribution</th>
<th>FY2019 Monthly Cost**</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T’s</td>
<td>42</td>
<td>49%</td>
<td>$ 2,086.56</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling.</td>
</tr>
<tr>
<td>VIP</td>
<td>24</td>
<td>28%</td>
<td>$ 1,192.32</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling. Amount does not reflect additional capacity needed if VIP expands.</td>
</tr>
<tr>
<td>CJs</td>
<td>20</td>
<td>23%</td>
<td>$ 993.60</td>
<td>CJ’s has adequate capacity today. Recycling is not taken into account because there is no room without leasing additional City property.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>86</strong></td>
<td><strong>100%</strong></td>
<td><strong>$ 4,272.48</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Monthly cost shows what the rates would be under the FY2019 dumpster rate schedule with appropriate capacity.

## Proposed Draft Monthly Commercial FY2020 Compactor Rates

<table>
<thead>
<tr>
<th>Business</th>
<th>Percentage Distribution</th>
<th>Site Improvements</th>
<th>Vendor Service</th>
<th>Tipping Fee</th>
<th>Admin Fee</th>
<th>TOTAL (Provision &amp; Service Fee)</th>
<th>Est. Compactor Monthly Savings Compared to Appropriate Capacity FY2019 Dumpster Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T’s</td>
<td>49%</td>
<td>$ 434.11</td>
<td>$ 651.50</td>
<td>$ 663.76</td>
<td>$ 65.15</td>
<td>$ 1,814.51</td>
<td>$ 272.05</td>
</tr>
<tr>
<td>VIP</td>
<td>28%</td>
<td>$ 248.06</td>
<td>$ 372.28</td>
<td>$ 379.29</td>
<td>$ 37.23</td>
<td>$ 1,036.86</td>
<td>$ 155.46</td>
</tr>
<tr>
<td>CJs</td>
<td>23%</td>
<td>$ 206.72</td>
<td>$ 310.24</td>
<td>$ 316.07</td>
<td>$ 31.02</td>
<td>$ 864.05</td>
<td>$ 129.55</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32,000.00</strong></td>
<td><strong>1,334.02</strong></td>
<td><strong>1,359.12</strong></td>
<td><strong>133.40</strong></td>
<td><strong>3,715.43</strong></td>
<td>$</td>
<td>$ 557.05</td>
</tr>
</tbody>
</table>

**Notes:**

Monthly FY2020 compactor rates are estimated under the following assumptions:

- Full compactor with an average density of 550 lb/CY using FY2020 Pinellas County Landfill tipping fees
- Once weekly collection based on a full compactor capacity of 105 CY
- 10% administrative fee applied to the vendor service
- 36 month payback of site improvements to include concrete, electrical and fencing not to exceed a total of $32,000, which includes a one-time compactor delivery fee of $1,800. After the initial 36 month period, this overhead fee will be discontinued and will reduce the monthly fees by the “Site Improvement” amounts shown in the table above.
NON-EXCLUSIVE LICENSE FOR COMPACTOR SERVICES
BETWEEN
CITY OF TREASURE ISLAND, FLORIDA AND CJ’S ON THE ISLAND, INC.

This Non-Exclusive License for Compactor Services (the “Agreement”), is entered into this ___ day of _________________, 2019, by and between CITY OF TREASURE ISLAND (the “City”), a municipal corporation of the State of Florida, having its principal place of business at 120 108th Avenue, Treasure Island, Florida 33706, and CJ’S ON THE ISLAND, INC., a Florida Corporation, authorized to do business in the State of Florida and having its principle place of business at 115 107th Avenue, Treasure Island, Florida 33706 (the “Customer”), (collectively the “Parties”).

WITNESSETH

WHEREAS, the Customer currently disposes of Commercial Solid Waste, as defined by section 38.03 of the City’s Code of Ordinances, which is collected by the City; and

WHEREAS, the Customer and several neighboring property owners have limited space at their properties to house the appropriate number or size of Containers (as defined by section 38.03 of the City’s Code of Ordinance) or a waste compactor needed for collection of their Commercial Solid Waste, but a nearby City-owned property has sufficient space for a waste compactor; and

WHEREAS, the coordinated shared use of a compactor would enable several neighboring businesses to share in cost savings and free-up space on private and/or City property to allow for recycling containers while increasing the refuse capacity; and

WHEREAS, a compactor will also address liquids control, which will help address environmental concerns of the neighboring area while providing a cost savings to the City from reduced asphalt repair; and

WHEREAS, a compactor will enhance the downtown business area by improving odor control and creating consolidated waste area that will provide for a more aesthetically pleasing environment for customers and residents; and

WHEREAS, the City has performed an evaluation of generated waste volumes for the Customer and several neighboring property owners to determine each ones’ volume of Commercial Solid Waste and used those volume estimates in establishing the size of the compactor and a basis for the proration of the services fees applicable to each participating property owner; and

WHEREAS, based on the City’s findings, the City estimated the Customer’s volume of Commercial Solid Waste and determined its prorated service fee; and

WHEREAS, based on the City’s evaluation of generated waste volumes and the Customer’s and neighboring parties’ representations and interests in a compactor service, the City
contracted with a third party provider to provide the compactor and its associated waste collection services (the “Compactor Services Contract”); and

WHEREAS, the City is agreeable to allowing Customer a non-exclusive right to use a compactor located on the City-owned property identified in this Agreement; and

WHEREAS, the Parties agree that the City is providing the real property for the compactor and is merely acting as a pass through to the Customer for the costs associated with the Compactor Services Contract; and

WHEREAS, the Parties agree that the compactor service and real property provided by the City is for the good and betterment of the community and in the best interest of the public; and

WHEREAS, it is desirable that the duties and responsibilities of the respective Parties be set forth in a written agreement.

NOW THEREFORE, in consideration of the above recitals and in consideration of the mutual promises made in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and Customer agree as follows:

1. **Recitals.** The recitals contained above are true and correct and form a factual basis for the Parties entering into Agreement.

2. **Permitted Use Area and Permitted Uses.** City grants Customer a non-exclusive right to use the compactor on City-owned property located at 3 Milliken Court, Treasure Island, FL 33706, as depicted in Exhibit “A” (the “Facility”). The Facility serves as the Customer’s Container for Commercial Solid Waste; however, this Agreement in no way authorizes any amendment or relieve any of the Customer’s obligations under Customer’s site plan. Specifically, this Agreement does not authorize Customer to eliminate its a Container site or use that area for any purpose other than waste disposal. Should this Agreement be terminated or expire, Customer will be responsible for housing an appropriate sized and number of Containers for Commercial Solid Waste on its property. The City and/or its agents or assigns will provide Customer with collection, management, transportation, and disposal for Customer’s Commercial Solid Waste deposited at the Facility. Customer agrees that all Commercial Solid Waste that is generated, handled and/or collected by Customer shall be disposed of in the Facility, which is provided and collected exclusively by the City and/or its agents or assigns during the Term (hereinafter defined below) of this Agreement. Should the Commercial Solid Waste needs of any of the users of the waste compactor increase or decrease, the City may, at its sole discretion, adjust the size of the compactor accordingly and revise the costs of the provision of the compactor (as depicted in Exhibit B) and its associated services. Customer agrees to comply with all applicable laws and regulations related to the collection and disposal of solid waste including but not limited to Chapter 38 of the City’s Code of Ordinances.

3. **Frequency of Collection.** Commercial Solid Waste collection from the Facility shall be collected once per week, or as provided by the City Manager. The City may determine the observance of any holidays by suspension of collection service on the holiday. In such event,
City will collect Commercial Solid Waste on an otherwise non-scheduled day during the calendar week in which the holiday occurs. Should additional compactor collections be needed in excess of the weekly pickup, City will invoice Customer for the additional pickups.

4. **Term of Agreement.** The initial term of this Agreement shall be thirty-six months (36) months, beginning on October 1, 2019 and terminating September 30, 2022 (the “Initial Term”), unless renewed. In the City’s sole discretion, this Agreement may be renewed for additional two terms of twelve (12) months each (a “Renewal Term”), with notice not less than thirty (30) days prior to the expiration of the Agreement. The “Term” of this Agreement includes the Initial Term and any Renewal Term.

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For each month of the Term, Customer shall also pay the monthly service rate based on the sum of a once per week collection service, as adopted annually by Resolution of the City Commission, multiplied by the Customer’s allocation of the pass-through cost, the actual tipping fees incurred by the City for the month multiplied by the Customer’s allocation of the pass-through cost, and a 10% administrate fee applied to the Customer’s portion of the collection service (collectively the “Service Fee”). Additionally, if there are any additional compactor related charges, including but not limited to charges for additional collections, damage to the Facility, or blocked access to the Facility, Customer shall pay the City the Customer’s allocation of the pass-through cost for the additional charge. The Customer’s allocation of pass-through costs equals 23%, and is the prorated amount based on the City estimate of the Customer’s volume of Commercial Solid Waste to the total compactor users’ volume of Commercial Solid Waste. This allocation of pass-through is depicted on Exhibit B and is subject to change in accordance with the paragraph entitled Service Fee Adjustments. The City or its designee shall invoice the Customer directly for any additional compactor charges, which will be included in the Customer’s regular bill. For balances not paid within thirty (30) days of the date of the invoice, the City reserves the right to charge a late fee no greater than that allowed by law.

6. **Service Fee Adjustments.** At the City’s sole discretion, the City may adjust the Customer’s allocation of pass-through costs, resulting in an adjusted Customer’s Service Fee. An adjustment to the Customer’s allocation of pass-through costs would be made to account for a change in the operations of the users of the waste compactors that result in impacts to their waste collection, including but not limited to business expansion, business closure, loss of recycling service. The Customer will be provided written notice explaining any adjustment to the Customer’s
allocation of pass-through costs at least 30 days in advance of the adjustment. Additionally, if any user of the compactor fails to contract for recycling service by November 1, 2019, or the recycling collection capacity is insufficient, the City may adjust the size of the compactor, or the frequency of collection, thereby increasing the Service Fee charged to Customer. Any monthly service rate change will occur no more than one time per year and by Resolution of the City Commission. An adjustment to the monthly service rate change is likely to occur if there is a change in the: (1) City’s Compactor Services Contractual rate; (2) uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges and acts of God such as floods, fires, etc. Increases in the Service Fee for reasons other than as provided above require the consent of Customer which shall be evidenced in writing or by the actions and practices of the Parties. Customer shall pay the rates in full within thirty (30) days of receipt of each invoice from City or designee.

7. **Facility Access.** Customer and its employees shall only access the Facility for the sole purpose of offloading the Customer’s Commercial Solid Waste in the manner directed by the City. Customer’s employees are prohibited from using the Facility for their personal waste disposal or any other waste disposal. Customer may not overload, move, or alter the Facility and must use the compactor only for its intended purpose. Customer shall provide unobstructed access to the Facility. If the City is charged by a third party for any service modifications caused by or resulting from Customer’s failure to provide access to the Facility, Customer will pay those additional costs. Customer shall comply with, and shall ensure that its employees comply with, all rules and regulations of the Facility, as amended. City may reject any waste, deny Customer or its employees’ entry to Property, and/or terminate this Agreement in the event of Customer’s or its employees’ failure to follow Facility rules and regulations or the terms of this Agreement. City shall have perpetual access to and rights to visit, inspect, and conduct waste audits of the Facility.

8. **Security.** During the Term of this Agreement Customer will be issued a key(s) and/or a key code to access the Facility. Customer will sign for each key and each key will be returned to the City when access to that area is no longer authorized, or at the end of the Agreement Term, whichever is applicable. Should the key(s) become lost or stolen, Customer must immediately notify the City. A charge will be assessed for all expenses incurred by the City, including the replacement of locks, lock cores, keys, and other materials necessary to ensure the City’s security level is returned to the same level existing prior to the loss of the key(s). In the event that Customer is provided with a key code to the Facility, Customer may not disclose the key code to anyone other than Customer’s employee(s) or assigns designated to dispose of Customer’s Commercial Solid Waste.

9. **Insurance.** Customer shall obtain and continuously maintain throughout the Term of this Agreement insurance of the kind and in the amounts specified as follows:

A. **The Customer is required, at its own cost and expense, to acquire, maintain, and provide evidence of the minimum insurance policies and limits, and keep specified insurance in force until the City accepts that the Customer has**
satisfactorily completed all work required under the Contract; and cause Subcontractor(s), if utilized, to acquire and maintain the same.

1. The Customer, if selected, will provide the City with a Certificate or Certificates of Insurance showing the existence of coverage as required by the Agreement prior to the start of any work under this Agreement. In addition, the Customer will provide to the City, if requested in writing, certified copies of all policies of insurance. New certificates and new certified copies of policies shall be provided to the City whenever any policy is renewed, revised, or obtained from other insurers. The City of Treasure Island shall be named as the Certificate Holder.

The address where such certificates and certified policies shall be sent or delivered is as follows:
City of Treasure Island
Attention: Purchasing Coordinator
120 108th Avenue
Treasure Island, FL 33706

2. All required policies providing liability coverage(s), other than Professional Liability and Workers’ Compensation policies, for both Customer and Subcontractor(s) shall be endorsed to include The City of Treasure Island as an Additional Insured.

3. The Named Insured on the Certificate of Insurance must match the entity’s name entering this Agreement with the City.

4. Customer shall notify the City within twenty-four (24) hours of receipt of any notice of policy expiration, cancellation, nonrenewal, or adverse material change in the required coverages received by Customer from its insurer.

B. **Specific Insurance Coverages and Limits**
All requirements in this Insurance Section shall be complied with in full by the Customer unless excused from compliance in writing by the City. The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to the City.

Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the term of this Contract for all employees engaged in this work under this Contract, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:
1. **Workers’ Compensation:** Florida Statutory Requirements  
   **Employer’s Liability:** $1,000,000 Each Employee  
   $1,000,000 Each Employee Disease  
   $1,000,000 Aggregate Disease

2. **Commercial General Liability Insurance:** The Customer shall provide for all operations, including but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. Projects with a Completed Operations exposure are required to maintain coverage for a period of two (2) years beyond final acceptance by the City.  
   $1,000,000 Per Occurrence  
   $1,000,000 Products/Completed Operations Aggregate  
   $1,000,000 Personal/Advertising Injury  
   $1,000,000 General Aggregate

3. **Property Insurance:** Customer will be responsible for all damage to its own property, equipment, and/or materials. 

   C. These insurance requirements shall not limit the liability of the Customer and/or Subcontractor(s).

   D. All policies shall be written on a primary, non-contributory basis.

   E. Insurance Policies, other than Professional Liability, shall include waivers of subrogation in favor of the City.

   F. Companies issuing the insurance policy, or policies, shall have no recourse against the City for payment of premiums or assessments for any deductibles which are all at the sole responsibility and risk of the Customer.

   G. All insurance policies must be placed with insurers duly authorized to do business in the State of Florida and have a current AM Best rating of A- VII or better.

   H. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Customer to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

   I. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage that is required, does not constitute a waiver of the Customer’s obligation to fulfill the insurance requirements specified in this Agreement.

   J. Precaution shall be exercised at all times by the Customer for the protection of all persons, including employees, and property. The Customer shall be expected to comply
with all applicable laws, regulations, or ordinances related to safety and health, and shall make special efforts here appropriate to detect hazardous conditions, and shall take prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped if conditions exist that present immediate danger to persons or property. The Customer acknowledges that such stoppage will not shift responsibility for any damages from the Customer to the City.

K. **No Waiver**

Neither approval nor failure to disapprove insurance furnished by the Customer or its Subcontractors will relieve the Customer or Subcontractor from responsibility to prove insurance as required.

10. **Hold Harmless and Indemnity and Assumption of Risk.** The Customer shall indemnify and hold harmless the City, its officers, agents and employees of the City from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys’ fees and costs arising out of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether concurring or contributory) of the Customer, or the officers, agents, independent contractors, employees or invitees of the Customer, arising out of or in connection with, directly or indirectly, this Agreement, use of the compactor, or in the use of the Permitted Use Area. Such obligation must not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in the Agreement. This indemnification provision will not be limited to the amount of insurance required by this Agreement.

Nothing contained in this Agreement will be construed as a waiver of any immunity from or limitation of liability the City may have under this doctrine of sovereign immunity or Section 768.28, Florida Statutes. This provision will survive the termination or expiration of this Agreement.

The Customer understands and acknowledges the inherent risks and hazards associated in operating or using a compactor or the Facility. In consideration of the opportunity to operate and use of the compactor and Facility, the Customer hereby RELEASES, WAIVES, DISCHARGES AND COVENANT NOT TO SUE the City, its Commissioners, officers, representatives, agents, and employees (collectively refer to as “Releasees”) from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that Customer and its employees or agents may sustain to its person and/or its property while operating and using the compactor and Facility. Customer agrees that its operation and use of the compactor and Facility is voluntary and it assumes FULL RESPONSIBILITY FOR ANY RISK OF LOSS, PROPERTY DAMAGE OR PERSONAL INJURY, that may be sustained as a result of Customer’s, its employees’ or agents’ operation and use of the compactor and Facility. To the extent Customer provides any Releases of Liability and Acknowledge of Assumption of Risk related to this Agreement, the City must be included.
11. **Termination.** Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time:

A. by the City in the event of Customer’s breach of any term or provision of this Agreement, including failure to pay on a timely basis or within thirty (30) days after written notice of nonpayment from City provided City has given the Customer thirty (30) days written notice of such alleged breach, and Customer failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event that the City terminates the Agreement before the end of the Term due to a breach, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

B. by the City, without Cause, by giving sixty (60) days written notice of such termination to Customer. In the event of such termination, Customer shall have no further obligations under this Agreement. Failure by the City to extend the Term for any Renewal Term shall not be a termination of this Agreement without cause.

C. by the Customer in the event of City’s material breach of any term or provision of this Agreement, provided Customer has given the City thirty (30) days written notice of such alleged breach, and City failed to resolve or cure such alleged breach within thirty (30) days after receipt of such written notice. In the event of such termination, Customer shall have no further obligations under this Agreement.

D. by the Customer, without Cause, by giving sixty (60) days written notice of such termination to the Customer. In the event that Customer terminates the Agreement without cause before the end of a Term, Customer shall be responsible for the remaining payments due under the Term, including but not limited to the Provision Fee.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the Permitted Use and supersedes all prior negotiations, representations or agreements relating thereto, written or oral, except to the extent that they are expressly incorporated in this Agreement. Unless otherwise provided in this Agreement (i.e. paragraph entitled “Service Fee Adjustment”), no amendments, changes, alternations or modifications of this Agreement shall be effective unless in writing signed by each of the Parties.

13. **Severability.** If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
14. **Waiver.** No waiver of any default under this Agreement will constitute or operate as a waiver of any subsequent default of this Agreement, and the failure by either party to exercise any right under this Agreement will not constitute a waiver of that right.

15. **Assignment.** Customer may not assign or transfer voluntarily or involuntarily any of its rights, duties or obligations under this Agreement without the express written consent of the City Commission.

16. **Notice.** All notices required in this Agreement must be in writing and will be considered delivered when received by certified mail, return receipt requested, or personal delivery to the addresses designated for the Parties on the first page of this Agreement.

17. **Governing Law.** The terms and provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida. Venue and jurisdiction shall be in Pinellas County, Florida, for all purposes, to which the Parties expressly agree and submit.

18. **Force Majeure.** Each Party will be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of such prevention to the other Party. Such excuse will be continued so long as the condition constituting force majeure continues. The Party affected by such force majeure also shall notify the other Party of the anticipated duration of such force majeure, any actions being taken to avoid or minimize its effect after such occurrence, and shall take reasonable efforts to remove the condition constituting such force majeure. For purposes of this Agreement, “force majeure” shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, acts of war (whether war be declared or not), labor strike or lock-out, civil commotion, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, hurricane, storm or like catastrophe. The payment of invoices due and owing under this Agreement shall in no event be delayed by the payer because of a force majeure affecting the payer.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts will together constitute the same instrument.
IN WITNESS WHEREOF the Parties have executed the Agreement on the day and date first above written.

