

CITY COMMISSION OF THE CITY OF PAHOKEE

WORKSHOP

Tuesday, December 12, 2017 6:00 p.m.

360 E. Main Street, Pahokee, Florida

This Workshop of the City Commission of the City of Pahokee is being held to discuss the December 12, 2017 Agenda.

A. INVOCATION & PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

D. DISCUSSION, COMMENTS, CONCERNS

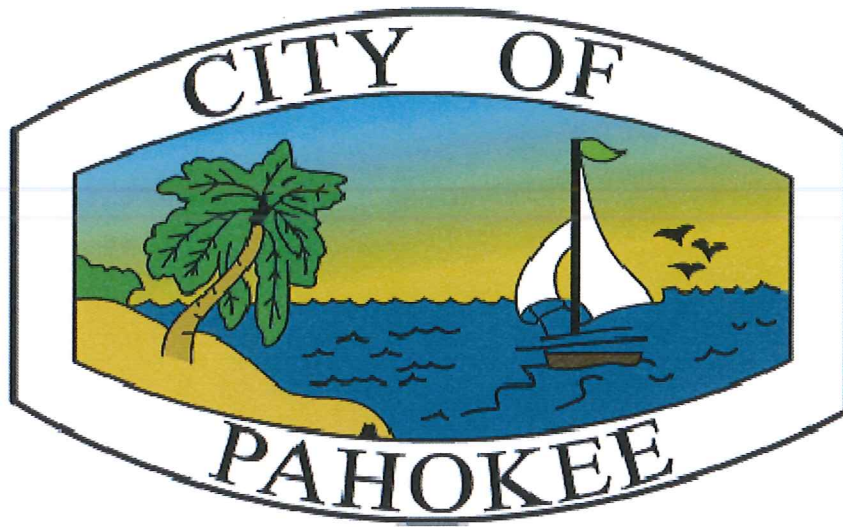
E. ADJOURN



AGENDA

CITY COMMISSION OF THE CITY OF PAHOKEE
REGULAR COMMISSION MEETING
TUESDAY, December 12, 2017 6:30 P.M.

- A. INVOCATION & PLEDGE OF ALLEGIANCE
- B. ROLL CALL:
- C. ADDITIONS, DELETIONS, AND APPROVAL OF AGENDA ITEMS:
- D. CITIZEN COMMENTS (AGENDA ITEMS ONLY):
- E. PUBLIC SERVICE ANNOUNCEMENTS (FILL OUT PUBLIC COMMENT CARD):
- F. APPROVAL OF MINUTES:
- G. CONSENT AGENDA:
- H. ORDINANCE:
- I. RESOLUTIONS:
 - 1. **RESOLUTION 2017 – 38 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT FOR PRECONSTRUCTION SERVICES BETWEEN TECHNOMARINE CONSTRUCTION, INC. AND THE CITY OF PAHOKEE.**
 - 2. **RESOLUTION 2047 – 39 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT FOR ENGINEERING CONSULTING SERVICES BETWEEN AE ENGINEERING INC. AND THE CITY OF PAHOKEE.**
- J. PUBLIC HEARINGS:
 - 1. **ORDINANCE 2017 – 09 (second reading) AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, PROPOSING A CHARTER AMENDMENT REGARDING SELECTION OF A VICE MAYOR; PROVIDING FOR EFFECTIVE DATE OF AMENDMENT, REPEAL OF LAWS IN CONFLICT, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.**
- K. PROCLAMATIONS (approval):
- L. PRESENTATIONS:
- M. REPORT OF THE MAYOR:
- N. REPORT OF THE CITY MANAGER:
- O. REPORT OF THE CITY ATTORNEY:
- P. OLD BUSINESS:
- Q. NEW BUSINESS:
 - 1. **Lieutenant Picciolo (PBSO Report)**
 - 2. **December 26, 2017 City Commission Meeting**
- R. CITIZEN COMMENTS / GENERAL CONCERNS:
- S. CORRESPONDENCE /COMMENTS AND CONCERNS OF THE CITY COMMISSIONERS:
- T. ADJOURN:



RESOLUTIONS

RESOLUTION 2017 - 38

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT FOR PRECONSTRUCTION SERVICES BETWEEN TECHNOMARINE CONSTRUCTION, INC. AND THE CITY OF PAHOKEE.