CITY OF TREASURE ISLAND, FLORIDA

By: ____________________________
Garry Brumback, City Manager

Attest:

Ruth Nickerson, City Clerk

CUSTOMER: CJ’s On the Island, Inc.

By: ____________________________
Printed Name: ____________________
As Its __________________________

WITNESSED:

Printed Name: ____________________

Printed Name: ____________________

Printed Name: ____________________
### Current Restaurant Capacities & Average Monthly Amounts Billed

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>36</td>
<td>49%</td>
<td>(2) 3CY @6x/wk</td>
<td>$1,788.48</td>
</tr>
<tr>
<td>VIP</td>
<td>18</td>
<td>24%</td>
<td>(1) 3CY @6x/wk</td>
<td>$894.24</td>
</tr>
<tr>
<td>CJ's</td>
<td>20</td>
<td>27%</td>
<td>(1) 3CY + (1) 1CY @5x/wk</td>
<td>$993.60</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>74</strong></td>
<td><strong>100%</strong></td>
<td></td>
<td><strong>$3,676.32</strong></td>
</tr>
</tbody>
</table>

### Appropriate Capacity Amounts & Associated Collection Charges

<table>
<thead>
<tr>
<th>Business</th>
<th>Actual Weekly Capacity Produced</th>
<th>Appropriate Percentage Distribution</th>
<th>FY2019 Monthly Cost**</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>42</td>
<td>49%</td>
<td>$2,086.56</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling.</td>
</tr>
<tr>
<td>VIP</td>
<td>24</td>
<td>28%</td>
<td>$1,192.32</td>
<td>Another 2CY dumpster is needed today (adds 12CY/wk). An additional 6CY/wk waste capacity is proposed, assuming 6CY/wk recycled. Will have space to incorporate recycling. Amount does not reflect additional capacity needed if VIP expands.</td>
</tr>
<tr>
<td>CJ's</td>
<td>20</td>
<td>23%</td>
<td>$993.60</td>
<td>CJ's has adequate capacity today. Recycling is not taken into account because there is no room without leasing additional City property.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>86</strong></td>
<td><strong>100%</strong></td>
<td><strong>$4,272.48</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Current percentage distribution is unequitable because CJ's has appropriate capacity, while Ricky T's and VIP are lacking space needed to provide adequate waste capacity.

**Monthly cost shows what the rates would be under the FY2019 dumpster rate schedule with appropriate capacity.

### Proposed Draft Monthly Commercial FY2020 Compactor Rates

<table>
<thead>
<tr>
<th>Business</th>
<th>Percentage Distribution</th>
<th>Provision Fee</th>
<th>Service Fee</th>
<th>TOTAL (Provision &amp; Service Fee)</th>
<th>Est. Compactor Monthly Savings Compared to Appropriate Capacity FY2019 Dumpster Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ricky T's</td>
<td>49%</td>
<td>$434.11</td>
<td>$651.50</td>
<td>$1,814.51</td>
<td>$272.05</td>
</tr>
<tr>
<td>VIP</td>
<td>28%</td>
<td>$248.06</td>
<td>$372.28</td>
<td>$1,036.86</td>
<td>$155.46</td>
</tr>
<tr>
<td>CJ's</td>
<td>23%</td>
<td>$206.72</td>
<td>$310.24</td>
<td>$864.05</td>
<td>$129.55</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32,000.00</strong></td>
<td><strong>$1,334.02</strong></td>
<td><strong>$1,359.12</strong></td>
<td><strong>$3,715.43</strong></td>
<td><strong>$557.05</strong></td>
</tr>
</tbody>
</table>

**Notes:**

Monthly FY2020 compactor rates are estimated under the following assumptions:

- Full compactor with an average density of 550 lb/CY using FY2020 Pinellas County Landfill tipping fees
- Once weekly collection based on a full compactor capacity of 105 CY
- 10% administrative fee applied to the vendor service
- 36 month payback of site improvements to include concrete, electrical and fencing not to exceed a total of $32,000, which includes a one-time compactor delivery fee of $1,800. After the initial 36 month period, this overhead fee will be discontinued and will reduce the monthly fees by the “Site Improvement” amounts shown in the table above.
# WASTE COMPACTOR SERVICES - BID SCHEDULE

## WEEKLY COLLECTION PRICING

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>1x Week</th>
<th>2x Week</th>
<th>3x Week</th>
<th>4x Week</th>
<th>5x Week</th>
<th>&quot;On Demand&quot; Pickup</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Waste Compactor Collector and Service1</td>
<td>$346.34</td>
<td>$546.34</td>
<td>$747.34</td>
<td>$948.34</td>
<td>$1,149.34</td>
<td>$200.00</td>
</tr>
<tr>
<td>2</td>
<td>Initial Installation and Removal at the end of the contract; priced as a lump sum for both, not individually</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Additional Features: please list all features of the compactor that are above and beyond the required features listed in the ITB</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Additional Features - 36 Yard SC, Auto Start, Multi-Cycle Timer, Side Door Hopper, Guides with stops, Pressure Gauge, 3/4 Indicator Light, 3 Phase power-220V, and Safety Interlock

### One-Time Charge

<table>
<thead>
<tr>
<th>Description</th>
<th>Included</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly Collection</td>
<td></td>
</tr>
<tr>
<td>1x Week</td>
<td></td>
</tr>
<tr>
<td>2x Week</td>
<td></td>
</tr>
<tr>
<td>3x Week</td>
<td></td>
</tr>
<tr>
<td>4x Week</td>
<td></td>
</tr>
<tr>
<td>5x Week</td>
<td></td>
</tr>
<tr>
<td>&quot;On Demand&quot; Pickup</td>
<td></td>
</tr>
</tbody>
</table>

### Pickups

- **Weekly Collection**
  - 1x Week: $346.34
  - 2x Week: $546.34
  - 3x Week: $747.34
  - 4x Week: $948.34
  - 5x Week: $1,149.34
  - "On Demand": $200.00

### Primary Collection Day

- Thursday
- Friday
- X: No Preference

### Overall Dimensions, in inches

- **Length**: 282"
- **Width**: 101"
- **Height**: 102"

### Weight: compactor plus estimated full container

- 20,188 lbs.

### Capacity

- 36 CY

### Compactor compression ratio

- 3 : 1

### Annual inflator %

- Year 2: 3%
- Year 3: 3%

## NOTES:

1. Quoted rates to include: lease of the compactor (built as described in the solicitation), waste collection, routine inspection/cleaning/maintenance, emergency inspection/cleaning/maintenance, and any other services requested in the solicitation to be included in the base rate. **This rate MUST EXCLUDE** the per-ton Pinellas County Disposal Fee which will be invoiced to and paid by the City at the adopted rate at the time, and will be considered a direct pass-through cost to the City.

2. Provide the WEEKLY rate for the 1-5 times a week collection schedule. **DO NOT PROVIDE A MONTHLY OR ANNUAL RATE.**

3. The City expects to have a certain number of special pickups that will be required around busy holidays and community events. The "On Demand" rate is the cost to call in a pick-up in excess of the typical weekly collection. Every effort will be made by the City to coordinate these special pick-ups with all due advanced notice to the contractor.

4. The Year 2 and Year 3 inflators will be effective for collections beginning October 1, 2020 and October 1, 2021, respectively.

*Please contact the City's Purchasing Coordinator if you have any issues with this form.*
# WASTE COMPACTOR SERVICES - BID SCHEDULE

## WEEKLY COLLECTION PRICING

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>1x Week</th>
<th>2x Week</th>
<th>3x Week</th>
<th>4x Week</th>
<th>5x Week</th>
<th>&quot;On Demand&quot; Pickup</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Waste Compactor Collector and Service(^1)</td>
<td>$307.85</td>
<td>$486.47</td>
<td>$665.09</td>
<td>$843.71</td>
<td>$1,022.33</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Initial installation and Removal at the end of the contract; priced as a lump sum for both, not individually</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$1,800.00</td>
</tr>
<tr>
<td>3</td>
<td>Additional Features (please list all features of the compactor that are above and beyond the required features listed in the ITB)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Primary Collection Day (select one)</td>
<td>Thursday</td>
<td>Friday</td>
<td>X</td>
<td></td>
<td>No Preference</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Overall Dimensions, in inches</td>
<td>Length</td>
<td>Width</td>
<td>Height</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>278</td>
<td>102</td>
<td>100</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Weight: compactor plus estimated full container</td>
<td></td>
<td></td>
<td></td>
<td>29,450</td>
<td>lbs.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Capacity</td>
<td></td>
<td></td>
<td>35</td>
<td>CY</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Compactor compression ratio</td>
<td>3       : 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**NOTES:**

Quoted rates to include: lease of the compactor (built as described in the solicitation), waste collection, routine Inspection/Cleaning/Maintenance, emergency Inspection/Cleaning/Maintenance, and any other services requested in the solicitation to be included in the base rates. This rate **MUST EXCLUDE** the per-ton Pinellas County Disposal Fee which will be invoiced to and paid by the City at the adopted rate at the time, and will be considered a direct pass-thru cost to the City.

1. **Annual Inflator %**
   - Year 2: 4.62%
   - Year 3: 4.66%

2. Provide the **WEEKLY rate** for the 1-5 times a week collection schedule. **DO NOT provide a monthly or annual rate.**

3. The City expects to have a certain number of special pickups that will be required around busy holidays and community events. The "On Demand" rate is the cost to call in a pick-up in excess of the typical weekly collection. Every effort will be made by the City to coordinate these special pick-ups with all due advanced notice to the contractor.

4. The Year 2 and Year 3 inflators will be effective for collections beginning October 1, 2020 and October 1, 2021, respectively.

*Please contact the City's Purchasing Coordinator if you have any issues with this form.*
CONTRACT BETWEEN

THE CITY OF TREASURE ISLAND

AND Waste Pro of Florida, Inc.

PERTAINING TO

WASTE COMPACTOR SERVICES

RFP 18-19-15

This CONTRACT is made and entered into on the ___ day of ____________, 2019 ("Effective Date"), by and between the City of Treasure Island, a public body politic and municipal corporation organized and existing under the Laws of Florida whose address is: City of Treasure Island, 120 108th Avenue, Treasure Island, Florida, 33706 ("CITY"), and _______ Waste Pro of Florida, Inc. ________, FEIN _______ 59-3701785 ____. ("CONTRACTOR"), collectively (the "PARTIES") who hereby agree as follows:

WITNESSETH

WHEREAS, the CONTRACTOR has submitted a competitive bid for WASTE COMPACTOR SERVICES RFP 18-19-15 as set forth in the attached CONTRACT Documents; and

WHEREAS, the City Commission of the City of Treasure Island has determined that there exists the need for WASTE COMPACTOR SERVICES RFP 18-19-15 in the City of Treasure Island; and

NOW THEREFORE, in consideration of the mutual benefits to the CITY and CONTRACTOR, the following covenants and contracts are set forth to which the parties hereto agree as follows:
SECTION 1. SCOPE OF WORK.
The Scope of Work/Services is specifically identified in RFP 18-19-15.

SECTION 2. TERM.
The initial term of the contract (fabrication) will extend from the effective date until the installation of the compactor at the City's location. The successive terms of the contract (collection and maintenance) shall begin October 1, 2019 and renew annually on that date for a period of three (3) years ending on September 30, 2022. The parties have the option of entering into up to two (2), one-year extensions at future negotiated rates not to exceed 103% of the Year Three prices.

SECTION 3. OBLIGATIONS OF THE CONTRACTOR.
Obligations of the CONTRACTOR include, but are not limited to, the following:

a. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the CITY, and will not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the CITY, or any property owned by the CITY. Such lien, attachment, or encumbrance, until it is removed, will preclude any and all claims or demands for any payment expected by virtue of this Contract.

b. The CONTRACTOR will ensure that all of its employees, agents, subcontractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions in this CONTRACT, when providing services for the CITY in accordance with this CONTRACT.

c. The CONTRACTOR will be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to properly and fully complete the work set forth in the Scope of Work.

d. The CONTRACTOR must maintain an adequate and competent staff, and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the CITY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.
SECTION 4. STANDARD OF CARE.

a. The CONTRACTOR has represented to the CITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Contract, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill and the ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner, consistent with the CITY’S stated Scope of Work and industry standards.

b. The CONTRACTOR covenants and agrees that it and its employees, agents, subcontractors, representatives, volunteers, and the like, will be bound by the same standards of conduct as stated above.

SECTION 5. COMPENSATION.

a. The amount to be paid under this Contract will be based on the prices supplied by the CONTRACTOR in the Bid submittal. The CONTRACTOR agrees to do all the work and furnish all of the materials, and labor necessary to carry out this Contract in the manner and to the full extent as set forth in the Scope of the attached Bid. The CITY will have at all times, full opportunity to inspect the materials to be furnished and/or the Work to be performed under this CONTRACT.

b. Compensation for services completed by the CONTRACTOR will be paid in accordance with Section 218.70, Florida Statutes, and Florida’s Prompt Payment Act.

c. Service to be performed in accordance with this Contract are subject to the annual appropriation of funds by the CITY. In its sole discretion, the CITY reserves the right to forgo use of the CONTRACTOR for any project which may fall within the Scope of Work/Work listed in this CONTRACT. In the event the CITY is not satisfied with the services provided by the CONTRACTOR, the CITY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem.

SECTION 6. TERMINATION AND FORCE MAJEURE

a. Termination. The CONTRACTOR will serve at the pleasure of the City Commission and may be removed. The CITY or CONTRACTOR may terminate this Contract with or
without cause upon thirty (30) days' written notice to all parties. Upon termination of this Contract, however terminated, the CONTRACTOR shall turn over to the CITY all work product completed, or partially completed, up to the date of termination. The CITY will have full right to use such work product in any manner, in the sole discretion of the CITY.

b. Force Majeure. Neither Party to this CONTRACT will be liable for its failure to perform under the Contract due to any circumstances beyond its reasonable control such as act of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONTRACTOR or CITY may suspend its performance under this Contract as a result of Force Majeure without being in default of the CONTRACT, but upon removal of such Force Majeure the CONTRACTOR or CITY will resume its performance as soon as reasonably possible.

SECTION 7. PAYMENT WHEN SERVICES ARE TERMINATED.

a. In the event of termination of this Contract by the CITY, and not due to the fault of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services performed prior to the effective date of termination.

b. In the event of termination of this CONTRACT due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the CITY. All such payments will be subject to an offset for any damages incurred by the CITY resulting from any delay occasioned by early termination. This provision will in no way be construed as the sole remedy available to the CITY in the event of breach by the CONTRACTOR.

SECTION 8. CITY OBLIGATIONS.

At the CONTRACTOR’S request, the CITY agrees to provide, at no cost, all pertinent information known to be available to the CITY to assist the CONTRACTOR in providing and performing the required services.
SECTION 9. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth in this CONTRACT.

SECTION 10. COMPLIANCE WITH ALL LAWS.

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and CITY, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Contract or are adopted at any time following the execution of this Contract.

SECTION 11. SCHEDULE.

The CONTRACTOR agrees to commence work under this CONTRACT in the timeliest and most prudent manner from the date set forth in the CONTRACT issued by the CITY, to comply with all time schedules, and to fully complete the work as described.

SECTION 12. INDEPENDENT CONTRACTOR.

This CONTRACT does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment on the manner and means of carrying out the CONTRACTOR'S activities and responsibilities under this Contract.
SECTION 13. BANKRUPTCY OR INSOLVENCY.
If the CONTRACTOR files a petition in bankruptcy, or if the CONTRACTOR is adjudged bankrupt or insolvent by any court, or if a receiver of the property of the CONTRACTOR is appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment for the benefit of creditors, or proceedings are commenced on or against the CONTRACTOR'S operations, the CITY may terminate this CONTRACT immediately notwithstanding the notice requirements of Section 22 to this Contract.

SECTION 14. CONFLICT OF INTEREST.
The CONTRACTOR warrants that the CONTRACTOR 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 CONTRACT, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For the breach or violation of this Paragraph, the CITY has the right to terminate this CONTRACT immediately, without liability and without regard to the notice requirements of Section 6 hereof.

SECTION 15. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).
In accordance with the State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this CONTRACT is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as-amended) is incorporated in this CONTRACT by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR may choose to verify only new hires assigned to the CONTRACT; (3) use E-Verify to verify the employment eligibility of all employees assigned to the CONTRACT; and
(4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify.

SECTION 16. EQUAL OPPORTUNITY EMPLOYER.
The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services required under this CONTRACT will comply with all equal opportunity employment laws.

SECTION 17. INSURANCE.
The CONTRACTOR shall maintain such insurance as specified in in Section IV General Conditions of RFP 18-19-15, (Insurance Requirements) to protect the CITY from any or all claims for property damage, personal injury, and bodily injury including death, which may arise from operations under this CONTRACT. Certificates of such insurance must be provided to the CITY prior to the CITY issuing the Purchase Order to the CONTRACTOR and will also be subject to its approval for adequacy of protection. The CITY must be named as an additional insured under all policies.

SECTION 18. INDEMNIFICATION.
The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the CITY, caused by the acts or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like. The CONTRACTOR agrees to indemnify, defend and hold the CITY harmless for any and all claims, suits, judgments, or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and reasonable attorney's fees, arising from any and all acts or omissions of the CONTRACTOR, or any of its public officials, employees, agents, sub-contractors, representatives, or volunteers. These indemnification, defense, and hold harmless actions will not be limited by the amount of insurance required in this CONTRACT. CONTRACTOR liability under this indemnification provision includes all attorneys' fees and experts' fees and costs incurred by the CITY in the enforcement of this
indemnification provision. This provision will survive termination or expiration of this CONTRACT.

SECTION 19. SOVEREIGN IMMUNITY.
The CITY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this CONTRACT to the contrary, which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the CITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, will not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this CONTRACT will inure to the benefit of any third party for the purpose of allowing any claim against the CITY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 20. PUBLIC RECORDS.
The CONTRACTOR agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records under Florida law may include, but are not limited to: records related to the entry, management and implementation of this CONTRACT; emails/correspondence between the CITY and the CONTRACTOR related to this CONTRACT; emails or correspondence from all other entities related to this CONTRACT (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and, all vendor invoices. The CONTRACTOR agrees, to the extent required by law, to:

a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the CONTRACT;
b. Provide the public with access to the public records under the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided for by law;
c. Ensure that the public records are exempt or confidential, and exempt from public disclosure requirements, are not disclosed, except as
authorized by law; and

d. Meet all requirements for public records and transfer, at no cost, to the CITY, all
public records in possession of the CONTRACTOR, upon termination or
completion of the CONTRACT and destroy any duplicate public records that are
exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the CONTRACTOR agrees that all records stored electronically must be provided
to the CITY in a format that is compatible with the information technology systems of the CITY.
The CONTRACTOR shall promptly provide the CITY with a copy of any request to inspect or
copy public records that the CONTRACTOR receives and a copy of the CONTRACTOR’S
response to each request. The CONTRACTOR understands and agrees that failure to provide
access to the public records is a material breach of this CONTRACT and grounds for termination.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE
APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE
CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING
TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (727) 547-4575 ext. 229,
nickerson@mytreasureisland.org, and City Hall, 120 108th Ave.,
Treasure Island, FL, 33706.

THE CONTRACTOR ACKNOWLEDGES THAT THE CITY OF TREASURE ISLAND
CANNOT AND WILL NOT PROVIDE LEGAL OR BUSINESS ADVICE TO THE
CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS
SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR
ACKNOWLEDGES THAT IT WILL NOT RELY ON THE CITY OF TREASURE ISLAND
OR ITS CITY ATTORNEY TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE AND
THAT CONTRACTOR HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE
WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS
CONTRACT.

SECTION 21. AUDITING, RECORDS, AND INSPECTIONS.
In the performance of this CONTRACT, the CONTRACTOR shall keep books, records, and
accounts of all activities, related to the CONTRACT, in compliance with generally accepted
accounting procedures. Throughout the term of this CONTRACT, books, records, and
accounts related to the performance of this CONTRACT must be open to inspection during
regular business hours by an authorized representative of the CITY, and must be retained by
the CONTRACTOR for a period of three years after termination or completion of the
CONTRACT, or until the full CITY audit is complete, whichever comes first. The CITY retains
the right to audit the books during the three-year retention period. All books, records, and
accounts related to the performance of this CONTRACT are subject to the applicable
provisions of the Florida Public Records Act, Chapter 119, and Florida Statutes. The CITY
also has the right to conduct an audit within sixty (60) days from the effective date of this
CONTRACT to determine whether the CONTRACTOR has the ability to fulfill its contractual
obligations to the satisfaction of the CITY. The CITY has the right to terminate this
CONTRACT based upon its findings in this audit without regard to the termination provision
set forth in this CONTRACT.

SECTION 22. NOTICE.
All notices required to be given to the CITY or CONTRACTOR under this CONTRACT must
be sent by (a) registered or certified mail, and notice will be deemed to have been given on
the date of acceptance; or (b) delivery (i.e., courier or other hand delivery), overnight delivery,
email or facsimile transmission, and notice will be deemed to have been given on the day of
delivery or transmission. If the day of notice is a Saturday, Sunday, or legal holiday, notice
will be deemed to have been given on the first calendar day thereafter which is not a Saturday,
Sunday, or legal holiday. All notices required to be given to the CITY must be made to the
CITY at:

City of Treasure Island
Attention: Michael Munger, Purchasing Coordinator
120 108th Avenue
Treasure Island, Florida 33706
Phone: (727)-547-4575
Fax: (727)-547-4582
mmunger@mytreasureisland.org

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Or to such other address or facsimile number as the CITY may direct from time to time by written notice forwarded to the CONTRACTOR as provided above.

All notices required to be given to CONTRACTOR in this CONTRACT must be sent to CONTRACTOR at:

Company: Waste Pro of Florida, Inc.
Attention: Keith Banasiak, Regional Vice President
Address: 5170 126th Avenue N, Clearwater, FL 33760
Phone: 239-229-7500
Fax: 
Email: kbanasiak@wasteprousa.com

or to such address or facsimile number as the CONTRACTOR may direct from time to time by written notice forwarded to the CITY as provided above. E-mail transmittal of notices are considered delivered as of the date of electronic transmission. Both parties will supplement emailed notices with a formal version of the notice as outlined above.

SECTION 23. DOCUMENTS CONSTITUTING ENTIRE CONTRACT.
The following documents are hereby incorporated and made part of this Contract:

1. Invitation to Bid Documents for RFP No. 18-19-15.
2. Bid documents submitted by CONTRACTOR as part of their solicitation response.

SECTION 24. MISCELLANEOUS.
i. The laws of the State of Florida govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue will lie in Pinellas County, Florida. THE PARTIES WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM, ARISING OUT OF THIS CONTRACT, WHICH MAY BE BROUGHT BY EITHER OF THE PARTIES.

ii. CONTRACTOR has been made aware Section 287.133, 134 and 135, Florida Statutes, and the CITY'S requirement that the CONTRACTOR has complied with these laws in all respects prior to and will comply with them in all respects during the term of this CONTRACT.

iii. CONTRACTOR and any Subcontractors understand and will comply with Section 20.055(5) of the Florida Statutes and thereby agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to said section.
iv. This CONTRACT is only assignable by the CONTRACTOR upon the express written consent of the CITY.

v. This CONTRACT is binding upon and inures to the benefit of the Parties, their heirs, personal representatives, successors, and assigns.

vi. Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions, or conditions of this CONTRACT, or to exercise any right or option contained in this CONTRACT will not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but the same will remain in full force and effect.

vii. In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this CONTRACT, it is specifically agreed and understood by the Parties that any such purchase order, memorandum, letter, or other instrument is for the CITY's internal purposes only, and any and all terms, provisions, and conditions contained in this CONTRACT, whether printed or written, will in no way modify the covenants, terms, and provisions of this CONTRACT and will have no force or effect on this CONTRACT.

viii. The covenants, terms, and provisions of this CONTRACT may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this CONTRACT and any written Amendment(s) hereto, the provisions of the latest executed instrument will take precedence.

ix. All clauses found in this CONTRACT will act independently of each other. If a clause is found to be illegal or unenforceable, it will have no effect on any other provision of this CONTRACT. It is understood by the Parties that if any part, term, or provision of this CONTRACT is by the courts held to be illegal or in conflict with any law of the State of Florida, or the United States, the validity of the remaining portions or provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the CONTRACT did not contain the particular part, term, or provision held to be invalid.

x. All headings of the sections, exhibits, and attachments contained in this CONTRACT are for the purpose of convenience only and must not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.
xi. The Parties represent and warrant that they have entered into this CONTRACT relying wholly upon their own judgment, belief and knowledge of the nature, extent, effect and duration of any actions, damages and liability therefore. The Parties represent that they enter into this CONTRACT without relying upon any statement or representation of the adverse parties other than what has been set forth in writing in this CONTRACT. The Parties represent that they have had the opportunity to discuss this matter with counsel of their choosing and are satisfied with its counsel and the advice received. The Parties understand this CONTRACT’s contents and this CONTRACT will be construed as resulting from joint negotiation and authorship. No part of this CONTRACT will be construed as the product of any one of the Parties. The Parties further declare and represent that no promise, inducement, agreement or understanding not expressed in this CONTRACT has been made to an adverse party and that the terms of this CONTRACT are contractual and not a mere recital. This CONTRACT will be deemed and treated as drafted jointly by all the Parties, and no term, condition or provision of this CONTRACT will be construed more strictly against any Party.

xii. All words used in this CONTRACT in the singular will extend to and include the plural, and the use of any gender will extend to and include all genders. The term ‘including’ is not limiting.

xiii. Each of the Parties covenants to the other party to this CONTRACT that it has lawful authority to enter into this CONTRACT, that the governing or managing body of each of the Parties has approved this CONTRACT, and that the governing or managing body of each of the Parties has authorized the execution of this CONTRACT in the manner set forth below.

xiv. This CONTRACT must be executed by the respective duly authorized officials, and will take effect as of the day and year first above written.
IN WITNESS WHEREOF, the parties have made and executed this Agreement on the date and year first above written.

As To
CONTRACTOR
Waste Pro of Florida, Inc.

BY: ____________________________
Signature
Tracy Meehan, Municipal Marketing Manager-SW FL
Printed Name

WITNESS:

Signature
Keith Banasiak, Regional Vice President
Printed Name

As To
City Manager:

Signature
City Manager

CITY OF TREASURE ISLAND

ATTEST | City Clerk:

Signature
City Clerk

Signature
Mayor

Approved as to form and sufficiency:

Signature
City Attorney
DATE: June 28, 2019

TO: Garry Brumback, City Manager

FROM: Michael Helfrich, Public Works Director

SUBJECT: Ajax

BACKGROUND

The City of Treasure Island budgets approximately $300,000 per year on roadway improvements. Since January 2017, the City has not had a contract available to provide roadway restoration services. The Public Works Department has researched the possibility of using 3 different contracts the last couple of years. These contracts were not acceptable due to the contracts missing the provision that allows for other municipalities to use them. Because the City could not identify a contract to piggy back off of we decided to develop a Request for Proposal. On April 24, 2019 Public Works advertised the Request for Proposal No.: 18-19-18 - Citywide Roadway Rehabilitation.

On May 30, 2019, two bidders submitted on the Request for Bids. The Request for Bid had two projects that were to be used as “seed” projects:

1. 115th Ave Milling and Paving and
2. Dolphin Drive Road and Drainage Rehabilitation.

The two projects were estimated by the Engineer of Record and both projects, were found to excessively exceed the Engineer’s estimate. In addition, the average unit prices were approximately 200% to 300% higher than the Florida Department of Transportation’s and the Engineer’s estimated average prices. Therefore, the City decided to cancel the RFP and continued our search for a “Piggy Back” contract to utilize.

During the search for a viable “Piggy Back” contract, Ajax Paving Industries, LLC presented the Pasco County Annual Asphalt Pavement Rehabilitation Contract (See Exhibit 1). Staff reviewed the requirements and applied the unit prices to the two “seed” projects to see if the entire projects were in line with our original estimates.
POLICY / PURPOSE
To request authorization for the City for the Execution of a “Piggy Back” Contract to Ajax Paving Industries of Florida, LLC using an Annual Asphalt Pavement Rehabilitation Contract from Pasco County.

STRATEGIC PLAN RELEVANCE
Goal 3 of the City’s Strategic Plan is to: Proactively maintain and improve infrastructure that meets the future needs of the City.

ANALYSIS / DISCUSSION
The Public Works Department provided Ajax with the two “seed” projects:

1. 115th Ave Milling and Paving
2. Dolphin Drive Road and Drainage Rehabilitation.

Ajax provided Public Works with their costs for the two seed projects utilizing the unit prices from the Annual Asphalt Pavement Rehabilitation Contract from Pasco County. The costs are as follows:

1. 115th Ave Milling and Paving $304,173.16
2. Dolphin Drive Road and Drainage Rehabilitation In negotiations

The other projects that are planned under this contract are as follows:

1. City Hall Parking Lot Milling/Paving and Stripping
2. Sidewalk across from St. James Condominium
3. Various Miami Curb Replacements with optional Milling/Paving and Stripping

FUNDING
Funding for this contract is in the following accounts:

1. Penny for Pinellas - 123-5300-63403 $459,030.00 - FY 2019
2. County Gas Tax - 126-4512-63403 $365,345.00 - FY 2019
3. Stormwater - Dolphin Dr. 450-5380-63403 $115,000.00 - FY 2019
4. Stormwater - 450-5380-63000 $423,000.00 - FY 2020
5. Penny for Pinellas - 123-5300-63403 $471,940.00 - FY 2020
6. County Gas Tax - 126-4512-63403 $211,995.00 - FY 2020

No funds from fiscal year 2020 will be used until the budget is approved and after October 1, 2019.

RECOMMENDATIONS
Staff recommends to the Commission to authorize the City Manager to execute a “Piggy Back” Contract to Ajax Paving Industries of Florida, LLC using an Annual Asphalt Pavement Rehabilitation Contract from Pasco County in the total amount of $2,046,310.00.

**ATTACHMENTS**

Exhibit 1 - Ajax Paving Industries, LLC executed Pasco County Annual Asphalt Pavement Rehabilitation Contract.
Exhibit 2 - Ajax Paving Industries, LLC City of Treasure Island “Piggy Back” Contract
Exhibit 3 - 115th Ave Cost from Ajax Paving Industries, LLC

**MOTION**

I move to approve and authorize the City Manager to execute a “Piggy Back” Contract to Ajax Paving Industries of Florida, LLC using an Annual Asphalt Pavement Rehabilitation Contract from Pasco County in the total amount of $2,046,310.00 utilizing this FY 2019 and FY 2020 funds.
March 15, 2019

Ms. Christie Alvaro
Ajax Paving Industries of Florida LLC
One Ajax Drive
North Venice, FL 34275

RE: Bid IFB-ML-19-043 Annual Asphalt Pavement Rehabilitation Program for Paving Assessments & Programmed Maintenance Full Depth Reclamation, Cold Inplace Recycling and Microsurfacing, East Side of US 41
C31 PW19-0067

Dear Ms. Alvaro:

At the Pasco County Board of County Commissioners meeting of March 12, 2019, the above mentioned agenda item was approved. Attached is a copy of the agreement along with a set of bonds for your files.

Any exhibits related to this document can be viewed by visiting the Pasco County Website as follows: go to www.pascocountyfl.net, click on “Transparency” under the “How can we help?” search bar of the home page, click on “Agendas & Minutes,” select the meeting date from the list, click on “Agenda,” click on the agenda item number indicated above, and click on the attachment you wish to view.

If you have any questions, please contact the appropriate department or call (352) 521-4274 or (727) 847-2411.

Sincerely,

Katie McCormick
Records Clerk II
Board Records

Enclosure
PART IV
AGREEMENT

THIS AGREEMENT is made and entered into by and between the BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, hereinafter called COUNTY, and AJAX PAVING INDUSTRIES OF FLORIDA, LLC., hereinafter called the CONTRACTOR, whose business address is ONE AJAX DRIVE, NORTH VENICE FL, 34275:

WITNESSETH THAT:

In consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

1. The CONTRACTOR shall provide to the COUNTY, within the Contract Time, all labor, materials, and appurtenances thereto per the requirements set forth in the Contract Documents for:

2018-2019 ANNUAL ASPHALT PAVEMENT REHABILITATION PROGRAM
FOR PAVING ASSESSMENTS AND PROGRAMMED MAINTENANCE FULL DEPTH RECLAMATION, COLD INPLACE RECYCLING AND MICROSURFACING, EAST SIDE OF US 41

Bid No.: IFB-ML-19-043

2. The Term of this Contract shall begin on date of execution of the Agreement by the Pasco County Board of County Commissioners and continue through September 30, 2019 (the initial Contract Time). This Contract can also be renewed by the COUNTY for up to two (2) additional one (1) year periods at the same terms and conditions upon notice to the CONTRACTOR within ninety (90) days prior to the expiration of the initial Contract Time or any renewal period hereof.

3. **Time is of the essence of this Agreement.** Timely completion of the Work after the issuance of the aforesaid Notice to Proceed is of central importance to the COUNTY. This Project has certain various critical milestones to be met. The Special Conditions detail the Milestone Date(s) to which the CONTRACTOR must strictly adhere.

4. **Liquidated damages shall apply to compensate for delays.** The parties acknowledge and agree that the damages to the COUNTY associated with any delay in completion of the Project are not readily ascertainable as of the time of execution of this Agreement, and concur that the sum of **$2,514.00 per diem** bears a reasonable relationship to the actual damages which the COUNTY would suffer as a consequence of any such delay in completion of the Work. The parties agree that such sums are reasonable and would not constitute a penalty against the CONTRACTOR. In arriving at these sums, consideration has
been given to the public of the use of the project due to delay, the additional administrative costs caused by any delay, higher labor and material costs associated with delay, risks associated with litigation from delay, and other factors. Failure to complete the Work by any Milestone Date(s) set forth in the agreed upon Work Schedule or in this Agreement, up to and including that for Final Completion, therefore, shall entitle the COUNTY to deduct these sums from the Contract Price for each day of delay in meeting each such Milestone Date. The amounts of Liquidated Damages for individual Milestone Dates are additive for each day of delay they are concurrently in effect.

5. This Agreement includes and incorporates by reference all Contract Documents, as the term Contract Documents is defined within Article 1 of the General Conditions found in Conditions of the Contract (Part II).

6. The total Contract Price for the full and complete performance by Contractor of all Work required by the Contract Documents shall not exceed $5,000,000.00, unless otherwise modified as provided herein. Payment shall be made not more often than once per month and in accordance with the Contract Documents.

7. During the performance of this Agreement, the CONTRACTOR herein assures the COUNTY that said CONTRACTOR is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and The Florida Civil Rights Act of 1992 in that the CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, handicap or marital status, discriminate in any form or manner against the employees of the CONTRACTOR or its applicants for employment. The CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this Statement of Assurance. Furthermore, the CONTRACTOR herein assures the COUNTY that said CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964 when any Federal grant is involved. Other applicable Federal and State laws, executive orders and regulations prohibiting the type of discrimination as hereinabove delineated are included by this reference thereto. This Statement of Assurance shall be interpreted to include Vietnam Era Veterans and Disabled Veterans within its protective range of applicability.

8. The CONTRACTOR shall furnish to the COUNTY (when and in the manner required by the Contract Documents) all appropriate Certificates of Insurance, and a Performance Bond and/or Payment Bond for the Contract Price within ten (10) days following Notification of Award.

9. The COUNTY and the CONTRACTOR acknowledge the acceptance from the Bid Proposal (Part III) of the following Alternate(s).

No. ___ N/A __ No. ______ No. ______ No. ______
No. ______ No. ______ No. ______ No. ______
The COUNTY and the CONTRACTOR acknowledge that the corresponding price as shown in the Bid Proposal (Part III) for each accepted Alternate is incorporated in the amount of compensation specified in paragraph 7 above.

10. The COUNTY and the CONTRACTOR acknowledge that all addendums issued with respect to this Project are herein incorporated into the list of Contract Documents listed in Article 1, Part II and made a part of this Agreement.

11. The funding required for this Project is contingent upon the availability of County funds and the appropriation of such funds by the Board of County Commissioners.

12. This Agreement and any changes hereto shall constitute the entire agreement between CONTRACTOR and COUNTY relating to Work. This Agreement supersedes all previous or contemporary representations or warranties of COUNTY or CONTRACTOR not set forth or referenced in the Contract Documents.

13. Except as specifically provided herein, no modification, waiver, termination, rescission, discharge, or cancellation of this Agreement, or of any term thereof, shall be binding on the COUNTY unless in writing and executed by the BOARD.

14. Waiver by the COUNTY of a breach of any provision of this Agreement by the CONTRACTOR shall not be deemed to be a waiver or any other breach and shall not be construed to be a modification of the terms of this Agreement.

15. No modification, waiver, termination, discharge, or cancellation of the Agreement or of any terms thereof shall impair the rights of the COUNTY with respect to any liabilities, whether or not liquidated, of the CONTRACTOR to the COUNTY theretofore accrued.

16. The duties and obligations imposed upon the CONTRACTOR by this Agreement and the rights and remedies available hereunder, shall be in addition, and not limited, to any otherwise imposed or available in law or in equity, whether by statute, special guarantee, or otherwise.

17. The CONTRACTOR shall at all times remain an independent contractor and shall have no power, nor shall the CONTRACTOR represent that the CONTRACTOR has any power, to bind COUNTY or to assume or to create any obligation expressed or implied on behalf of the COUNTY.

18. This Agreement shall be binding upon and its benefits and advantages shall inure to the heirs, personal representatives, successors and assigns of the parties hereto.

19. The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state or local law or regulation, such part, term or provision shall be severable with the remainder of the Agreement remaining valid and enforceable.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 12th day of March, 2019 (bid award date for projects subject thereto).

Paula S. O'Neil, Ph.D.
Clerk & Comptroller

COUNTY: Pasco County, Florida

BY: Ronald E. Oakley
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:

WITNESS 1: Megan Kruse
WITNESS 2: Linda Bailey

(Printed name of signatory) (Printed name of signatory)

Michael A. Horan, President
Authorized Corporate Officer of Individual (Sign Before Two Witnesses and Notary Public)

One Ajax Drive, North Venice FL 34275
(Business Address of Contractor)

(941) 486-3600
(Phone number of Contractor)
ACKNOWLEDGEMENT OF CONTRACTOR
(IF A CORPORATION OR LIMITED LIABILITY COMPANY)

STATE OF Florida
COUNTY OF Sarasota

On this 28th day of February, 2019, before me, the undersigned authority, personally appeared Michael A. Horan, to me known to be the individual described in and who executed the foregoing instrument as the President of Ajax Paving Industries of Florida, LLC, a Florida Limited Liability Corporation, the CONTRACTOR herein, and who severally and duly acknowledged the execution of such instrument as such an officer of the CONTRACTOR, pursuant to the powers conferred upon said officer by the Board of Directors or other appropriate authority of the CONTRACTOR, and who, having knowledge of the several matters stated in said foregoing instrument, certified the same to be true in all respects.

WITNESS my hand and official seal the date aforesaid.

(Signature of Notary Public - State of Florida)
Jamie L. Simmons

(Personal, Type, or Stamp Commissioned Name of Notary Public)

Personally known X or produced identification [check one]

Type of identification produced n/a (Personally Known [describe]).