WHEREAS, this Preconstruction Services Agreement is entered into by and between TECHNOMARINE CONSTRUCTION, INC. (TCI) and the CITY OF PAHOKEE; and,

WHEREAS, the parties desire to enter into this agreement in order to define the expectations of each party with regards to the Project, identify the services to be provided by TCI, and outline the process to be allowed.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:

Section 1. The City Commission hereby authorizes and directs the Mayor to execute the attached Agreement with TECHNOMARINE CONSTRUCTION, INC.

PASSED AND ADOPTED this 12th day of December, 2017.

ATTESTED:

Keith W. Babb, Jr., Mayor

Tijauna Warner, City Clerk

APPROVED AS TO LEGAL
SUFFICIENCY:

Gary M. Brandenburg, City Attorney

Mayor Babb _____
Vice Mayor Holmes _____
Commissioner Hill _____
Commissioner Murvin _____
Commissioner Walker _____



TECHNOMARINE™

PRECONSTRUCTION SERVICES AGREEMENT

between

**Technomarine Construction, Inc.
1208 US Highway One, Suite C
North Palm Beach, FL 33408**

and

**City of Pahokee
207 Begonia Drive
Pahokee, FL 33476**

December 4, 2017

This Preconstruction Services Agreement ("Agreement") is entered into by and between TECHNOMARINE CONSTRUCTION, INC., a Florida corporation ("TCI") and CITY OF PAHOKEE, a Florida corporation ("Owner") for services to be provided by TCI to the Owner on the development of marina facilities for the proposed City of Pahokee Marina and Campground Fishing Pier and Wood Deck, and other items as described in Paragraph 2 (the "Marina Facilities") at 190 N Lake Ave, Pahokee, FL 33476 (the "Property").

WHEREAS, TCI is a general contractor with expertise in developing marina facilities worldwide; and

WHEREAS, Owner desires to engage TCI to assist the Owner in developing a plan for the permitting, design, and construction of the Marina Facilities on Owner's Property, prior to the preparation and execution of a design-build agreement for the Project. The advancement and refinement of the Owner's overall plan for the Property, including the design and construction of the Marina Facilities on the Property, are collectively referred to as the "Project"; and

WHEREAS, the parties desire to enter into this agreement in order to define the expectations of each party with regard to the Project, identify the services to be provided by TCI, and outline the process to be followed. The basis of this agreement is a relationship of trust and cooperation between the parties in order to conceptualize a plan for the Project; and

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are accurate as of the date hereof and are incorporated by reference as though fully set forth herein.

2. "Marina Facilities"; as follows:

- a. Fishing Pier
- b. Wood Deck at Restaurant
- c. Lighting / Camera Security Supplies
- d. Paving, Parking Lot, Civil Engineering – in connection with new Fishing Pier
- e. Petroleum Pump and Systems Upgrades
- f. Pavilion construction
- g. Pre-Fabricated Restrooms (2)
- h. Security Fencing (seawall) and Gate
- i. Building upgrades – restroom / laundry

3. Services provided by TCI. TCI will provide the Owner with honest and unbiased advice on how to develop the Project that is in the best interests of the Owner. TCI will provide various preconstruction services as described herein (collectively, the "Preconstruction Services"). The Services may include, but are not limited to, the following:

- a) Gather pertinent information in order to determine the existing conditions at the project site. All documents to be provided by the Owner as available:
 - Site and/or boundary survey documents (hard copy and cad files)
 - Regulatory and/or local permit documents for existing structures
 - Site civil plans showing existing infrastructure in dock area
 - Geotechnical reports for prior docks and/or nearby upland work
 - Documents from any other recent studies or projects (e.g., bathymetric surveys, prior project drawings, etc., that could be relevant to the new facility)
- b) Using information gathered above, along with input from Owner, develop a layout plan for the proposed marina facility considering anticipated dock usage; upland transitions; environmental impacts; channel and FDOT right-of-way offsets; land lease parameters; and cost implications
- c) Review final layout plan and numbers with Owner; obtain Owner approval to move into regulatory permitting and design phases as appropriate

- d) Regulatory Permitting Effort: Based on the final Owner-approved layout plan, develop all necessary materials for submittal to the FL Department of Environmental Protection (FDEP) and US Army Corps of Engineers (Corps). Materials will include, at a minimum, permit application, exhibits, required drawings and details, and other associated administrative paperwork. Submit permit package; maintain contacts with agencies as necessary; respond to RFI's and provide clarifications as requested; conduct permitting effort through to approvals
- e) Scope item (e) includes development and submittal of application package, and basic follow-up with agencies as required. If additional efforts are required (e.g., aquatic resource surveys, extensive mitigation, special condition negotiations, etc.), the cost for executing these items will be estimated and provided to the Owner for approval prior to proceeding.
- f) Design Effort: Concurrent with regulatory permitting efforts, at such time is appropriate, proceed with Design phase for implementation of the Docking Facility Plan. Design and Construction Drawings may include at a minimum:
- Existing conditions and demolition plans
 - Seawall plans and details
 - Dock layout plans including seawall-gangway-dock transitions
 - Floating and fixed dock system details and performance specifications
 - Anchor pile system design and layout plan
 - Electrical system including plans, details, and specifications for all slip services
 - Mechanical systems including plans, details, and specifications for fire protection to meet NFPA codes
 - Any other required design and plans for upland tie-ins and transitions (assuming all existing upland infrastructure is adequate and available)

4. Fees and Costs. TCI will provide its services and the services of its in-house professionals and those of its affiliated companies, at the **Lump Sum Cost of \$8,500 for Items (a) through (b)** outlined above. At such appropriate time, Items (d) through (f) shall be provided if required, at a cost to be determined based on the final scope of services necessary. Owner agrees that it will pay any actual costs incurred by TCI in the performance of its duties under this Agreement. In the event TCI anticipates incurring any cost in excess of \$500 for which the Owner will be responsible, TCI will notify Owner in advance and obtain consent to incurring such cost.

5. Outside Consultants. In certain circumstances, TCI may determine that it is appropriate to obtain reports from outside professionals (e.g., bathymetric survey, wind-wave study, seagrass survey, sub-surface geotechnical reports, etc.), or to engage outside professionals to perform services. In such event, TCI will notify Owner and provide a recommendation as to the tests and/or services required, the identity of the suggested outside consultants, and the anticipated cost. In the event Owner agrees with TCI's recommendations, TCI will coordinate with the outside consultant(s) to perform the tests and provide the reports. In such event, Owner will be responsible to compensate the outside consultants in accordance with the outside consultant's fee schedule, which shall be provided to Owner as part of TCI's initial recommendation.

6. Owner's Responsibilities. The Owner will reasonably cooperate with TCI in good faith in connection with the work to be performed by TCI pursuant to this Agreement. Owner will timely pay TCI for any costs incurred in the furtherance of Owner's Project and the preparation of the Proposal as well as any fee and costs incurred by outside consultants in accordance with the provisions of this Agreement.

7. Future Relationship. Owner agrees that, in the event that the parties create a mutually agreeable development plan for the Project that Owner desires to execute, Owner will engage TCI in subsequent design and construction phases of the Project and will negotiate in good faith subsequent design and/or design-build agreements with TCI.

8. Intellectual Property. **Owner acknowledges and agrees that TCI** shall be deemed the author and owner of any plans, drawings, calculations or other work product created by TCI relating to the Project (collectively referred to as TCI's "Work Product") and will be subject to the Public Records Laws, Chapter 119, Florida Statutes.