(NOTARY SEAL)
ACKNOWLEDGEMENT OF CONTRACTOR
(IF A PARTNERSHIP OR AN INDIVIDUAL)

STATE OF ____________________________
COUNTY OF ____________________________

On this __________ day of ____________________________, 20__________,
before me, the undersigned authority, personally appeared ____________________________,
to me known to be the individual described in and who executed the foregoing instrument on behalf of ____________________________,
[name of partnership, sole proprietorship, or individual] as the CONTRACTOR herein, and acknowledged the execution of same, for and on behalf of, and as the act and deed of the aforesaid CONTRACTOR, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.

________________________________________
(Signature of Notary Public - State of Florida)

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

Personally known _____ or produced identification ____ [check one]
Type of identification produced ____________________________
[describe].

(NO TARY SEAL)
PART II

EXHIBIT B

PAYMENT BOND FORM

Name of Contractor: Ajax Paving Industries of Florida, LLC.

Principal Business Address: 

One Ajax Drive

North Venice, FL 34275

Telephone: (941) 486-3600

Facsimile: (941) 486-3500

Name of Surety: Liberty Mutual Insurance Company

Principal Business Address:

175 Berkeley Street

Boston, MA 02116

Telephone: (617) 519-1400

Facsimile: (617) 519-1401

Obligee of Property Being Improved:

Pasco County Board of County Commissioners
Attn: Purchasing Department
Internal Services Building
7536 State Street, Suite 221
New Port Richey, Florida 34654
Telephone No. (727) 847 - 8194

PYB - 1
Contracting Public Entity (if different from Owner): (N/A)

Contract Number Assigned by Public Entity (BOCC No.):

(Bid No.): IFB-ML-19-043

Description of Project (including if applicable, a legal description and the street address of the property being improved and a general description of the improvement):

[ ] See Attachment ("Legal Description")

2018-2019 ANNUAL ASPHALT PAVEMENT REHABILITATION PROGRAM FOR PAVING

ASSESSMENTS AND PROGRAMMED MAINTENANCE (FULL DEPTH RECLAMATION, COLD INPLACE RECYCLING AND MICRO SURFACING) EAST SIDE OF US 41.
I. KNOW ALL PERSONS BY THESE PRESENTS: That Ajax Paving Industries of Florida, LLC., as Principal, whose address is One Ajax Drive, North Venice, FL 34275, and Liberty Mutual Insurance Company, as Surety, whose address is 175 Berkeley Street, Boston, MA 02116, are held and firmly bound unto the Board of County Commissioners, Pasco County, Florida, as Obligee in the sum of $5,000,000.00, for the payment whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

II. WHEREAS, the Principal has entered into a contract with Obligee, dated the day of _____________, 20__, for Bid No. IFB-ML-19-043 in accordance with drawings and specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

III. A. NOW THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Shall promptly make payments to all claimants as defined in section 255.05(1), Florida Statutes, supplying the Principal with labor, materials, or supplies, as used directly or indirectly by the Principal in the prosecution of the work provided for in the Contract; and

2. Shall pay the Obligee for all losses, damages, expenses, costs, and attorney's fees, including those resulting from appellate proceedings, that the Obligee sustains because of a default by the Principal in contravention to the Contract in regard to payment for such labor, materials, or supplies furnished to the Principal; then this Bond is void; otherwise, this Bond remains in full force and effect.

B. BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the Obligee of any extension of time for the performance of the said Contract, or any other forbearance on the part of the Obligee or Principal to the other, shall not in any way release the Principal and the Surety, or either or any of them, their heirs, their personal representatives, their successors or their assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.

2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in section 255.05, Florida Statutes, and as otherwise provided by law.

PYB - 3
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to section 255.05, Florida Statutes.

THIS BOND IS DATED THIS ___ day of ____________________, 20__ (the date of issue by the Surety or by the Surety's agent and the date of such agent's power-of-attorney).

ATTEST:

[Signatures]

Witness

Witness

PRINCIPAL: Ajax Paving Industries of Florida, LLC

BY: ____________________________ (SEAL)

Authorized Signature (Principal)

Michael A. Henn

Printed Name

PRESIDENT

Title of Person Signing Above

-OR-

BY: ____________________________ (SEAL)

As Attorney in Fact (Attach Power)

Printed Name

One Ajax Drive, North Venice, FL 34275

Business Address

(941) 486-3600

Business Telephone
STATE OF Florida ss.
COUNTY OF Sarasota

On this 28th day of February, 2019, before me, the undersigned authority, personally appeared Michael Myers, to me known to be the individual described in and who executed the foregoing instrument as a member of the firm of Picking Haines, Inc. (if applicable) and acknowledged the execution of same, for and on behalf of and as the act and deed of said firm, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.

(Signature of Notary Public - State of Florida)

(Personally known __ or produced identification __)

(Type of identification produced ______________________________)

(NOTARY SEAL)

SURETY: Liberty Mutual Insurance Company

Printed Name

175 Berkeley Street

Business Address

Boston, MA 02116

Witness ___________ BY: ____________________________ (SEAL)

Witness ___________________ Printed Name ___________
Attachment: Exhibit 1 - Executed Contract (2095 : Ajax)

COUNTERSIGNED (if applicable):

N/A
Signed

Agent's License No Telephone

PYB - 6
STATE OF Michigan } ss.
COUNTY OF Oakland } ss.

On this 25th day of February, 2019, before me, the undersigned authority, personally appeared Anne Barick, to me known to be the individual described in and who executed the foregoing instrument as a member of the firm of Liberty Mutual Insurance Company (if applicable) and acknowledged the execution of same, for and on behalf of and as the act and deed of said firm, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.

(Signature of Notary Public - State of Michigan)

Holly Nichols
(Print, Type, or Stamp Commissioned Name)

Personally known X 
or produced identification ___

Type of identification produced N/A

(NOTARY SEAL) HOLLY NICHOLS NOTARY PUBLIC, STATE OF MI COUNTY OF MACOMB My Commission Expires Dec. 26, 2022 Acting in the County of OAKLAND
PART II

EXHIBIT A

PUBLIC CONSTRUCTION BOND

Name of Contractor: Ajax Paving Industries of Florida, LLC.

Principal Business Address: One Ajax Drive
North Venice, FL 34275

Telephone: (941) 486-3800
Facsimile: (941) 486-3500

Name of Surety: Liberty Mutual Insurance Company

Principal Business Address: 175 Berkeley Street
Boston, MA 02116

Telephone: (248) 519-1400
Facsimile: (248) 519-1401

Owner of Property Being Improved:

Pasco County Board of County Commissioners
Attn: Purchasing Department
Internal Services Building
7536 State Street, Suite 221
New Port Richey, Florida 34654
Telephone No. (727) 847 – 8194

PFB - 1
Contracting Public Entity (if different from Owner): (N/A)

Contract Number Assigned by Public Entity (BOCC No.): 

(Bid No.): IFB-ML-19-043

Description of Project (including if applicable, a legal description and the street address of the property being improved and a general description of the improvement):

[ ] See Attachment ("Legal Description")

PUBLIC CONSTRUCTION BOND

BY THIS BOND, We Ajax Paving Industries of Florida, LLC, as Principal and Liberty Mutual Insurance Company, a corporation, as Surety, are bound to Pasco County, herein called Owner, in the sum of $5,000,000.00, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated Bid No. IFB-ML-19-043, between Principal and Owner for construction of Bid No. IFB-ML-19-043, (hereinafter the "Contract"), the Contract being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and

2. Promptly makes payment to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials or supplies used directly or indirectly by Principal in the prosecution of the work provided for in the Contract; and

3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract; and

4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the Contract documents (including extension of time, alternatives or additions to the terms of the Contract or specifications referred to within), and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond, and it does hereby waive notice of any such changes, extension of time, alterations or additions to the terms of the Contract or to work or to the specifications.
THIS BOND IS DATED THIS ___ day of ________________, 20___ (the date of issue by the Surety or by the Surety's agent and the date of such agent's power-of-attorney).

ATTEST:  

PRIINCIPAL: Ajax Paving Industries of Florida, LLC.  

BY:  

Authorized Signature (Principal)  

PRINTED NAME  

President  

BY: (SEAL)  

As Attorney in Fact (Attach Power)  

Witness  

Printed Name  

Business Address  

Business Telephone  

STATE OF  

COUNTY OF  

On this ___ day of ________________, 20___, before me, the undersigned authority, personally appeared ________________, to me known to be the individual described in and who executed the foregoing instrument as a member of the firm of ________________, (if applicable) and acknowledged the execution of same, for and on behalf of and as the act and deed of said firm, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.

(Personal Name)  

(Print, Type, or Stamp Commissioned Name)  

Personally known ___ or produced identification ___  

Type of identification produced ________________________  

(Notary Seal)
ATTEST:  

SURETY: Liberty Mutual Insurance Company  
Printed Name  
175 Berkeley Street  
Business Address  
Boston, MA 02116  

Witness  
Witness  
Witness  
Witness  

BY:  
Authorized Signature  
Printed Name  
-OR-  
Anne Barick  
Printed Name  
W383658  
License Number of Agent  

COUNTERSIGNED (if applicable):  
N/A  
Signed  
Agent's License No  
Telephone  

Guy Hurley, LLC  
Agency Name  
1089 Kirts Blvd., Suite 500, Troy, MI 48084  
Agency Mailing Address  
(248) 519-1400  
Agency Telephone No.  
(248) 519-1401  
Agency Fax No.  

PFB - 5
STATE OF Michigan } ss.
COUNTY OF Oakland } ss.

On this 25th day of February, 2019, before me, the undersigned authority, personally appeared Anne Barick, to me known to be the individual described in and who executed the foregoing instrument as a member of the firm of Liberty Mutual Insurance Company (if applicable) and acknowledged the execution of same, for and on behalf of and as the act and deed of said firm, for the uses and purposes therein expressed.

WITNESS my hand and official seal the date aforesaid.

(Signature of Notary Public - State of Michigan)

Holly Nichols
(Print, Type, or Stamp Commissioned Name)

Personally known X
or produced identification __

Type of identification produced N/A

(NOTARY SEAL)

HOLLY NICHOLS
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
My Commission Expires Dec. 26, 2022
Acting in the County of OAKLAND
This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8198063-013068

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Nicholas Ashburn; Anne Barick; Robert D. Heuer; Paul M. Hurley; Michael D. Lechner; Mark Madden; Richard S. McGregor; Itoly Nicholls; Jason Rogers

all of the city of Troy state of MI each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 30th day of November, 2018.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey, Assistant Secretary

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:


Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.


Any officer of the Company authorized for that purpose in writing by the Chairman or the President, and subject to such limitations as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary.

Certificate of Designation - The President of the Company, acting pursuant to the By-laws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this ___ day of __________, ______.

By:

Renee C. Llewellyn, Assistant Secretary
PART III

BID PROPOSAL

PROJECT NAME: 2018-2019 ANNUAL ASPHALT PAVEMENT REHABILITATION PROGRAM FOR PAVING ASSESSMENTS AND PROGRAMMED MAINTENANCE FULL DEPTH RECLAMATION, COLD INPLACE RECYCLING AND MICRO SURFACING, EAST SIDE OF US 41

By signing this Bid Proposal, the undersigned affirms that said Bid Proposal is made without any understanding, agreement, or connection with any other person, firm or corporation providing a Bid Proposal for the same purpose, and that this Bid Proposal is in all respects fair, and without collusion or fraud. The undersigned understands that this Bid Proposal must be signed to avoid rejection by Pasco County (hereinafter the “COUNTY”).

IN EXECUTING THIS DOCUMENT, THE UNDERSIGNED REPRESENTS THAT THE BIDDER ACCEPTS THE TERMS, CONDITIONS, MANDATES, AND OTHER PROVISIONS OF THE ASSOCIATED INSTRUCTIONS TO BIDDERS (PART I), THE CONDITIONS OF CONTRACT (PART II), AND THE AGREEMENT (PART IV), SAID DOCUMENTS AND THEIR RESPECTIVE EXHIBITS AND ATTACHMENTS BEING THE SOLE BASIS UPON WHICH THE BIDDER MAKES THIS PROPOSAL.

***USE BLUE OR BLACK INK***

ALL THE FOLLOWING REQUESTED INFORMATION MUST BE GIVEN FOR THIS BID PROPOSAL TO BE CONSIDERED BY PASCO COUNTY:

BP - 1
1. **Bid Price.** Note that this sum represents the total of the prices shown in the following Bid Schedule (page(s) BP 8 - 17). Should the BIDDER make any errors in determining a line item total or in the summation of the line item totals in said Bid Schedule, upon discovery of the errors, the correct multiplication and/or sum, will be used by the County in determining the Bid Price of a BIDDER; provided, however, the COUNTY shall not be liable for any failure to discover such errors:

$$7,529,429.10$$
(DO NOT LEAVE BLANK)

2. **Indemnification** (in accordance with Article 6.5 of the General Conditions):

$$100.00$$

3. **Total Bid Price** (add the dollar amounts stated in the above lines.)

$$7,529,529.10$$
(DO NOT LEAVE BLANK)

4. **Allowances**

   A. **Allowance Work** in accordance with Article 21 of the General Conditions.

   $$298,600.00$$
(FOR COUNTY USE ONLY)

   B. **Other Allowances**

   $$N/A$$

5. **Alternates** (none)

6. **Final Total Bid Price**: 

$$7,828,129.10$$

*The dollar amounts shown herein are to be utilized by the COUNTY as a guide to selecting the best qualified low BIDDER. The actual total compensation paid BIDDER for the project described in these Contract Documents may vary from the amount stated herein due to adjustments in pay quantity/quantities resulting from changes in item quantity/quantities, and/or adjustments in pay quantity/quantities as otherwise permitted by these Contract Documents.*

7. **BIDDER** acknowledges that included in the various items of the proposal, and in the Total Bid Price as indicated above, are costs for complying with the Florida Trench Safety Act.
BID NO. IFB-ML-19-043

The BIDDER further identifies the cost to be $56,000 [IMPORTANT: this blank to be filled in by the BIDDER]. This cost is itemized in the Florida Trench Safety Act Certification and Disclosure Statement that is included in this proposal as Exhibit B. It is a MANDATORY REQUIREMENT that the Disclosure Statement be submitted with a bid.

8. The Total Bid Price quoted above represents the Bid Proposal of the BIDDER, exclusive of consideration of Reserves for Specified Allowances and of the Alternate(s) listed in any accompanying Alternative Bid Schedule. Pasco County may select one or more of any said Alternate(s) relative to determining the lowest and best bid proposal. The Final Total Bid Price will be computed by Pasco County to reflect all Reserves for Allowances, as well as the addition or deletion of any Alternate(s) selected by the COUNTY. Where an Alternative Bid Schedule is provided, A FAILURE TO SUBMIT A PRICE FOR EACH ALTERNATE WILL RESULT IN REJECTION OF THE BID AS NONRESPONSIVE.

9. Receipt of Addendum No. 1 through No. 3 is acknowledged.

10. Legal name of the BIDDER: Ajax Paving Industries of Florida, LLC.

   (Designate with name, in typed or printed form, whether corporation, limited liability company, partnership, individual, or other type of legally recognized entity or person; if not a natural person, designate also the state or country of incorporation or other legal establishment, as applicable)

   All fictitious names or aliases: None

11. Local (to New Port Richey, Florida) business and mailing address of the BIDDER:

   One Ajax Drive, North Venice, FL 34275

12. Primary business and mailing address of the BIDDER:

   One Ajax Drive, North Venice, FL 34275

   Contractor License No. CGC1516738

   Federal Employer Identification Number (FEIN): 26-1871966

13. Business phone number of the BIDDER: (941) 4863600; Fax: (941) 4863500.
14. The BIDDER has been operating under the present trade name continuously since:
   February 1, 2008

15. The BIDDER represents by execution of this document below that the BIDDER
    understands all the requirements associated with this Bid, that this is a serious Bid, and
    that the BIDDER will comply fully with all the stipulations included in the Bid Package.

The above-named BIDDER affirms and declares:

A. That the BIDDER, if an individual, is of lawful age, and that no other person, firm or
   corporation has any interest in this Proposal, or in the contract proposed hereby, except as expressly stated below (if none, so state):
   None

B. That this Proposal is made without any understanding, agreement, or connection
   with any other person, firm or corporation making a Proposal for the same purpose,
   and is in all respects fair and without collusion or fraud except as expressly stated
   below:

C. That the BIDDER is not in arrears to the COUNTY upon debt or contract and is not a
   defaulter, as surety or otherwise, upon any obligation to the COUNTY except as
   expressly stated below:

D. That no officer or employee or person whose salary is payable in whole or in part
   from the Treasury of the COUNTY is, shall be or shall become interested, directly or
   indirectly, as surety or otherwise in this Proposal, in the performance of this Contract,
   in the supplies, materials, equipment, and work or labor to which they relate, or in
   any portion of the profits thereof.

E. That the BIDDER has received and carefully examined all Addenda issued prior to
   Bid Opening.

F. That the BIDDER has carefully examined the site of the Work and that, based alone
   upon investigations by the BIDDER, the BIDDER is fully satisfied as to: (1) the
   nature and location of the Work; (2) the location of all existing utilities, whether above
   or below the surface; (3) all subsurface conditions; (4) the character, quality and
   quantity of all materials needed for the performance of the Work; (5) the kind and
   extent of the equipment, labor and other resources or facilities needed for the
   performance of the Work; (6) the general and local conditions, as well as all
   difficulties that may be encountered, including but not limited to weather conditions;
   and (7) all other items which may in any way affect or impact the Work or its
   performance.

G. That the BIDDER or any officer of the BIDDER has not been found guilty of a public
   entity crime or is on the convicted vendor list as set forth in Sections 287.132 and
   287.133, F.S.
H. If claiming Local Vendor Preference, the Offeror certifies that they satisfy each of the following criteria at the time of their submission of a response to the solicitation necessary to qualify as a "Local Business": a) a vendor, supplier, or contractor who does business in Pasco County by providing goods, services, or construction; and b) maintains a physical business address located within the jurisdictional limits of Pasco County in an area zoned for the conduct of such business; and c) which the vendor, supplier or contractor operates or performs business on a daily basis; and d) has for at least twelve (12) months prior to the bid or proposal opening date; and (e) provides a copy of their local business tax receipt or evidence of qualification as a business in a neighboring county as listed in the County's Purchasing Ordinance at the time of submittal. Post office boxes shall not be used for the purpose of establishing said physical address.

Please put an "X" in the applicable box or mark N/A

Local Business located in Pasco County

Note: If claiming Local Vendor Preference, a valid Local Business Tax Receipt must be provided at the time the response is submitted in order to qualify for such consideration.

The individual executing this document, under penalty of perjury, represents that he or she is either the BIDDER, or that he or she is of lawful age and has been duly AUTHORIZED to execute this document on behalf of the BIDDER.

IN WITNESS WHEREOF, this Bid Proposal has been signed and sealed as of the date indicated below by the BIDDER.

ATTEST.

Witness Jamie L. Simmons

Witness Ginger Johnson

BIDDER:

By: Christie Alvaro

(Date signed)

Asst. Corp. Secretary

(Date signed)

THIS PROPOSAL MUST BE SWORN TO OR
AFFIRMED BELOW BY THE PERSON SIGNING IT
(see following pages)
BID NO. IFB-ML-19-043

ACKNOWLEDGEMENT OF BIDDER
(IF A CORPORATION OR A LIMITED LIABILITY COMPANY)

STATE OF _____________}  
COUNTY OF ______________}  

On this _____________ day of ______________, 2019__, before me, the undersigned authority, personally appeared ____________, to me known to be the individual described in and who executed the foregoing instrument as ____________, of ________________, [check one] corporation limited liability company organized under the laws of ________________, and who severally and duly acknowledged the execution of such instrument as such an officer aforesaid, for and on behalf of and as the act and deed of said entity, pursuant to the powers conferred upon said officer by the Board of Directors or other appropriate authority of said entity, and who, having knowledge of the several matters stated in said foregoing instrument, certified the same to be true in all respects.

WITNESS my hand and official seal the date aforesaid.

[Signature of Notary Public - State of Florida]

[Print, Type, or Stamp Commissioned Name]

[NOTARY SEAL]
ACKNOWLEDGEMENT OF BIDDER
(IF A PARTNERSHIP, LIMITED PARTNERSHIP, OR INDIVIDUAL)

STATE OF __________________________

COUNTY OF _________________________

On this __________ day of ________________, 20______, before me, the undersigned authority, personally appeared ____________________________, to me known to be the individual described in and who executed the foregoing instrument for the uses and purposes therein expressed [check one]:

[ ] for himself/herself alone.

[ ] as a member of the firm of ______________________________ (if applicable) and acknowledged the execution of same, for and on behalf of and as the act and deed of said firm.

WITNESS my hand and official seal the date aforesaid.

______________________________
(Signature of Notary Public - State of Florida)

______________________________
(Print, Type, or Stamp Commissionered Name)

Personally known _____
or produced identification _____

Type of identification produced _____________________________

(NOTARY SEAL)
## BID SCHEDULE SUBMITTED BY: Ajax Paving Industries of Florida, LLC.

### FY 2018 - 2019 ANNUAL PAVEMENT REHABILITATION
**PROGRAM FOR PAVING ASSESSMENT AND PROGRAMMED MAINTENANCE**
Full Depth Reclamation, Cold In Place Recycling and Microsurfacing
EAST SIDE OF U.S. 41 (2nd REVISION)

**BID No.: IFB-ML-19-043**

**FROM:** Ajax Paving Industries of Florida, LLC  
**DATE:** January 4, 2019

**TO:** PASCO COUNTY PURCHASING DEPT.  
7536 STATE STREET, SUITE 221  
NEW PORT RICHEY, FL 34654 5598

### BID SCHEDULE

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<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
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<tbody>
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<td>102-99</td>
<td>Temporary Portable Changeable Message Sign: As required by the approved MOT plan. This line item NOT intended to cover the cost for the use of a MB for “public notification purposes”, as required by the Special Conditions, SP 7; Advance Resident Notification</td>
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<td>102-14</td>
<td>Temporary Traffic Control Officer/Law Enforcement Officer to Handle Traffic throughout Signalized Intersections) (This line item will be for two (2) law enforcement officers (LEOS) per hour)</td>
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<thead>
<tr>
<th>ITEM NO.</th>
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Packet Pg. 151
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**Vehicle Detection System**

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### Traffic Monitoring Site Equipment and Materials

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### Striping: Permanent and Temporary

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<td>702-11-221</td>
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<td>1</td>
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<td>706-1-42</td>
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<td>LF</td>
<td>$1.25</td>
<td>$1,250.00</td>
</tr>
<tr>
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<td>$2,100.00</td>
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<td>LF</td>
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<td>$1,025.00</td>
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<td>LF</td>
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<td>BID VALUE</td>
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<tr>
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<td>500</td>
<td>SF</td>
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<td>$2,625.00</td>
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<td>5,000</td>
<td>LF</td>
<td>$ 0.55</td>
<td>$2,750.00</td>
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<td>LF</td>
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<td>LF</td>
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<td>$2,375.00</td>
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<td>$1,055.00</td>
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<td>LF</td>
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</table>
2.6.a

Attachment: Exhibit 1 - Executed Contract (2095 : Ajax)

711-12-224 Thermoplastic, Refurbishment, Yellow, Solid, 18" 1.700 LF $ 3.15 $ 5,355.00
711-12-231 Thermoplastic, Refurbishment, Yellow, Skip, 6" 8 GM $ 685.00 $ 5,480.00
711-12-251 Thermoplastic, Refurbishment, Yellow, Dotted/Guideline/6-10 Gap Extension, 6" 150 LF $ 1.05 $ 157.50
711-17 Thermoplastic, Remove 19.500 SF $ 0.75 $ 14,625.00
713-101-124 Preformed Tape Remove (Temporary Marking Tapes) 4" and 6" 1,000 LF $ 1.05 $ 1,050.00
713-101-126 Preformed Tape, Standard, White, Solid 24" 1.250 LF $ 16.85 $ 21,106.00
713-101-160 Preformed Tape, Standard, White, Message 5 EA $ 31.00 $ 155.00
713-101-170 Preformed Tape, Standard, White, Arrows 6 EA $ 132.00 $ 792.00
713-101-180 Preformed Tape, Standard, White, Yield Line 25 LF $ 21.00 $ 525.00
713-102-111 Preformed Tape, High Performance, White, Solid, 6" 1 NM $ 15,000.00 $ 15,000.00
713-102-131 Preformed Tape, High Performance, White, Skip, 6" 1 GM $ 7,000.00 $ 7,000.00
713-102-151 Preformed Tape, High Performance, Yellow, Solid, 6" 250 LF $ 7.00 $ 1,750.00
713-102-211 Preformed Tape, High Performance, Yellow, Solid, 6" 1 NM $ 15,000.00 $ 15,000.00
713-102-231 Preformed Tape, High Performance, Yellow, Skip, 6" 1 GM $ 8,000.00 $ 8,000.00
713-102-251 Preformed Tape, High Performance, Yellow, DOT/guideline/6-10 Gap Ext. 6" 250 LF $ 7.00 $ 1,750.00
713-105-533 Preformed Tape, High Performance, White, Skip w/Black Contrast 6" 1 GM $ 20,000.00 $ 20,000.00
713-107 Preformed Tape, Remove 1,000 SF $ 2.00 $ 2,000.00

Pavement Rehabilitation

2501-1 Crack Sealing 1 LF $ 10.00 $ 10.00
2502-1 Microsurfacing (Single) 5.750 SY $ 2.40 $ 13,425.00
2502-2 Microsurfacing (Double) 3.750 SY $ 3.20 $ 12,125.00
2503 Asphalt Rejuvenation (Petroleum Base) 1 SY $ 3.00 $ 3.00

Traffic Calming

Contractor is instructed to refer to the Traffic Calming installation detail

TC-1 12" Solid stripe thermoplastic white (Table Marking) 8 LF $ 55.00 $ 440.00
TC-2 12" Solid stripe thermoplastic white (Advance Marking) 36 LF $ 55.00 $ 1,980.00
TC-3 30"x30" Warning Sign 1 EA $ 500.00 $ 500.00
TC-4 18"x18" Speed Plate 1 EA $ 150.00 $ 150.00
TC-5 36" U-Channel post with two OM2 Object Markers 1 EA $ 300.00 $ 300.00
TC-6 Asphalt Cushion 12FT - 24' Wide Road/2 per installation 1 Set $ 4,000.00 $ 4,000.00

Bonds & Insurance

1000-1 Indemnification 1 LS $ 100.00 $ 100.00
1000-2 Bonds & Insurance 1 LS $ 20,000.00 $ 20,000.00

TOTAL BID PRICE = $7,529,429.10

LS=Lump Sum, LF=Linear Feet, EA=Each, CY=Cubic Yard, SY=Square Yard, TON=Ton, GM=Gross Mile, NM=Net Mile
HR=Hour, LB=Pound and GA Gallons, AS=Assembled
ALL ITEMS ARE TO BE FURNISHED AND INSTALLED UNLESS OTHERWISE NOTED.
TOTAL BID PRICE - INDICATES TOTAL BID PRICE HERE.

7529.489.10
PASCO COUNTY, FLORIDA

FLORIDA TRENCH SAFETY ACT
CERTIFICATION AND DISCLOSURE STATEMENT (MANDATORY)

The undersigned acknowledges the requirements of the Florida Trench Safety Act and hereby certifies that the undersigned is an authorized representative of the bidder and in that capacity commits the bidder to the following in the performance of the work in the event that the subject contract is awarded to and executed by said bidder.

1. The bidder acknowledges the Florida Trench Safety Act and the requirements established herein.

2. The bidder further acknowledges that the aforementioned Act established the Federal excavation safety standards set forth at 29 CFR Part 1926.650, Subpart P as the interim State standard until such time as the State of Florida, through its Department of Labor and Employment Security, or any successor agency, adopts, updates or reviews said interim standard. This State of Florida standard may be supplemented by special shoring requirements established by the State of Florida or any of its political subdivisions.

3. The bidder, as Contractor, shall comply with all applicable excavation/trench safety standards.

4. The Contractor shall consider the geotechnical information available from the County, its own sources and all other relevant information in its design of the trench safety system it will employ on the subject project. The Contractor acknowledges that it is solely responsible for the selection of the data on which it relies in designing said safety system, as well as for the system itself.

5. The amount the bidder has set forth in Item 7 of page BP-3 includes the following excavation/trench safety measures and the linear feet of trench excavated under each safety measure. These units, cost and the unit prices inferred shall be disclosed solely for the purpose of compliance with the procedural requirements of the aforementioned Act. No adjustment to the Contract Time or Price shall be made for any difference in the number of linear feet of trench excavation, except as may otherwise be provided in these Contract Documents.
<table>
<thead>
<tr>
<th>Trench Safety Measure (Description)</th>
<th>Unit (Qty)</th>
<th>Unit of Measure (LF,SY)</th>
<th>Unit Cost</th>
<th>Extended Cost</th>
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<td>B.</td>
<td></td>
<td>$2.00</td>
<td>$56.00</td>
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</tr>
<tr>
<td>C.</td>
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<td>$56.00</td>
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<td>TOTAL</td>
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</table>

6. This amount disclosed as the cost of compliance with the applicable trench safety requirement does not constitute the extent of the Contractor's obligation to comply with said standards. Contractor shall expend additional sums, at no additional cost to the County (except as may otherwise be provided), which are necessary to so comply.

7. Acceptance of the bid to which this certification and disclosure applies in no way represents that the County or its representatives has evaluated and thereby determined that the above costs are adequate to comply with the applicable trench safety requirements nor does it in any way relieve the bidder, as Contractor, of its sole responsibility to comply with the applicable trench safety requirements.

Authorized Signature: Christie Alvarado
Typed name of Contractor: Ajax Paving Industries of Florida, LLC.
Date: January 4, 2019
PART III

EXHIBIT C

CONFLICT OF INTEREST DISCLOSURE
(MANDATORY)

The award hereunder is subject to provisions of Chapter 112, Florida Statutes. All BIDDERS must disclose with their Bid Proposal the name of any officer, director, or agent who is also an employee of Pasco County, Florida. Further, all BIDDERS must disclose the name of any Pasco County employee who owns, directly or indirectly, an interest of ten (10) percent or more in the BIDDER'S firm or any of its branches.

<table>
<thead>
<tr>
<th>Name</th>
<th>Conflict</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
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</tbody>
</table>

The undersigned, under penalty of perjury, claiming authority to act for the BIDDER named below, does hereby certify on behalf of the BIDDER that this Bid Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Bid Proposal for the same WORK, MATERIALS, supplies, or EQUIPMENT; that it is in all respects fair and without collusion or fraud; and that the BIDDER agrees to abide by all conditions of this Bid Proposal.

Ajax Paving Industries of Florida, LLC.
Name of BIDDER

By: Christie Alvaro
Name: Christie Alvaro
Title: Asst. Corp. Secretary
Date: January 4, 2019
PART III

EXHIBIT D

DRUG-FREE WORKPLACE CERTIFICATION

In case of tie Bid Proposals, preference must be given to vendors submitting a certification with their Bid Proposal certifying that they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. This drug-free certification form must be signed and returned with your Bid Proposal.

The undersigned, under penalty of perjury, claims to have authority to, and does hereby certify on behalf of the BIDDER named below, in accordance with Florida Statute 287.087, that:

Ajax Paving Industries of Florida, LLC.

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 business’ policy of maintaining a drug-free workplace, and available drug counseling, rehabilitation, and employee-assistance programs, and the penalties that may be imposed upon employees for drug-abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under BID, a copy of the statement specified in Subsection (1).

4. In the statement specified in Subsection (1), notify the employees that as a condition of working on the commodities or contractual services pursuant to competitive bidding, the employee will abide by the terms of the statement, and will notify the employer of any conviction, plea of guilty, or nolo contendere to any violation of Chapter 893, Florida Statutes, or of any controlled-substance law of the United States or any state for violation occurring in the workplace no later than five (5) days after such conviction.

DFWC-1
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 so convicted.

6. Make a good-faith effort to continue to maintain a drug-free workplace through implementation of this certification.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Ajax Paving Industries of Florida, LLC.
Name of BIDDER

By:  
Name: Christie Alvaro
Title: Asst. Corp. Secretary
Date: January 4, 2019
CORPORATE SUBSTANCE ABUSE PROGRAM

STATEMENT OF POLICY

This Company has a legal responsibility to comply with the United States Department of Transportation's (US DOT) regulations regarding the testing of Company employees. To accomplish that end, the Company cannot condone and will not tolerate any of the following behaviors by its employees:

A. Use of illicit drugs.
B. Abuse of legal drugs (prescription or over-the-counter).
C. Abuse of alcohol.
D. Sale, purchase, transfer or use or possession of illegal drugs or prescription drugs obtained illegally.
E. Arrival for work under the influence of drugs or alcohol.

Should any of the above mentioned behaviors be detected, the Company will terminate the employee.

The testing of an employee's urine for drugs is an effective means to identify those in need of treatment or disciplinary action. However, the urine testing program is intended to supplement, not replace, other means of drug or alcohol detection.

Michael A. Horan
President
PART III

EXHIBIT E

CERTIFICATION OF UNDERSTANDING
(NPDES AND PPCP)

On behalf of the BIDDER named below, I am authorized, and do hereby certify, under penalty of perjury, that I understand the terms and conditions of the General National Pollutant Discharge Elimination System (NPDES) Permit that authorizes the storm water discharge activity from the construction site identified as part of this certification.

Furthermore, I am authorized, and hereby certify, that the BIDDER will hold the COUNTY harmless for any and all violations of the General NPDES Permit conditions and the Storm Water Pollution Prevention Control Plan in connection with this Project.

Ajax Paving Industries of Florida, LLC.
Name of BIDDER

By: Christie Alvaro
Name: Christie Alvaro
Title: Asst. Corp. Secretary
Date: January 4, 2019
BID NO. IFB-ML-19-043

State of Florida  
County of Sarasota  

The foregoing Certification of Understanding was sworn to and subscribed or affirmed before me this ___ day of January 4, 2019.

Personally known ___X___ -OR- Produced identification n/a Type: n/a (personally known)

Notary Public - State of Florida

Daniel Sardella  FF 219684

(Print, typed, or stamped commissioned name of notary public)

My commission expires 04/12/19

CU-2
CONTRACT BETWEEN
THE CITY OF TREASURE ISLAND
AND AJAX PAVING INDUSTRIES of FLORIDA, LLC.
PERTAINING TO
ROADWAY REHABILITATION and RESURFACING

CONTRACT NUMBER 18-19-18

This Contract is made and entered into on the ____ day of __________, 20_______ ("Effective Date"), by and between the City of Treasure Island, a public body politic and corporate and organized and existing under the Laws of Florida whose address is: City of Treasure Island, 120 108th Avenue, Treasure Island, Florida, 33706 ("CITY"), and AJAX PAVING INDUSTRIES of FLORIDA, LLC., whose address is 1 Ajax Drive North Venice, FL 34275 ("CONTRACTOR"), collectively (the "Parties") who hereby agree as follows:

WITNESSETH

WHEREAS, the CONTRACTOR has submitted a competitive proposal for Annual Asphalt Pavement Program to Pasco County, FL in response to IFB-ML-19-043 and subsequently entered into a contract dated March 12, 2019 with Pasco County, FL, as set forth in Exhibit A, the attached Contract Documents;

WHEREAS, the CONTRACTOR agreed to make available to the CITY the prices submitted should the CITY desire to buy under the terms and conditions of the Pasco County, FL Contract;

WHEREAS, the City Commission of the City of Treasure Island has determined that there exists the need for ROADWAY REHABILITATION and RESURFACING in the City of Treasure Island and the City Commission desires to procure those services under the Pasco County, FL Contract; and

NOW THEREFORE, in consideration of the mutual benefits to the CITY and CONTRACTOR, the following covenants are set forth, which the parties hereto agree as follows:
1. **RECITALS.** The Recitals are true and correct and are incorporated herein.

2. **SCOPE OF WORK.** The Scope of Work is identified in the ______________ Pasco County, FL ______________ Contract, and the CONTRACTOR’s scope of work with the CITY more specifically defined in Exhibit B attached hereto and incorporated herein.

3. **CONTRACT TERMS.**
   a. The Contract will consist of and include all of the agreement terms and conditions and component documents comprising the ______________ Pasco County, FL ______________ Contract. With exception of references to public entity ______________ Pasco County, FL ______________, manuals, procedures, policies or departments, when the “______________ Pasco County, FL ______________” is mentioned in the ______________ Pasco County, FL ______________ Contract, per this Contract “____________ Pasco County, FL ______________” should be replaced with “CITY.”
   b. CONTRACTOR agrees to furnish all labor, equipment, machine and the skill necessary for the entire work effort as set forth in the ______________ Pasco County, FL ______________ Contract to the satisfaction of the CITY or its duly authorized representative.
   c. The CITY agrees to pay the CONTRACTOR for services rendered in accordance with the primary structure set forth in the ______________ Pasco County, FL ______________ Contract and more particularly described in Exhibit B.
   d. Pursuant to Section 6 of the ______________ Pasco County, FL ______________ Contract, invoices for City Work will be submitted to:

      The City of Treasure Island  
      Attention: Michael Munger, Purchasing Coordinator  
      120 108th Avenue  
      Treasure Island, Florida 33706  
      Phone: (727)-547-4575  
      Fax: (727)-547-4582  
      mmunger@mytreasureisland.org  

   or to such other address or facsimile number as the CITY may direct from time to time by written notice forwarded to the CONTRACTOR as provided above. All notices required to be given to CONTRACTOR under this Contract will be sent to CONTRACTOR at the address first listed in this Contract or such other address as the CONTRACTOR may direct from time to time by written notice forwarded to the CITY as provided above.

4. The CONTRACTOR agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to section 119.0701 of the Florida Statutes. The CONTRACTOR agrees, to the extent required by law,
to keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the Contract;

a. provide the public with access to the public records under the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided for by law;

b. ensure that the public records that are exempt or confidential, and exempt from public record disclosure requirements, are not disclosed, except as authorized by law; and

c. meet all requirements where retained public records and transfer, at no cost, to the CITY, all public records in possession of the CONTRACTOR, upon termination or completion of the Contract and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the CONTRACTOR agrees that all records stored electronically will be provided to the CITY in a format that is compatible with the information technology systems of the CITY. The CONTRACTOR shall promptly provide the CITY with a copy of any request to inspect or copy public records that CONTRACTOR receives and a copy of the CONTRACTOR’s response to each request. The CONTRACTOR understands and agrees that failure to provide access to the public records will be a material breach of the Contract.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (727) 547-4575 ext. 229, rnickerson@mytreasureisland.org, and City Hall, 120 108th Ave., Treasure Island, FL, 33706.