9. Termination. This Agreement may be terminated by the Owner (i) immediately upon the occurrence of a Bankruptcy Event (defined below) or (ii) at any time after written notice to TCI indicating the specific event constituting the default and providing a reasonable opportunity to cure same. TCI shall be in breach of this Agreement if (i) it fails to perform any of the obligations or covenants described in this Agreement or (ii) it files a petition under any of the provisions of the Federal Bankruptcy Code, as amended, or any other Federal or state insolvency or similar law; or such petition shall have been filed against it, or a receiver shall have been appointed in a debtor's proceeding for TCI, or any part of its property or assets, and such petition or receivership is not discharged within sixty (60) days; or TCI shall have made an assignment for the benefit of its creditors (any of the foregoing shall be defined as a "Bankruptcy Event"). TCI may terminate this Agreement in the event that Owner fails to perform its obligations hereunder after providing written notice to Owner indicating the specific event constituting the default and providing a reasonable opportunity to cure same.

10. Notice. All notices and other official communications between the parties shall be in writing and shall be given by hand delivery or by a recognized overnight courier who maintains verification of delivery (deemed to be duly received on a date delivered), to each of the respective parties as follows:

If to TCI:	Technomarine Construction Inc. 1208 US Hwy 1, Suite C North Palm Beach, FL 33408 Attn: Jat Talton
If to Owner:	City of Pahokee 207 Begonia Drive Pahokee, FL 33476 Attn: Chandler Williamson

11. Entire Agreement. This Agreement, including schedules hereto, constitute and contain the entire agreement between the Parties hereto with respect to the transactions contemplated hereby and supersedes any prior oral or written understanding or agreement of parties with respect to the transactions contemplated hereby.

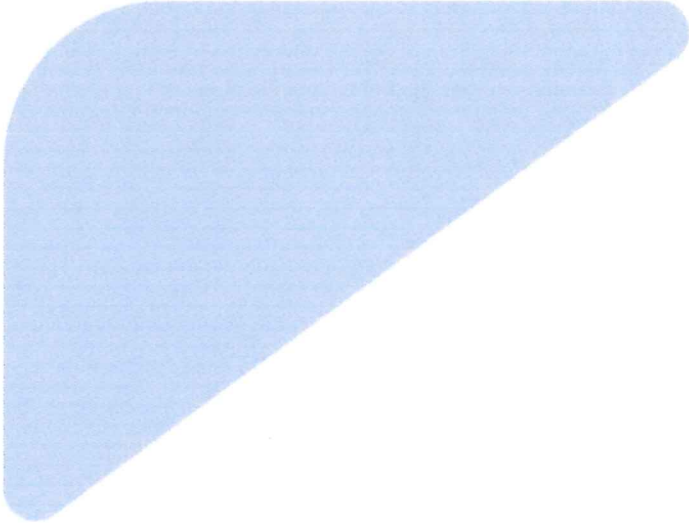
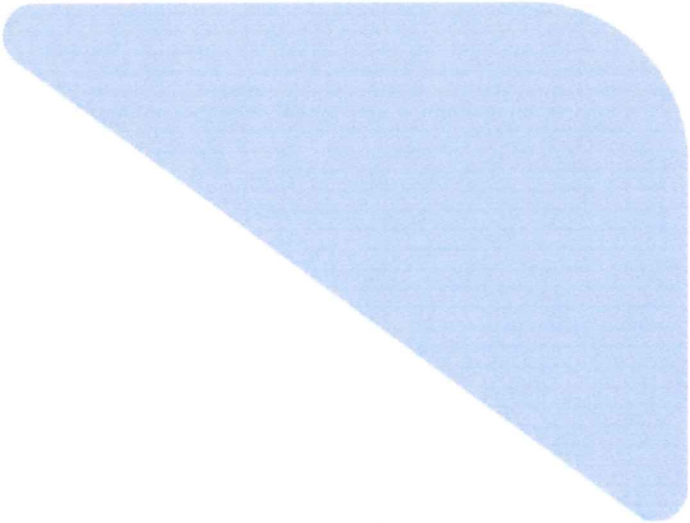
12. Miscellaneous. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one original document. Facsimile signatures and signatures scanned and emailed shall be treated as originals for all purposes hereunder. This Agreement may not be assigned by either party without the consent of the other party. This Agreement shall be binding upon and shall inure to the benefit of parties and their respective successors and assigns.