16. Miscellaneous

a. Entire Agreement. This Contract represents the entire agreement. No prior discussions or negotiations will be enforceable, unless included in this Contract.

b. Assignment; Amendment or Modification. This Contract is not assignable. Any modification to this Contract must be made in writing, executed by both Parties.

c. Governing Law; Effective Date. This Contract will be governed and construed in accordance with the laws of the laws of the State of Florida. Each Party consents to the jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the above identified venue of any such civil
action or legal proceeding in such court. This provision will survive completion or termination of this Contract.

d. Nothing in this Contract will be interpreted as a waiver by the CITY of its rights, including the limitations of the waiver of immunity, as set forth in Section 768.28, Florida Statutes, or any other statutes, and the CITY expressly reserves these rights to the full extent allowed by law. This provision will survive completion or termination of this Contract.

e. It is understood and agreed by the Parties that if any part, term or provision of this Contract is held to be illegal or in conflict with any law, the validity of the remaining portions or provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the particular part, term or provision held to be invalid.

f. The Parties represent and warrant that they have entered into this Contract relying wholly upon their own judgment, belief and knowledge of the nature, extent, effect and duration of any actions, damages and liability. The Parties represent that they have had the opportunity to discuss this matter with legal counsel of their choosing and are satisfied with its counsel and the advice received. This Contract will be deemed and treated as drafted jointly by all the Parties. The Parties understand this Contract's contents and agree that this Contract will not be construed more strongly against any Party to the Contract, regardless of who is responsible for its preparation or drafting. The Parties further declare and represent that no promise, inducement, agreement or understanding not expressed in this Contract has been made to an adverse party and that the terms of this Contract are contractual and not a mere recital.

g. All words used in this Contract in the singular will extend to and include the plural, and the use of any gender will extend to and include all genders. The term "including" is not limiting. The captions and headings in this Contract are for convenience of reference only and in no way define or limit the scope or content of this Contract or in any way affect its provisions.

h. Each of the Parties to this Contract covenants to the other Party to this Contract that it has lawful authority to enter into this Contract, that the governing or managing body of each of the Parties has approved this Contract and that the governing or managing body of each of the Parties has authorized the execution of this Contract in the manner set forth below.

i. This Contract must be executed by the respective duly authorized officials, and will take effect as of the day and year first above written and remain in effect as provided in the Pasco County, FL Contract.
IN WITNESS WHEREOF, the CITY and CONTRACTOR have signed this Contract.

WITNESSES

________________________________________
Signature

__________________________
Printed Name

AS TO CONSULTANT:

AJAX PAVING INDUSTRIES of FLORIDA, LLC.

__________________________
Company Name

__________________________
Signature

__________________________
Title

__________________________
Printed Name

CITY OF TREASURE ISLAND, FLORIDA:

________________________________________
City Clerk

__________________________
Mayor

Approved as to form and sufficiency:

________________________________________
City Attorney
To: CITY OF TREASURE ISLAND
Address: 120 - 108TH AVENUE
        TREASURE ISLAND, FL 33706 USA

Project Name: 115th Avenue Rehabilitation
Project Location: 115th Ave., Treasure Island, FL

Contact: Michael Helfrich, PE
Phone: 727-547-4575 ext. 250
Fax: 727-547-4587

Bid Number: MM19-058
Bid Date: 7/2/2019

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Total Bid Price: $304,173.16

Notes:
- This Proposal includes ONLY those items and services specifically described above.
- This Proposal is based on 1 Mobilizations. Additional Mobilizations will require negotiation of price.
- Asphalt overruns due to pre-existing conditions, including soft base, subgrade or base tolerance will be an additional charge of $100.00 per ton.
- Prices on this quotation are based on construction prior to December 31, 2019. Any construction after this date will be subject to increased prices of labor, materials and supplies.
- New customers and home owners associations may be required to provide a 30% deposit.
- Acceptance of this proposal confirms agreement with and incorporation of the standard terms of contract of Ajax Paving Industries of Florida, LLC. This proposal is binding on customer when signed and transmitted to Ajax by mail, PDF, or facsimile.
- The prices on this quotation are firm for 30 days from the date of this quote.
- Payment shall be based upon actual field measured quantities.
- Pricing Piggybacked on Pasco County Bid# IFB-ML-19-043

ACCEPTED:
The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: __________________________
Signature: _________________________
Date of Acceptance: ________________

CONFIRMED:
Ajax Paving Industries Of Florida, LLC

Authorized Signature: _______________________
Estimator: Mark Miller
813-769-1990 markmiller@ajaxpaving.com
DATE: June 28, 2019

TO: Garry Brumback, City Manager

FROM: City Clerk,

SUBJECT: Execution of a Contract to Right of Way Contracting, LLC for the 125th Avenue Drainage Improvements and Beautification in the amount of $143,482.45 to include $20,000 in Contingency.

BACKGROUND
During the Gulf Boulevard Beautification project that included undergrounding the power lines on Gulf Boulevard, two end streets, 122nd Ave and 124th Ave, were used to place switch gear and other equipment in these end streets. It was decided at that time to have a 5 to 10 year plan to provide drainage improvements and end street beautification on the other end streets that intersect Lagoon Lane. Drainage in these end streets have historically been an issue and causes standing water. The following end streets have been completed:

1. 123rd Ave Boat Ramp (2015)
2. 122nd Ave End Street (2016)
3. 124th Ave End Street (2016)
4. 121st Ave End Street (2018)

The 125th Ave drainage improvements and beautification will be the fifth end street to be completed. The next end streets scheduled for drainage improvements and beautification are as follows:

1. 127th Ave End Street (2020)
2. 119th Ave End Street (2021)
3. 126th Ave End Street (2022)
4. 120th Ave End Street (2023)

On December 18, 2018, the City Commission approved the City Manager to execute a Work Authorization to Baker International for engineering design services and construction administration services for the preparation of construction and bid documents for 125th Avenue and 127th Avenue, which is in the design phase.
POLICY / PURPOSE
To request authorization for the City Manager to Execute a Contract to Right of Way Contracting, LLC for the 125th Avenue Drainage Improvements and Beautification.

STRATEGIC PLAN RELEVANCE
Goal 3 of the City’s Strategic Plan is to: Proactively maintain and improve infrastructure that meets the future needs of the City.

ANALYSIS / DISCUSSION
On May 2, 2019, the Public Works Department advertised an Invitation to Bid for the 125th Avenue Drainage Improvements and Beautification - ITB 18-19-08 (See Exhibit 1 - Site Plans)

On May 30, 2019, four bids were submitted. The following are the bidders and the bid amounts:

1. Right Of Way Contracting, LLC ($123,482.54)
2. C&T Contracting Services, LLC ($128,827.00)
3. Kamminga & Roodvoets, Inc. ($174,684.00)
4. TLC Diversified, Inc. ($206,678.00)

The Fiscal Year 2018-2019 budget was approved with this project in the amount of $120,000.

After review of the bids, it was determined that ROW Contracting, LLC was the lowest bid. Exhibit 2 is the contract with ROW Contracting, LLC.

FUNDING
Funding for this purchase is in the Stormwater Fund 450-5380-63000.

RECOMMENDATIONS
Staff recommends Commission authorization for the City Manager to Execute a Contract to Right of Way Contracting, LLC for the 125th Avenue Drainage Improvements and Beautification in the amount of $143,482.45 to include $20,000 in Contingency.

ATTACHMENTS
Exhibit 1 - 125th Ave End Street Drainage Improvements and Beautification Construction Plans
Exhibit 2 - Contract with ROW Contracting, LLC.

MOTION
I move to approve and authorize the City Manager to Execute a Contract to Right of Way Contracting, LLC for the 125th Avenue Drainage Improvements and Beautification in the amount of $143,482.45 to include $20,000 in Contingency.
2.7.a

1. THE CONTRACTOR SHALL PROVIDE PERMANENT CONSTRUCTION SIGNS IN ADVANCE OF ALL WORK TO ALERT MOTORISTS OF CONSTRUCTION ACTIVITIES. FLAGMEN, BARRICADES, CONES, AND ADDITIONAL WARNING EQUIPMENT SHALL BE PROVIDED AS NECESSARY.

2. THE CONTRACTOR SHALL PROVIDE A MORT PLAN TO THE CITY OF TREASURE ISLAND FOR APPROVAL PRIOR TO BID. THE CONTRACTOR SHALL REPORT TO THE CITY OF TREASURE ISLAND MANAGER ANY CONSTRUCTION ACTIVITIES IF DEEMED UNSAFE.

3. ANY FINES, PENALTIES, OR OTHER COSTS ASSESSED BY STATE, LOCAL OR OTHER GOVERNMENTAL AGENCIES FOR NON-PERFORMANCE OF THE CONTRACT OR CONSTRUCTION REQUIREMENTS OF THE PROJECT AGAINST THE CITY OF TREASURE ISLAND SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR, AND ANY SUCH PENALTIES, LIENS, LIQUIDATED DAMAGES OR COSTS FOR THE BID WILL NOT BE PAID TO THE CONTRACTOR.

4. THE CONTRACTOR SHALL PROVIDE PREPARATION PAVEMENT SIGNS IN ADVANCE OF ALL WORK TO ALERT MOTORISTS OF CONSTRUCTION ACTIVITIES. DRAWINGS - CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING STRUCTURES, SIGNS, UTILITIES, LANDSCAPING AND PAVEMENTS TO REMAIN. ANY DAMAGE TO THESE FEATURES SHOWN BY SYMBOL AS INDICATED IN THE LEGEND ARE NOT TO SCALE. OTHER EASEMENTS MAY BE DISCOVERED BY A SEARCH OF THE PUBLIC RECORDS. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING EASEMENTS AS SHOWN ON SHEET 17.3.

5. CONTRACTOR SHALL PROVIDE A SITE PLAN TO THE CITY OF TREASURE ISLAND FOR APPROVAL PRIOR TO BID. THE CONTRACTOR SHALL REPORT TO THE CITY OF TREASURE ISLAND MANAGER ANY CONSTRUCTION ACTIVITIES IF DEEMED UNSAFE.

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NOTE: BARRICADE TO CONFORM WITH FDOT INDEX 102-600: TYPE 1 BARRICADE.
THICKENED EDGE ISOLATION JOINT DETAIL (TYPE A)

DOWELED CONSTRUCTION JOINT (TYPE D)

CONSTRUCTION JOINT P.C./ASPHALT JUNCTURE (TYPE B)

SLAB REINFORCEMENT DETAIL

DOWEL BARS AT SLAB CORNERS

JOINT LAYOUT PLAN

NOTE:
- All sealant materials must be installed in accordance with manufacturer’s printed instructions as approved by engineer.
- Construction joints, to be decided by the contractor.
- All elevations shown indicate the edge of pavement.
- Type B joints may be doweled contraction or construction joints, to be decided by the contractor.

NOTE:
- Paint dowels and grease one end in an alternating pattern.
- See step sawed construction joint detail.

NOTE:
- Dowel spacing for all doweled joints is 12 inches o.c.
- All dowels and tie bars shall be grade 60 steel.

NOTE:
- Dowel bars at slab corners.
- Dowels spaced for all doweled joints is 12 inches o.c.
- All dowels and tie bars shall be grade 60 steel.

NOTE:
- Step sawed contraction joint.
- Dowels at slab corners.

NOTE:
- Dowel bars at slab corners.
- Dowels spaced for all doweled joints is 12 inches o.c.
- All dowels and tie bars shall be grade 60 steel.

NOTE:
- Paint dowels and grease one end in an alternating pattern.
- Step sawed contraction joint.
- Dowel bars at slab corners.
- Dowels spaced for all doweled joints is 12 inches o.c.
- All dowels and tie bars shall be grade 60 steel.

NOTE:
- Paint dowels and grease one end in an alternating pattern.
- See step sawed construction joint detail.
- Dowel bars at slab corners.
- Dowels spaced for all doweled joints is 12 inches o.c.
- All dowels and tie bars shall be grade 60 steel.

NOTE:
- Paint dowels and grease one end in an alternating pattern.
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- All dowels and tie bars shall be grade 60 steel.
1. Temporary inlet protection shall be Dandy Sack by Dandy Products or approved equivalent.
2. Filter Sack shall be cleaned after all rainfall events & inspected regularly.

**DIAGRAM:**
- **Temporary Inlet Protection**
- **Drainage Pipe Bedding**

**NOTICE:** Components of Types I and II may be similar or identical to proprietary designs. Any infringement on the proprietary rights of the designer shall be the sole responsibility of the user. Substitutes for Types I and II shall be as approved by the engineer.

**Materials:**
- Slotted PVC connector pipe (metal collar reinforced)
- 5/16 vinyl-shafted EAW steel cable (9800 lbs. breaking strength) with galvanized connectors (tool free disconnect)
- Closed cell solid plastic foam flotation (8" dia. equiv.) (17 lbs. per ft. buoyancy)
- 18 oz. nylon reinforced PVC fabric (300 psi test)
- Stress plate
- 18 oz. nylon reinforced PVC fabric (300 psi test)
- Closed cell solid plastic foam flotation (6" dia. equiv.) (12 lbs. per ft. buoyancy)
- Closed cell solid plastic foam flotation (8" dia. equiv.) (17 lbs. per ft. buoyancy)
- Closed cell solid plastic foam flotation (6" dia. equiv.) (12 lbs. per ft. buoyancy)
- 6 oz. polypropylene (600 lb. breaking strength)
- 18 oz. nylon reinforced PVC fabric (300 psi test)
- Stress plate
- Closed cell solid plastic foam flotation (8" dia. equiv.) (17 lbs. per ft. buoyancy)
- Closed cell solid plastic foam flotation (6" dia. equiv.) (12 lbs. per ft. buoyancy)
- 6 oz. polypropylene (600 lb. breaking strength)
- Stress plate
- 18 oz. nylon reinforced PVC fabric (300 psi test)
- Stress plate
- 6 oz. polypropylene (600 lb. breaking strength)
- Stress plate
- 18 oz. nylon reinforced PVC fabric (300 psi test)
- Stress plate
- 6 oz. polypropylene (600 lb. breaking strength)
LANDSCAPE GENERAL NOTES:

1. LOCATE ALL UNDERGROUND UTILITIES AND FIELD CHECK ALL DIMENSIONS PRIOR TO ANY LANDSCAPE OR IRRIGATION INSTALLATION. REPORT ANY CONFLICTS AND DISCREPANCIES TO LANDSCAPE ARCHITECT & CITY. TAKE RESPONSIBILITY TO PROVIDE APPLICABLE SEPARATION BETWEEN PROPOSED / EXISTING UTILITIES AND LANDSCAPE WORKS.

2. CONSTRUCTION MUST COMPLY WITH LANDSCAPE PLAN SPECIFICATIONS AND CONFORM WITH FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, DATED 2017 AND SUPPLEMENTS THERETO, PRIMARILY SECTION 580. ANY CONSTRUCTION NOT IN COMPLIANCE WILL BE REJECTED BY THE LANDSCAPE ARCHITECT AND REPLACED WITH PROPER INSTALLATION COMPLETED BY THE CONTRACTOR AT NO ADDITIONAL COST.

3. INSTALL ONLY PLANTS GRADED FLORIDA #1 OR BETTER AS SET FORTH IN THE FLORIDA DEPARTMENT OF AGRICULTURE “GRADES AND STANDARDS FOR NURSERY PLANTS” SECOND ADDITION: FEBRUARY 1998 AND WHICH MEET OR EXCEED THE SIZES INDICATED ON THE TABULATION OF QUANTITIES SHEET AND IN THE DETAILS. ALL PLANTS SHALL CONFORM TO NURSERY STOCK STANDARDS BY THE AMERICAN ASSOCIATION OF NURSERYMEN.

4. FOLLOW MANUFACTURER’S SPECIFICATIONS FOR APPLICATION. FERTILIZE PALMS WITH SPECIAL PALM FERTILIZER CONTAINING MANGANESE AND MAGNESIUM PER MANUFACTURER’S DIRECTION. ALL FERTILIZER SHALL COMPLY WITH SECTION 982. FURNISH RECEIPTS FOR MATERIAL USED.

5. PREPARE ALL PLANTING BEDS IN ACCORDANCE WITH SECTION 580-4.4 FDOT STANDARD SPECIFICATIONS (FDOT SS). MIX IN 6” LAYER OF FINISH SOIL IN ALL PLANTING BEDS TO 18” DEPTH. FINISH SOIL MUST COMPLY WITH SECTION 987 FDOT SS.

6. BACKFILL ALL TREE PLANTING PITS WITH THE FOLLOWING MIXTURE: ½ ON-SITE SOIL, ½ CLEAN FRIABLE SANDY-LOAM TOPSOIL IN COMPLIANCE WITH SECTION 987-2.2 FDOT SS. SUBMIT SAMPLES FOR APPROVAL BY LANDSCAPE ARCHITECT (SEE PLANTING DETAILS).

7. FERTILIZE ALL PLANTING BEDS WITH APPROX. RATIO OF 4-1-2. APPLY AT RATE SPECIFIED BY MANUFACTURER. FURNISH RECEIPTS FOR MATERIALS USED.

8. TREAT ALL PLANTING BEDS WITH PRE-EMERGENT AND POST-EMERGENT HERBICIDES ACCORDING TO THE MANUFACTURER’S SPECIFICATIONS. SUBMIT RECEIPTS FOR MATERIALS USED.

9. MULCH PLANTING BEDS TO A MINIMUM 3” THICKNESS WITH CLEAN, INSECT-FREE FLORIMULCH OR APPROVED EQUAL. DO NOT COVER BRANCHES, LEAVES OR STEMS; KEEP AIRSPACE AROUND TRUNKS (MIN. 6”). WATER-IN WELL TO SECURE IN PLACE.

10. VERIFY ALL QUANTITIES IN THE PLANTING SCHEDULE AND INSTALL ALL PLANTS AND MATERIAL AS INDICATED IN THE PLAN. PROVIDE UNIT PRICES FOR EACH ITEM. UNIT COST FOR EACH PLANT IS TO INCLUDE ALL LABOR FOR SITE PREPARATION TREATMENTS, EXCAVATION STAKING & GUYING, ETC.

11. NOTIFY THE ENGINEER AND LANDSCAPE ARCHITECT OF ANY UNFORESEEN CONDITIONS I.E. COMPACTED SOIL/SUBGRADE, POOR DRAINAGE, UTILITY CONFLICTS, ETC., PRIOR TO PROCEEDING WITH LANDSCAPE OR IRRIGATION INSTALLATION.

12. GUARANTEE ALL PLANTS FOR ONE YEAR IN ACCORDANCE WITH SECTION 580-11 PLANT ESTABLISHMENT PERIOD AND CONTRACTOR’S WARRANTY, FDOT SS.

13. ALL PLANTS, MATERIALS AND WORKMANSHIP ARE SUBJECT TO THE APPROVAL OF THE CITY AND LANDSCAPE ARCHITECT.

14. THE LOCATIONS OF PLANTINGS SPECIFIED ON THIS PLAN ARE FINAL, BUT MAY BE ADJUSTED TO ACCOMMODATE UNFORESEEN FIELD CONDITIONS, TO COMPLY WITH HORIZONTAL CLEARANCE AND CLEAR-SIGHT REQUIREMENTS, OR AS DIRECTLY REQUIRED BY THE CITY ENGINEER. PLANT MATERIAL AND INSTALLATION AND MAINTENANCE SHALL BE IN COMPLIANCE WITH FOOT FRAGMENTS INDICES 344 AND 346 AND CLEAR ZONE REQUIREMENTS OF FOOT PLANS PREPARATION MANUAL, AND FLORIDA HIGHWAY LANDSCAPE GUIDE.

15. DO NOT MAKE SUBSTITUTIONS OR REVISIONS; ANY REVISIONS OR MODIFICATIONS TO THE LANDSCAPE PLAN MUST HAVE PRIOR APPROVAL BY THE LANDSCAPE ARCHITECT, CITY ENGINEER AND PERMITTING AUTHORITY. REVISIONS MUST BE DOCUMENTED AS REQUIRED BY APPLICABLE STATE, CITY OR COUNTY REGULATIONS.

16. FINISH GRADE FOR ALL PLANTING AREA ADJACENT TO PAVEMENT SHALL PROVIDE THE 1” DROP-OFF, AS REQUIRED IN FOOT STANDARD INDEX 110.