13. Ratification. TCI represents to the Owner that this Agreement is a valid and binding obligation of TCI and has been approved by all necessary parties. The Owner represents to TCI that this Agreement is a valid and binding obligation of the Owner and has been approved by all necessary parties.

14. Design-Build Agreement. Upon completion of permitting and design effort, this preconstruction services agreement will become an exhibit to an AIA-A141 Standard Form of Agreement between Owner and Design-Builder. Additional exhibits may include Dock Design Specifications, Dock Warranty and Maintenance Plan, final dock facility construction documents, insurance certificates, CPM Schedule outlining the projected key dates for project execution, and projected draw schedule.

IN WITNESS WHEREOF, an authorized representative of the undersigned parties has executed this Agreement as of the date first written above.

TCI: TECHNOMARINE CONSTRUCTION, INC., a Florida corporation By: <u>Jat Talton</u> Name: <u>Jat Talton</u> Its: <u>President</u>	OWNER: CITY OF PAHOKEE, a Florida corporation By: _____ Name: _____ Its: _____
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RESOLUTION 2017 - 39

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT FOR ENGINEERING CONSULTING SERVICES BETWEEN AE ENGINEERING INC. AND THE CITY OF PAHOKEE.

WHEREAS, this Engineering Consulting Agreement is entered into by and between AE ENGINEERING INC. and the CITY OF PAHOKEE; and,

WHEREAS, the City of Pahokee wishes to hire a general engineering consultant to handle miscellaneous construction engineering, inspections and planning services, pursuant to Section 2-272(5) of the City of Pahokee Code Laws and Ordinances, to be assigned Work Orders on an as needed basis.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:

Section 1. The City Commission hereby authorizes and directs the Mayor to execute the attached Agreement with AE ENGINEERING, INC.

PASSED AND ADOPTED this 12th day of December, 2017.

ATTESTED:

Keith W. Babb, Jr., Mayor

Tijauna Warner, City Clerk

APPROVED AS TO LEGAL
SUFFICIENCY:

Gary M. Brandenburg, City Attorney

Mayor Babb	_____
Vice Mayor Holmes	_____
Commissioner Hill	_____
Commissioner Murvin	_____
Commissioner Walker	_____

ENGINEERING CONSULTING AGREEMENT

THIS AGREEMENT made this ___ day of _____ in the year 2017 ("Agreement") by and between the City of Pahokee, 207 Begonia Drive, Pahokee, Florida 33476, hereinafter called the "City," and AE Engineering Inc., 9180 Silver Glen Way, Lake Worth, FL 33467, hereinafter called the "Consultant."

WHEREAS, the City wishes to hire a general engineering consultant to handle miscellaneous construction engineering, inspection and planning services, pursuant to Section 2-272(5) of the City of Pahokee Code of Laws and Ordinances, to be assigned Work Orders on an as-needed basis. All work assigned consultant shall be under the thresholds for compliance with Chapter 287.055, Florida Statutes.

NOW, THEREFORE, the City of Pahokee, and AE Engineering, Inc., agree as follows:

SECTION A - GENERAL TERMS AND CONDITIONS

Article A1 Definitions

A1.01 Additional Services means any Work defined as such in this Agreement, secured in compliance with Florida Statutes and City Code.

A1.02 Attachments mean the Attachments to this Agreement which are expressly incorporated by reference and made a part of this Agreement as if set forth in full.

A1.03 Base Fee means the amount of compensation mutually agreed upon for the completion of the Services under this Agreement.

A1.04 Basic Services means those services designated as such in a Work Order.