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PLANT SCHEDULE

<table>
<thead>
<tr>
<th>CODE</th>
<th>CODE</th>
<th>BOTANICAL</th>
<th>COMMON</th>
<th>CONT. SIZE</th>
<th>DIMENSIONS</th>
<th>QTY</th>
<th>REMARKS</th>
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<tr>
<td>CE</td>
<td>CONOCORPORERECTUS</td>
<td>GREEN BUTTONWOOD</td>
<td>36” BOX</td>
<td>14’ OH</td>
<td>2</td>
<td>WELL FOLIATED WITH UPRIGHT BRANCH STRUCTURE</td>
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<tr>
<td>SP</td>
<td>SAPAL</td>
<td>CABBAGE PALMETTO</td>
<td>24” BOX</td>
<td>12’ H</td>
<td>13</td>
<td>SLICK TRUNK - VARY HEIGHTS ALONG THE END OF THE LIMEEROCK</td>
<td></td>
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</tbody>
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PACKING PG. 184

Attachment: Exhibit 1 - Site Plans - 125th Avenue (2094: 125th End Street Construction)
CONTRACT BETWEEN
THE CITY OF TREASURE ISLAND
AND Right of Way Contracting LLC

PERTAINING TO
125TH AVENUE BEAUTIFICATION
ITB 18-19-08

This CONTRACT is made and entered into on the ___ day of __________, 20___
(“Effective Date”), by and between the City of Treasure Island, a public body politic and
municipal corporation organized and existing under the Laws of Florida whose address
is: City of Treasure Island, 120 108th Avenue, Treasure Island, Florida, 33706 (“CITY”),
and Right of Way Contracting LLC, FEIN 81-2829280, (“CONTRACTOR”), collectively
(the “PARTIES”) who hereby agree as follows:

WITNESSETH

WHEREAS, the CONTRACTOR has submitted a competitive bid for 125TH AVENUE
BEAUTIFICATION ITB 18-19-08 as set forth in the attached CONTRACT Documents; and

WHEREAS, the City Commission of the City of Treasure Island has determined that
there exists the need for 125TH AVENUE BEAUTIFICATION ITB 18-19-08 in the City of
Treasure Island; and

NOW THEREFORE, in consideration of the mutual benefits to the CITY and
CONTRACTOR, the following covenants and contracts are set forth to which the parties hereto
agree as follows:

ITB 18-19-08 | 125TH AVENUE BEAUTIFICATION
SECTION 1.  SCOPE OF WORK.

The Scope of Work/Services is specially identified in ITB 18-19-08.

SECTION 2.  TERM.

The term of the contract will commence on the effective date and extend until all final invoices are paid.

a. The Commencement Date will be established by the CITY and communicated to the CONTRACTOR in a Notice to Proceed (NTP) sent by registered mail to the CONTRACTOR’s place of business not later than 30 calendar days following execution of the Contract, or receipt of proper permits from regulatory agencies having jurisdiction over the project, whichever is later.

b. The CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work may be done at the site prior to the date on which the Contract Time commences to run.

c. Before Construction. Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), the CONTRACTOR shall submit to Engineer for timely review:
   1. a preliminary Construction Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any milestones specified in the Contract and identifying the times/dates of required submittals and time requirements for Engineer’s review of the submittals and the performance of related construction activities; and
   2. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Amount and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.
   3. As provided for in Article 8, the Schedule of Values will be reviewed by the Engineer and approved by the CITY, and will be used as the basis for reviewing the CONTRACTOR’s Applications for Payment. The Schedule of Values will include a cost breakdown indexed per the Sections of the Specifications, which shall clearly set forth labor as distinct from materials and from equipment.

d. Preconstruction Conference
   1. Before any Work at the Project Site is started, a conference attended by the CITY, CONTRACTOR, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 5, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
   2. At this conference the CITY and CONTRACTOR each will designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals have the
authority to transmit and receive information, render decisions relative to the
Contract, and otherwise act on behalf of each respective party.

e. **Finalizing Schedules.** At least ten days before submission of the first Application for
Payment a conference attended by the CONTRACTOR, CITY, ENGINEER and others
as appropriate will be held to finalize the schedules submitted in accordance with the
Contract. The finalized progress schedule will be acceptable to the CITY as providing
an orderly progression of the Work to completion within the Contract Time, but
acceptance will neither impose on the CITY responsibility for the progress or
scheduling of the Work nor relieve the CONTRACTOR from full responsibility therefor.
The finalized schedule of values will be acceptable to the CITY as to form and
substance.

f. **Substantial Completion.**
   1. The CONTRACTOR shall commence work within 10 days from the date of
      Notice to Proceed.
   2. Time limits herein stated in the Contract Documents are of the essence of the
      Contract. By executing the Contract, the CONTRACTOR confirms that the
      Contract Time is a reasonable period for performing the Work.
   3. If CONTRACTOR's performance or progress is delayed, disrupted, or
      interfered with by unanticipated causes not the fault of and beyond the control
      of CITY, CONTRACTOR, and those for which they are responsible, then
      CONTRACTOR may be entitled to an equitable adjustment in Contract Times.
      CONTRACTOR's entitlement to an adjustment of the Contract Times is
      conditioned on such adjustment being essential to CONTRACTOR's ability to
      complete the Work within the Contract Times. Such an adjustment will be the
      CONTRACTOR's sole and exclusive remedy for the delays, disruption, and
      interference described in this paragraph. Causes of delay, disruption, or
      interference that may give rise to an adjustment in Contract Times under this
      paragraph include, but are not limited to, the following:
         i. Severe and unavoidable natural catastrophes such as fires, floods,
            epidemics, and earthquakes;
         ii. Abnormal weather conditions;
         iii. Acts or failures to act of utility; and
         iv. Acts of war or terrorism.
   4. No delay will entitle the CONTRACTOR to an increase of the Contract Amount
      except where the CITY or Engineer acted in bad faith to prevent the progress
      of Work. The CONTRACTOR acknowledges that in agreeing to the Contract
      Amount, it has assessed the potential impact of the limitations of this section
      on its ability to recover additional compensation in connection with a Work
      delay or interference and the CONTRACTOR agrees that the limitations will
      apply, regardless of the accuracy of the CONTRACTOR's assessment or
      actual costs incurred by the CONTRACTOR in connection with any such
      delays or interference.
SECTION 3. OBLIGATIONS OF THE CONTRACTOR.

Obligations of the CONTRACTOR include, but are not limited to, the following:

1) It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the CITY, and will not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the CITY, or any property owned by the CITY. Such lien, attachment, or encumbrance, until it is removed, will preclude any and all claims or demands for any payment expected by virtue of this Contract.

2) The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions in this CONTRACT, when providing services for the CITY in accordance with this CONTRACT.

3) The CONTRACTOR will be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to properly and fully complete the work set forth in the Scope of Work.

4) The CONTRACTOR must maintain an adequate and competent staff, and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the CITY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.

5) The CONTRACTOR shall confine operations to the Project Site as designated by the CITY, and will confine operations and activities to those permitted by law, ordinances, permits, and the Contract Documents; and should not unreasonably encumber the site with materials or equipment. The CONTRACTOR is specifically prohibited from the storage of materials, equipment, or supplies not related to the Work on the Project Site.

6) The CONTRACTOR shall keep the premises and surrounding area reasonably free or rubbish, waste materials, or debris caused by operations of the Contract. At completion of the Work, the CONTRACTOR shall remove from and about the Project Site, waste materials, rubbish, tools, construction equipment, machinery, and surplus materials to the CITY’s satisfaction. Should the CONTRACTOR fail to clean up as provided in the Contract Documents, the CITY may do so and the cost charged to the CONTRACTOR though a deductive Change Order or Construction Change Directive.

7) The CITY may at its option accept Work that is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction. In such cases the Contract Amount will be reduced as appropriate and equitable. If the parties are unable to agree as to the decrease in Contract Amount, reflecting the diminished value of Work accepted, then the CITY may impose a reasonable set-off against payments due under Article, Such adjustment will be effected whether or not final payment has been made. If acceptance of defective Work occurs after Final Payment, CONTRACTOR shall pay an appropriate amount to the CITY.
SECTION 4. STANDARD OF CARE.

a. The CONTRACTOR has represented to the CITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Contract, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill and the ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner, consistent with the CITY'S stated Scope of Work and industry standards.

b. The CONTRACTOR covenants and agrees that it and its employees, agents, subcontractors, representatives, volunteers, and the like, will be bound by the same standards of conduct as stated above.

SECTION 5. COMPENSATION and PAYMENTS.

1) Progress Payments

The Schedule of Values will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to the Engineer. Any progress payments on account of Unit Price Work will be based on the number of units completed.

Based upon Applications for Payment submitted to the Engineer by the CONTRACTOR and Certificates for Payments issued by the Engineer, the CITY shall make progress payments on account of the Contract Amount to the CONTRACTOR as provided below and elsewhere in the Contract Documents.

The period covered by each Application for Payment will be one calendar month ending on the last day of the month.

Provided an Application for Payment is received by the Engineer not later than the 15th day of the month, the CITY shall make payment to the CONTRACTOR not later than the last day of the month. If a valid Application for Payment is received by the Engineer after the Application date fixed above, payment will be made 30 days after the Engineer received the Application for Payment.

Applications for Payment must indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

Subject to the provisions of the Contract Documents, the amount of each progress payment will be computed as follows:

i) Take that portion of the Contract Amount properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Amount allocated to that portion of the Work in the Schedule of Values.

ii) Subtract the aggregate of previous payments made by the CITY.
The progress payment will be further modified under the following circumstances:
   i) Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to 90% of the Contract Amount less such amounts as the Engineer and CITY determined for incomplete Work and unsettled claims.

Please note that some portion of the Contract Amount may be paid from the proceeds of a grant, loan, or revenue bonds (hereinafter "funding") obtained by the CITY for this Work and the funding documents may impose certain conditions, limitations, procedures, and restrictions. The CONTRACTOR shall coordinate with the CITY and the Engineer in order to comply with the conditions, limitations, procedures, and restrictions that related to the delivery of materials, the Work, applications for payment, and other matters concerning the administration of the Contract.

2) Final Inspection and Payment

Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with CITY and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

Final payment, comprising the entire unpaid balance of the Contract Amount, will be made by the CITY to the CONTRACTOR when the Contract has been fully performed and accepted by the CITY. Furthermore, payment will be made within 30 days of the CITY receiving a final Certificate of Payment from the Engineer. CONTRACTOR's acceptance of final payment from the CITY will constitute a full waiver and release by CONTRACTOR of all claims against the CITY arising out of or related to the Project.

3) CONTRACTOR Applications for Payment

By the 15th of each month the CONTRACTOR shall submit to the CITY's Engineer of Record an itemized Application for Payment in accordance with the Schedule of Values. Such application must be supported by data substantiating the CONTRACTOR's right to payment as the CITY or Engineer may require. Payment will be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation into work. If approved in writing by the CITY, payment may similarly be made for materials and equipment suitably stored off the site.

Applications for Payment not include:
   • Payments on account of changes in the Work which have not been approved by the CITY in a Change Order; and
   • Payment of amounts the CONTRACTOR does not intend to pay to a Subcontractor or Supplier because of a dispute or other reason.

The Application for Payment will also be accompanied by a bill of sale, invoice or other documentation warranting the CITY has received the materials and equipment free and clear of all Liens (in the form of a waiver and release as contemplated in Chapter 713 of the Florida
Statutes), and evidence that the materials and equipment are covered by appropriate property insurance, warehouse bond, or other arrangements to protect the CITY's interest therein, all of which must be satisfactory to the CITY.

The CONTRACTOR shall furnish evidence that payment received on the basis of materials and equipment not incorporated and suitably stored on Project Site has in fact been paid to the respective supplier(s) in the form of a waiver and release as contemplated by Chapter 713 of the Florida Statutes within 30 days of payment by the CITY. Failure to provide such evidence of payment may result in the withdrawal of previous approval(s) and removal of the cost of related materials and equipment from the next submitted Application for Payment.

4) Certification of Payment Requests

Within seven (7) days after receipt of a CONTRACTOR's Application for Payment, the Engineer, in consultation with the CITY, will issue a Certificate for Payment for an amount the Engineer and CITY determines is due, or notify the CONTRACTOR in writing of the reasons for withholding certification. A Certificate of Payment will not constitute acceptance of Work not in accordance with the Contract Documents.

5) Criteria for Withholding a Certificate for Payment

The Engineer or CITY may withhold a Certificate for Payment in whole or in part if in the CITY's opinion, the CONTRACTOR representations to the CITY are not supported. If the CONTRACTOR and the CITY cannot agree on a revised amount, the CITY will promptly issue a Certificate of Payment for the amount to which the CITY are able to certify payment. Certification may be withheld for these reasons:

- Defective Work not corrected;
- Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Amount;
- Damages owed to the CITY or others;
- Evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or estimated Liquidated Damages;
- Persistent failure to carry out the Work in accordance with the Contract Documents;
- CONTRACTOR failed to provide and maintain required bond or insurance;
- CONTRACTOR has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Project Site;
- CITY has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
- An event that would constitute a default by CONTRACTOR and therefore justify a termination for cause has occurred; or
• Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific bond satisfactory to CITY to secure the satisfaction and discharge of such Liens.

When reasons for withholding certification are corrected, the Engineer and CITY will certify amounts previously withheld.

6) **CONTRACTOR’s Warranty of Title**

CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to CITY free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than the time of payment by the CITY.

No material or supplies for Work may be purchased by the CONTRACTOR or Subcontractor subject to any title mortgage or under any conditional sale contract or any other agreement by which an interest is retained by the Seller. CONTRACTOR warrants that CONTRACTOR has good title to all materials and supplies used by CONTRACTOR in the Work, free from all liens, claims, or encumbrances.

CONTRACTOR shall defend, indemnify, and save CITY and Engineer harmless from all claims (including but not limited to expert fees, and attorneys’ fees and costs) growing out of the lawful demand the Subcontractors, Suppliers, laborers, workman, mechanics, material men and furnishers and machinery and parts thereof, equipment, power tools, and all supplies incurred in the furtherance of the performance of this Contract. CONTRACTOR shall, at CITY’s request, furnish satisfactory evidence that all applications of the nature here and above designated have been paid, discharged, or waived. If CONTRACTOR fails to do so, then CITY may, after having served written notice on said CONTRACTOR, either pay unpaid bills in which CITY has written notice direct, or withhold from CONTRACTOR’s unpaid compensation a sum of money deemed reasonable sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the Contract, but in no event will the provisions of this sentence be construed to impose any obligations upon the CITY to either CONTRACTOR or CONTRACTOR Surety. In paying any unpaid bills of the CONTRACTOR, CITY will be deemed the agent of the CONTRACTOR and any payment so made by the CITY will be considered a payment made under the Contract by CITY to CONTRACTOR and CITY will not be liable to CONTRACTOR for any such payment made in good faith.

7) **Substantial Completion of a Designated Portion**

The CITY may release a designated portion of the Work under this Contract upon the issuance of a Certificate of Substantial Completion for the Designated Portion. Subsequent to said release, the CITY may make payment to the CONTRACTOR up to the pro-rated amount of the Contract Amount that is allocable to the value of the Designated Portion of the Work under the Contract.
Payment under this provision may be made in full with no retainage, or a lesser retainage, at the sole discretion of the CITY.

Further, the parties agree that in the event the CITY releases a Designated Portion of the Work, whether or not retainage is released for the Designated Portion of the Work, the CONTRACTOR agrees that all insurance required by the Contract Documents will remain in full force and effect until final acceptance of the entire Work by the CITY.

8) Substantial Completion

When the CONTRACTOR considers that the Work or a portion thereof, which the CITY agrees to accept separately, is Substantially Complete, the CONTRACTOR shall prepare and submit to the Engineer a comprehensive list of items to be completed and corrected. The CONTRACTOR shall proceed promptly to complete and correct items on the list. Failure to include an item on the list does not relieve the CONTRACTOR of the responsibility to complete all Work in accordance with the Contract Documents.

Upon receipt of the CONTRACTOR's list, the Engineer will make an inspection, and with the approval of the CITY, determine whether the Work, or designated portion thereof, is Substantially Complete. If the Engineer's inspection discloses any item, whether or not included on the CONTRACTOR's list, which is not in accordance with the requirements of the Contract Documents, the CONTRACTOR shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Engineer.

The CONTRACTOR may request additional inspections by the Engineer as may be reasonable to determine when Substantial Completion has been achieved. When the Work or designated portion thereof, is Substantially Complete, the Engineer will prepare a Certificate of Substantial Completion that will establish the date of Substantial Completion and will establish responsibilities of the CITY and CONTRACTOR for:

- Security;
- Maintenance;
- Water, sewer, electric and other utilities;
- Damages to the Work; and
- Insurance Responsibilities

The Certificate will also establish the time within which the CONTRACTOR must finish all items on the list of incomplete Work or corrections otherwise necessary to meet the requirements of the Contract Documents.

Warranties required by the Contract Documents will commence on the date of Substantial Completion, or designated portion thereof, unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion will be submitted to the CITY and CONTRACTOR for their written acceptance of responsibilities assigned to each.
Upon Substantial Completion of the Work, or designated portion thereof, and upon application by the CONTRACTOR, certification by the Engineer, and approval by the CITY, the CITY will make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9) Final Acceptance and Payment

Upon receipt of written notice that the Work is ready for Final Inspection and upon receipt of a Final Application for Payment, the Engineer shall promptly inspect the Work. When the Engineer and CITY find the Work acceptable under the Contract Documents and the Contract fully performed, the Engineer shall issue a Certificate for Final Payment.

Neither final payment or any remaining retainage will become due until the CONTRACTOR submits to the Engineer all information required in the Contract Documents, including, but not limited to, warranties, as-built plans, and operation and maintenance manuals.

Furthermore, neither final payment nor any remaining retainage, will become due until the CONTRACTOR executes and presents to the CITY a “Certificate of Claims Paid” and “Release of all Claims” form in such a form as may be acceptable to the CITY. Acceptance of final payment by the CONTRACTOR will comprise a release of all claims under the Contract, and receipt of which acknowledges full and complete payment for all Work done, materials and equipment furnished, and damages or claims arising under this Contract.

Application for Final Payment:

a) After CONTRACTOR has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Article 10 (c)(10)), and other documents, CONTRACTOR may make application for final payment.

b) The final Application for Payment must be accompanied (except as already delivered) by:

   i) All documentation called for in the Contract Documents;
   ii) Consent of the surety, if any, to final payment;
   iii) Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to CITY free and clear of any liens or other title defects, or will so pass upon final payment;
   iv) A list of all disputes that CONTRACTOR believes are unsettled; and
   v) Complete and legally effective releases or waivers (satisfactory to CITY) of all lien rights arising out of the Work, and of liens filed in connection with the Work.

c) CONTRACTOR must furnish receipts or releases in full and an affidavit of CONTRACTOR that: (a) the releases and receipts include all labor, services, material, and equipment for which a lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which CITY might in any way be responsible, or which might in any way result in liens or other burdens on CITY’s property, have been paid or otherwise satisfied. If any Subcontractors or Supplier fails to furnish such a release
or receipt in full, CONTRACTOR may furnish a bond or other collateral satisfactory to CITY to indemnify CITY against any lien, the CITY at its option may issue joint checks payable to CONTRACTOR and specified Subcontractors and Suppliers.

10) Corrective Period

If within one year from the date of final Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work that is found to be defective, or if the repair of any damages to the Project Site, adjacent areas that CONTRACTOR has arranged to use through construction easements or otherwise, and other adjacent areas used by CONTRACTOR as permitted by laws and regulations, is found to be defective, then CONTRACTOR shall promptly, without cost to CITY and in accordance with CITY's written instructions:

- Correct the defective repairs to the Project Site or such other adjacent areas;
- Correct the defective Work;
- If the defective Work has been rejected by the CITY, remove it from the Project and replace it with Work that is not defective; and
- Satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

If the CONTRACTOR does not promptly comply with the terms of the CITY's written instructions, or in an emergency where delay would cause serious risk of loss or damage, the CITY may have the defective Work corrected or repaired or may have the rejected Work removed or replaced. The CONTRACTOR shall pay all claims, costs, losses, and damages (including all fees and expenses of engineers, architects, attorneys, and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the corrective period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

The CONTRACTOR's obligations under this paragraph are in addition to all other obligations and warranties. The provision of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

SECTION 6. TERMINATION AND FORCE MAJEURE

a. Termination. The CONTRACTOR will serve at the pleasure of the City Commission and may be removed. The CITY or CONTRACTOR may terminate this Contract with or without cause upon thirty (30) days' written notice to all parties. Upon termination of this Contract, however terminated, the CONTRACTOR shall turn over to the CITY all work product completed, or partially
completed, up to the date of termination. The CITY will have full right to use such work product in any manner, in the sole discretion of the CITY.

b. **Force Majeure.** Neither Party to this CONTRACT will be liable for its failure to perform under the Contract due to any circumstances beyond its reasonable control such as act of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONTRACTOR or CITY may suspend its performance under this Contract as a result of Force Majeure without being in default of the CONTRACT, but upon removal of such Force Majeure the CONTRACTOR or CITY will resume its performance as soon as reasonably possible.