A1.05 Consultant means AE Engineering, Inc.

A1.06 Contractor means an individual, partnership, corporation, association, or any combination thereof, which has entered into a contract with the City for construction.

A1.07 Errors mean items in the plans, specification or other documents prepared by the Consultant that are shown incorrectly, which result in a change to the Services or result in the need for the construction contractor to perform rework or additional work or which causes a delay to the completion of construction.

A1.08 Errors and Omissions means design deficiencies in the plans, specification or other documents prepared by the Consultant, which must be corrected in order for the project to function or be built as intended.

- A1.09 Final Acceptance** mean the acceptance of the plans, specification or other documents prepared by the Consultant by the City, which will occur after the City has reviewed the plans, specification or other documents and confirmed that the plans, specification or other documents incorporates all of the requirements of the Services and any comments previously provided by the City.
- A1.10 Inspector** means an employee or representative of the City assigned by the City to make observations of work performed by a Contractor.
- A1.11 Notice to Proceed** means same as "Authorization to Proceed." A duly authorized written letter or directive issued by the City Manager or Procurement Manager acknowledging that all conditions precedent have been met or directing that Consultant may begin performing the Services.
- A1.12 Omissions** means details of information are missing from the plans, specification or other documents prepared by the Consultant, which are necessary for the proper and safe completion of the Project.
- A1.13 Project Manager** means an employee or representative of the City assigned by the City Manager to manage and monitor the Services to be performed under this Agreement.
- A1.14 Professional Services** means those services within the scope of the practice of architecture, professional engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, or registered surveyor in connection with his or her professional employment or practice. These services may be abbreviated herein as "architectural/ engineering services" or "professional services", as applicable, which are within this definition.
- A1.15 Professional Services Agreement ("Agreement" or "PSA")** means this Agreement and all attachments and any authorized amendments thereto. In the event of a conflict between the Request for Qualifications ("RFQ") and the Consultant's response thereto the RFQ will control. In the event of any conflict between the Consultant's response to the RFQ and this PSA, this PSA will control. In the event of any conflict between this PSA and its attachments this PSA will control.
- A1.16 Project** means the construction, alteration and/or repair, and all services and incidentals thereto, of a City facility or property or other task/scope, as contemplated and budgeted by the City. A Project will be further defined in the Scope of Services of any Work Order issued under the Agreement.
- A1.16 Scope of Services or Services** means a comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones required for the completion of Project with sufficient detail to allow a reasonably accurate estimation of resources necessary for its completion.
- A1.17 Subconsultant** means a person or organization of properly registered professional architects, engineers, registered surveyor or mapper, or other professional specialty that has entered into a written agreement with the Consultant to furnish specified Services for work to be completed under the Agreement.
- A1.18 City Commission** means the legislative body of the City of Pahokee.
- A1.19 City Manager** means the duly appointed chief administrative officer of the City of Pahokee or designee.
- A1.20 City or Owner** means the City of Pahokee, Florida, a Florida municipal corporation, the public agency which is a party hereto and for which this Agreement is to be performed. In all respects

hereunder, City's performance is pursuant to City's position as the Owner of the Project. In the event the City exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances will be deemed to have occurred pursuant to City's authority as a governmental body and will not be attributable in any manner to City as a party to this Agreement.

A1.21 Wage Rates means the effective direct expense to Consultant on an hourly rate basis, for employees in the specified professions and job categories assigned to provide services under this Agreement that justify and form the basis for professional fees regardless of actual manner of compensation.

A1.22 Work Order means a document approved and issued by the City authorizing the performance of specific Professional Services for a Project(s) or task(s) under this Agreement.

A1.23 Work Order Proposal means a document prepared by the Consultant, at the request of the City for Services to be provided by the Consultant.

Article A2 General Conditions

A2.01 General Conditions

This agreement is restricted to professional services that do not fall within the thresholds of Chapter 287.055, Florida Statutes. Work Orders under this agreement cannot exceed \$35,000 for a single planning or study activity under a Work Order, or for professional services on a project on which the construction costs will exceed \$325,000. Any Work Order for a project which the total professional services for that project exceed \$10,000 shall be approved by the City Commission at a regularly scheduled meeting.

A2.02 Term

The term of this Agreement will be for three (3) years commencing on the effective date of the Agreement. The provisions of this Agreement will remain effective until all Services required under Work Orders issued under this Agreement have been completed.

The City will have the option to extend the term for two (2) additional period(s) of one (1) year each, subject to continued satisfactory performance as determined by the City. In no event shall the term of this Agreement exceed five (5) years from its commencement date. City Commission authorization of this Agreement includes delegation of authority to the City Manager to administratively approve said extensions.

A2.03 Scope of Services

A2.03-1 General

Consultant agrees to provide the Services, Engineering, CEI, and Planning.

A2.03-2 Miscellaneous Projects

Projects will be assigned with a Work Order being issued by the City for each project or task on an as needed basis during the term of the Agreement.

A2.04 Compensation

A2.04-1 Miscellaneous Projects

The amount of compensation payable by the City to Consultant will be determined by a specific rate of compensation, which will be based in part on the hourly or task rates established in the Agreement on a per project basis.

No specific value has been established for this Agreement as the work will be performed on Work Orders issued by the City, however, in no event shall the total expenditure under this Agreement

exceed \$1.5 million.

A2.04-2 Payments

Pursuant to Florida Statute Chapter 218, Part VII, Local Government Prompt Payment Act, the City will issue payment to the Consultant after receipt of Consultant's invoice in accordance with the deadlines established in Florida Statutes Section 218.74. The payment due date for the City for the purchase of goods or services other than construction services is forty-five (45) days after the date on which the City receives the Consultant's invoice.

Consultant may not invoice the City more than once per month, where each month means a period beginning on any day of one month and ending on the same day of the following month. Consultant must submit all requests for payment using the City's standard Consultant Invoice form, and must include sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should City require one to be performed. If Consultant is entitled to reimbursement of travel expenses, then all bills for travel expenses must be submitted in accordance with Section 112.061, Florida Statutes.

A2.05 Federal Provisions

As projects assigned under this Agreement will be funded by State or Federal monies, Form 375-040-84, attached hereto as Exhibit A, is hereby incorporated in this Agreement by reference as though fully set forth herein.

Article A3 Performance

A3.01 Performance and Delegation

The Services to be performed hereunder must be performed by the Consultant's own staff, unless otherwise provided in this Agreement, or approved, in writing by the Project Manager. Said approval will not be construed as constituting an agreement between the City and said other person or firm and the City assumes no liability or responsibility for any Subconsultant.

A3.02 Removal of Unsatisfactory Personnel

The City Manager may make written request to Consultant for the prompt removal and replacement of any personnel employed or retained by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. The Consultant must respond to the City within seven (7) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. All decisions involving personnel will be made by the City. Such request will solely relate to said employees work under this Agreement.

A3.03 Consultant Key Staff

The parties acknowledge that Consultant was selected by the City, in part, on the basis of qualifications of particular staff identified in Consultant's response to City's solicitation, here in after referred to as "Key Staff". Consultant must ensure that Key Staff are available for Services here under as long as said Key Staff is in Consultant's employ. Consultant must obtain prior written acceptance of Project Manager to change Key Staff. Consultant must provide the Project Manager with such information as necessary to determine the suitability of proposed new Key Staff. The Project Manager will act reasonably in evaluating Key Staff qualifications. Such acceptance will not constitute any responsibility or liability for the individual's ability to perform.

A3.04 Time for Performance

The Consultant agrees to start all Services hereunder upon receipt of a Notice to Proceed or signed Work Order issued by the City Manager and to complete each assignment, task or phase within the time stipulated in the Notice to Proceed or Work Order. Time is of the essence with respect to performance of this Agreement.