**SECTION 7. PAYMENT WHEN SERVICES ARE TERMINATED.**

a. In the event of termination of this Contract by the CITY, and not due to the fault of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services performed prior to the effective date of termination.

b. In the event of termination of this CONTRACT due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the CITY. All such payments will be subject to an offset for any damages incurred by the CITY resulting from any delay occasioned by early termination. This provision will in no way be construed as the sole remedy available to the CITY in the event of breach by the CONTRACTOR.

**SECTION 8. CITY OBLIGATIONS.**

1. **Project Manager**

   The CITY will designate a Project Manager, through which the CITY will communicate with the Engineer and CONTRACTOR.

2. **Information Provided by CITY**

   The CITY shall furnish surveys describing physical characteristics of the site, and utility locations, except those utilities that are not owned by the CITY.

   Information or services under the CITY’s control will be promptly supplied to the CONTRACTOR in order to promote orderly progress of the Work. Such information and services will be provided to the CONTRACTOR free, unless otherwise provided in the Contract Documents.

3. **CITY’s Right to Stop Work**

   If the CONTRACTOR fails to correct Work that is not in accordance with requirements of the Contract Documents or persistently fails to carry out Work in accordance with the Contract Documents, the CITY may order the CONTRACTOR to stop work or any portion thereof until the cause of such order has been eliminated. Such an order must be in writing. CONTRACTOR is not entitled to a change in Contract Amount or Contract Time related to a Stop Work Order.

4. **CITY’s Right to Carry Out Work**

   If the CONTRACTOR defaults or neglects to carry out the Work in accordance with the Contract Documents, after giving seven (7) days written notice, the CITY may without prejudice to other remedies, correct such deficiencies. In such a case, a Change Order will be issued deducting
from the Contract Amount the cost of correcting such deficiencies, including additional design and administrative costs as may be necessary by default, neglect, or failure.

5. Interpretation of Contract Documents and Performance

In all matters concerning performance under this Contract and requirements of the Contract Documents, the CITY's interpretation will prevail.

6. Approving Substantial Deviations

The CITY's written approval is required for all changes in the Work involving:
- Adjustments to the Contract Amount;
- Contract Time; or
- Work that is inconsistent with the intent of the Contract Documents.
A Change Order signed by the CONTRACTOR, Engineer, and the CITY will effect such changes.

7. Replacement of Engineer

The CITY may at its discretion appoint an engineer to replace the Engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

8. Limitations on CITY's Responsibilities

The CITY will not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with laws and regulations applicable to the performance of the Work. The CITY will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

SECTION 9. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth in this CONTRACT.

SECTION 10. COMPLIANCE WITH ALL LAWS.

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and CITY, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Contract or are adopted at any time following the execution of this Contract.
SECTION 11. LIQUIDATED and SPECIAL DAMAGES.

a. Liquidated Damages

1. The CONTRACTOR and CITY mutually agree that said work will be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the CONTRACTOR and CITY, that the time for the completion of the Work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing. CONTRACTOR and CITY recognize that time is of the essence.

2. If the CONTRACTOR neglects, fails or refuses to complete the work within the time specified, or in the time any proper extension is granted in accordance with this Contract, then the CONTRACTOR agrees, as a part of consideration for the award of this Contract, to pay the CITY the amount of $200 for each calendar day beyond the Substantial Completion date, not as a penalty, but as liquidated damages for such breach of contract. Furthermore, the CONTRACTOR agrees to pay the CITY the amount of $200 for each calendar day the Work remains incomplete after the date established for Final Completion.

3. This amount is fixed and agreed upon by and between the CONTRACTOR and CITY because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the CITY would in such event sustain, and said amount is agreed to be the amount of damages which the CITY would sustain. However, these liquidated damages will not be construed to limit the CITY's damages for any claim for CONTRACTOR's negligence, defective performance or their other breach of this contract. Also, failure to meet requirements for substantial or final completion will subject the CONTRACTOR to re-inspection fees as set forth in Article 9, (c)(18), Testing and Inspections.

4. Both Liquidated Damages and Re-inspection Fees will be implemented using a Deductive Change Order or Construction Change Directive.

b. Special Damages

1. In addition to the amount provided for liquidated damages, CONTRACTOR shall reimburse CITY: (1) for any fines or penalties imposed on CITY as a direct result of the CONTRACTOR's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by CITY for engineering, construction observation, inspection, and administrative services needed after the time for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.

2. After CONTRACTOR achieves Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, CONTRACTOR shall reimburse CITY for the actual costs reasonably
SECTION 12. INDEPENDENT CONTRACTOR.

This CONTRACT does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment on the manner and means of carrying out the CONTRACTOR'S activities and responsibilities under this Contract.

SECTION 13. BANKRUPTCY OR INSOLVENCY.

If the CONTRACTOR files a petition in bankruptcy, or if the CONTRACTOR is adjudged bankrupt or insolvent by any court, or if a receiver of the property of the CONTRACTOR is appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment for the benefit of creditors, or proceedings are commenced on or against the CONTRACTOR'S operations, the CITY may terminate this CONTRACT immediately notwithstanding the notice requirements of Section 22 to this Contract.

SECTION 14. CONFLICT OF INTEREST.

The CONTRACTOR warrants that the CONTRACTOR 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 CONTRACT, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For the breach or violation of this Paragraph, the CITY has the right to terminate this CONTRACT immediately, without liability and without regard to the notice requirements of Section 6 hereof.

SECTION 15. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

In accordance with the State of Florida, Office of the Governor, Executive Order 11-116 ( superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this CONTRACT is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the
United States and 48 CFR 52.222-54 (as-amended) is incorporated in this CONTRACT by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR may choose to verify only new hires assigned to the CONTRACT; (3) use E-Verify to verify the employment eligibility of all employees assigned to the CONTRACT; and (4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify.

SECTION 16. EQUAL OPPORTUNITY EMPLOYER.

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services required under this CONTRACT will comply with all equal opportunity employment laws.

SECTION 17. INSURANCE.

The CONTRACTOR shall maintain such insurance as specified in in Section IV General Conditions - Insurance Requirements, of ITB 18-19-08, to protect the CITY from any or all claims for property damage, personal injury, and bodily injury including death, which may arise from operations under this CONTRACT. Certificates of such insurance must be provided to the CITY prior to the CITY issuing the Purchase Order to the CONTRACTOR and will also be subject to its approval for adequacy of protection. The CITY must be named as an additional insured under all policies.

SECTION 18. INDEMNIFICATION.

The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the CITY, caused by the acts or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like. The CONTRACTOR agrees to indemnify, defend and hold the CITY harmless for any and all claims, suits, judgments, or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and reasonable attorney's fees, arising from any and all acts or omissions of the CONTRACTOR, or any of its public officials, employees, agents, sub-contractors, representatives, or volunteers. These indemnification, defense, and hold harmless actions will not be limited by the amount of insurance required in this CONTRACT. CONTRACTOR liability under this indemnification provision includes all attorneys' fees and experts' fees and costs incurred by the CITY in the enforcement of this indemnification provision. This provision will survive termination or expiration of this CONTRACT.
SECTION 19. SOVEREIGN IMMUNITY.

The CITY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this CONTRACT to the contrary, which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the CITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, will not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this CONTRACT will inure to the benefit of any third party for the purpose of allowing any claim against the CITY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 20. PUBLIC RECORDS.

The CONTRACTOR agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records under Florida law may include, but are not limited to: records related to the entry, management and implementation of this CONTRACT; emails/correspondence between the CITY and the CONTRACTOR related to this CONTRACT; emails or correspondence from all other entities related to this CONTRACT (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and, all vendor invoices. The CONTRACTOR agrees, to the extent required by law, to:

a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the CONTRACT;

b. Provide the public with access to the public records under the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided for by law;

c. Ensure that the public records are exempt or confidential, and exempt from public disclosure requirements, are not disclosed, except as authorized by law; and

d. Meet all requirements for public records and transfer, at no cost, to the CITY, all public records in possession of the CONTRACTOR, upon termination or completion of the CONTRACT and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the CONTRACTOR agrees that all records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. The CONTRACTOR shall promptly provide the CITY with a copy of any request to inspect or copy public records that the CONTRACTOR receives and a copy of the CONTRACTOR’S response to each request. The CONTRACTOR understands and agrees that failure to provide access to the public records is a material breach of this CONTRACT and grounds for termination.
IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (727) 547-4575 ext. 229, rmickerson@mytreasureisland.org, and City Hall, 120 108th Ave., Treasure Island, FL, 33706.

THE CONTRACTOR ACKNOWLEDGES THAT THE CITY OF TREASURE ISLAND CANNOT AND WILL NOT PROVIDE LEGAL OR BUSINESS ADVICE TO THE CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR ACKNOWLEDGES THAT IT WILL NOT RELY ON THE CITY OF TREASURE ISLAND OR ITS CITY ATTORNEY TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE AND THAT CONTRACTOR HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS CONTRACT.

SECTION 21. AUDITING, RECORDS, AND INSPECTIONS.
In the performance of this CONTRACT, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the CONTRACT, in compliance with generally accepted accounting procedures. Throughout the term of this CONTRACT, books, records, and accounts related to the performance of this CONTRACT must be open to inspection during regular business hours by an authorized representative of the CITY, and must be retained by the CONTRACTOR for a period of three years after termination or completion of the CONTRACT, or until the full CITY audit is complete, whichever comes first. The CITY retains the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this CONTRACT are subject to the applicable provisions of the Florida Public Records Act, Chapter 119, and Florida Statutes. The CITY also has the right to conduct an audit within sixty (60) days from the effective date of this CONTRACT to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction of the CITY. The CITY has the right to terminate this CONTRACT based upon its findings in this audit without regard to the termination provision set forth in this CONTRACT.

SECTION 22. NOTICE.
All notices required to be given to the CITY or CONTRACTOR under this CONTRACT must be sent by (a) registered or certified mail, and notice will be deemed to have been given on the date of acceptance; or (b) delivery (i.e., courier or other hand delivery), overnight delivery, email or facsimile transmission, and notice will be deemed to have been given on the day of delivery or transmission. If the day of notice is a Saturday, Sunday, or legal holiday, notice will be deemed to have been given on the first calendar day thereafter which is not a Saturday, Sunday, or legal holiday. All notices required to be given to the CITY must be made to the CITY at:

ITB 18-19-08 | 125TH AVENUE BEAUTIFICATION
City of Treasure Island  
Attention: Michael Munger, Purchasing Coordinator  
120 108th Avenue  
Treasure Island, Florida 33706  
Phone: (727)-547-4575  
Fax: (727)-547-4582  
munger@mytreasureisland.org

Or to such other address or facsimile number as the CITY may direct from time to time by written notice forwarded to the CONTRACTOR as provided above. All notices required to be given to CONTRACTOR in this CONTRACT must be sent to CONTRACTOR at:

- Company: Right of Way Contracting LLC  
- Attention: Kelly Fulford  
- Address: 2255 Starkey Road, Unit C, Largo, FL 33771  
- Phone: 813-309-0724  
- Fax: 813-926-9251  
- Email: keif1@verizon.net

or to such address or facsimile number as the CONTRACTOR may direct from time to time by written notice forwarded to the CITY as provided above. E-mail transmittal of notices are considered delivered as of the date of electronic transmission. Both parties will supplement emailed notices with a formal version of the notice as outlined above.

SECTION 23. DOCUMENTS CONSTITUTING ENTIRE CONTRACT.

The following documents are hereby incorporated and made part of this Contract:
1) Invitation to Bid Documents for ITB No. 18-19-08 and all requirements therein,
2) Bid submitted by CONTRACTOR as part of their solicitation response, and
3) All Addenda submitted by the CITY during the response period.

SECTION 24. MISCELLANEOUS.

i. The laws of the State of Florida govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue will lie in Pinellas County, Florida. THE PARTIES WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM, ARISING OUT OF THIS CONTRACT, WHICH MAY BE BROUGHT BY EITHER OF THE PARTIES.

ii. CONTRACTOR has been made aware Section 287.133, 134 and 135, Florida Statutes, and the CITY'S requirement that the CONTRACTOR has complied with these laws in all respects prior to and will comply with them in all respects during the term of this CONTRACT.
iii. CONTRACTOR and any Subcontractors understand and will comply with Section 20.055(5) of the Florida Statutes and thereby agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to said section.

iv. This CONTRACT is only assignable by the CONTRACTOR upon the express written consent of the CITY.

v. This CONTRACT is binding upon and inures to the benefit of the Parties, their heirs, personal representatives, successors, and assigns.

vi. Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions, or conditions of this CONTRACT, or to exercise any right or option contained in this CONTRACT will not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but the same will remain in full force and effect.

vii. In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this CONTRACT, it is specifically agreed and understood by the Parties that any such purchase order, memorandum, letter, or other instrument is for the CITY’S internal purposes only, and any and all terms, provisions, and conditions contained in this CONTRACT, whether printed or written, will in no way modify the covenants, terms, and provisions of this CONTRACT and will have no force or effect on this CONTRACT.

viii. The covenants, terms, and provisions of this CONTRACT may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this CONTRACT and any written Amendment(s) hereto, the provisions of the latest executed instrument will take precedence.

ix. All clauses found in this CONTRACT will act independently of each other. If a clause is found to be illegal or unenforceable, it will have no effect on any other provision of this CONTRACT. It is understood by the Parties that if any part, term, or provision of this CONTRACT is by the courts held to be illegal or in conflict with any law of the State of Florida, or the United States, the validity of the remaining portions or provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the CONTRACT did not contain the particular part, term, or provision held to be invalid.

x. All headings of the sections, exhibits, and attachments contained in this CONTRACT are for the purpose of convenience only and must not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.

xi. The Parties represent and warrant that they have entered into this CONTRACT relying wholly upon their own judgment, belief and knowledge of the nature, extent, effect and duration of any actions, damages and liability therefore. The Parties represent that they enter into this CONTRACT without relying upon any statement or representation of the adverse parties other than what has been set forth in writing in this CONTRACT. The Parties represent that they have had the opportunity to
discuss this matter with counsel of their choosing and are satisfied with its counsel and the advice received. The Parties understand this CONTRACT’s contents and this CONTRACT will be construed as resulting from joint negotiation and authorship. No part of this CONTRACT will be construed as the product of any one of the Parties. The Parties further declare and represent that no promise, inducement, agreement or understanding not expressed in this CONTRACT has been made to an adverse party and that the terms of this CONTRACT are contractual and not a mere recital. This CONTRACT will be deemed and treated as drafted jointly by all the Parties, and no term, condition or provision of this CONTRACT will be construed more strictly against any Party.

xii. All words used in this CONTRACT in the singular will extend to and include the plural, and the use of any gender will extend to and include all genders. The term “including” is not limiting.

xiii. Each of the Parties covenants to the other party to this CONTRACT that it has lawful authority to enter into this CONTRACT, that the governing or managing body of each of the Parties has approved this CONTRACT, and that the governing or managing body of each of the Parties has authorized the execution of this CONTRACT in the manner set forth below.

xiv. This CONTRACT must be executed by the respective duly authorized officials, and will take effect as of the day and year first above written.

[THIS REST OF THIS PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties have made and executed this Agreement on the date and year first above written.

As To
CONTRACTOR
Right of Way Contracting LLC

BY: Right of Way Contracting LLC

Signature
Kelly Fulford
Printed Name

WITNESS:

Signature
Matt Fulford
Printed Name

As To
CITY OF TREASURE ISLAND

City Manager:

Signature
City Manager

ATTEST | City Clerk:

Signature
City Clerk

Mayor

Approved as to form and sufficiency:

Signature
City Attorney
DATE: July 1, 2019

TO: Garry Brumback, City Manager

FROM: Cathy Hayduke, Recreation Director

SUBJECT: Non-Exclusive License Agreement with Ice Depot

BACKGROUND

Bill Taylor of The Ice Depot LLC approached the City Manager regarding the installation of Ice Vending Machines in various public locations throughout the City.

POLICY / PURPOSE

Commission approval is required to enter into a Non-Exclusive License Agreement.

STRATEGIC PLAN RELEVANCE

Goal 1: Strengthen the financial stability of the City in an ever-changing economic environment

Goal 2, Objective 3: To increase usability and functionality while working towards self-sustaining recreation facilities

ANALYSIS / DISCUSSION

Recreation staff reviewed high volume public locations with the necessary utilities needed for the vending machine operations and decided that Gulf Front Park and the Beach Pavilion would provide suitable locations.

The City Attorney has drafted a Non-Exclusive License Agreement between The Ice Depot LLC and the City to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A. The Non-Exclusive License Agreement grants permission to The Ice Depot LLC to install and operate ice vending machines on the publicly owned lands by the City. The Ice Depot, LLC will be permitted to install a wrap graphic on its ice machines and as approved by the City Commission as shown in Exhibit B.
The ice vending machines are 36 inches deep, 72 inches wide and 114 inches tall. The machines have an 800 pound capacity for ice. The vending machines can produce approximately 150 bags per day. Payment options include credit/debit cards, currency and coins. The cost per 10 pound bag will be $2.00. The Ice Depot LLC will provide the bags and ties. Additionally, the vending machine ice dispenser is wide enough to fill a cooler to the equivalent of a 10 pound bag. The vending machines have counters/trackers to provide a monthly sales report to the City on the number of bags sold and monies collected.

The Ice Depot LLC will be responsible for the cost to install the required 220v, 30 amp electrical service at each of the facilities, which will remain on City property should the ice vending machines be removed from the property. City staff will provide the water connection from the facility to the ice machine. The Ice Depot LLC will be solely responsible for the maintenance and operations of the ice vending machine installed on City property. In the event of a tropical storm or hurricane and as determined by the City, The Ice Depot LLC shall remove the ice vending machines from the permitted use areas and store in a location outside of the City.

The Ice Depot LLC has provided a letter from the Florida Department of Environmental Protection concluding that the operation of the automated vending machine units does not result in discharge of industrial wastewater and therefore, an industrial wastewater permit is not required at this time.

The Ice Depot LLC will be required to provide the necessary insurance coverages as outlined in the Non-Exclusive License Agreement such as Comprehensive General Liability Insurance and Workman’s Compensation Insurance. The term of the agreement is for one (1) year, which may be renewed twice for a period of one year each.

Kylie Lemmer, CEO of the Ice Depot LLC has agreed to the conditions as outlined in the Non-Exclusive License Agreement. Kylie Lemmer or Bill Taylor will be in attendance at the Commission Meeting.

**FUNDING**

The Ice Depot LLC will pay to the City thirty-percent (30%) of all revenue from the ice vending machines.

**RECOMMENDATIONS**

City staff has determined that there is a public benefit by granting The Ice Depot LLC permission to provide ice vending machines at Gulf Front Park and the Beach Pavilion. Staff recommends that the City Commission authorize the City Manager to enter into a Non-Exclusive License Agreement with The Ice Depot to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A.

**ATTACHMENTS**

- The Ice Depot LLC proposal
- Non-Exclusive License Agreement
- DEP Approval
- Exhibit A, Photos of proposed locations
- Exhibit B, Ice machine wrap
- USA Voltage quote

**MOTION**

I move to approve and authorize the City Manager to enter into a Non-Exclusive License Agreement with The Ice Depot LLC to place an ice vending machine at Gulf Front Park and the Beach Pavilion at locations determined by staff and illustrated in Exhibit A.