A reasonable extension of the time for completion of various assignments, tasks or phases may be granted by the City Manager should there be a delay on the part of the City in fulfilling its obligations under this Agreement as stated herein. Such extension of time will not be cause for any claim by the Consultant for extra compensation.

A3.05 E-Verify Requirements

Projects awarded under the Agreement may require the Consultant to comply with the Department of Homeland Security E-Verify program. Work Orders issued under the Agreement will identify the need to comply with the E-Verify program.

A3.06 Disadvantaged Business Enterprises

Federal and State participation in projects may require certain participation goals to assure and encourage full participation of DBE's in the provision of goods and services. The City expects the Consultant to adhere to these participation goals. Contract specific goals are not placed on Federal/State contracts; however, FDOT currently has an overall 9.91% DBE goal.

Pursuant to Section 49 CFR 26.13(b), the Consultant agrees to abide by and include the following statement in all of its contracts entered into in connection to any Work to be performed under this Contract:

“The Consultant, sub recipients or sub consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT- assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in termination of this contract or other such remedy as the recipient deems appropriate.”

For more information on DBE Participation or Federal or State requirements, please contact FDOT Equal Opportunity Office and consult Section L of FDOT Form 375-040-84, which is attached to this RFQ.

Article A4 Standard of Care

Consultant is solely responsible for the technical accuracy and quality of its services. Consultant must perform all services in compliance with Florida Administrative Code Rule 61G15-19.001(4) and section 471.033(1) (g) of the Florida Statutes. Consultant must perform due diligence, in accordance with best industry practices, in gather information and inspecting a project site prior to the commencement of the Services. Consultant will be responsible for the professional quality, technical accuracy and coordination of all reports, design, drawings, specification, and other Services furnished by the consultant under this Agreement. Consultant must, without additional compensation, correct or revise any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services. Consultant will also be liable for claims for delay costs, and any increased costs in construction, including but not limited to additional work, demolition of existing work, rework, etc., resulting from any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services.

Article A5 Subconsultants

All subconsultants utilized to perform services under this Agreement must be prequalified by FDOT prior to the commencement of any Work under this Agreement.

Article A6 Default

A6.01 General

If Consultant fails to comply with any term or condition of this Agreement, or fails to perform any of its Obligations hereunder, then Consultant will be in default. Upon default, the City, in addition to all remedies available to it by law, may immediately, upon written notice to Consultant, terminate this

Agreement whereupon all payments, advances, or other compensation paid by the City to Consultant while Consultant was in default must be immediately returned to the City. Consultant understands and agrees that termination of this Agreement under this section does not release Consultant from any obligation accruing prior to the effective date of termination.

In the event of termination due to default, in addition to the foregoing, Consultant will be liable to the City for all expenses incurred by the City in preparing and negotiating this Agreement, as well as all costs and expenses incurred by the City in the re-procurement of the Services, including consequential and incidental damages. In the event of default, City may also suspend or withhold reimbursements from Consultant until such time as the actions giving rise to default have been cured.

A6.02 Conditions of Default

A finding of default and subsequent termination for cause may include, without limitation, any of the following:

A6.02-1

Consultant fails to obtain or maintain the required insurance.

A6.02-2

Consultant fails to comply, in a substantial or material sense, with any of its duties under this Agreement, with any terms or conditions set forth in this Agreement or in any agreement it has with the City, beyond the specified period allowed to cure such default.

A6.02-3

Consultant fails to commence the Services within the time provided or contemplated herein, or fails to complete the Services in a timely manner as required by this Agreement.

A6.03 Time to Cure Default; Force Majeure

City through the City Manager or designee will provide written notice to Consultant as to a finding of default, and Consultant must take all necessary action to cure said default within time stipulated in said notice, after which time the City may terminate the Agreement. The City, at its sole discretion, may allow additional days to perform any required cure if Consultant provides written justification deemed reasonably sufficient.

Should any such failure on the part of Consultant be due to a condition of Force Majeure as the term is interpreted under Florida Law, then the City may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

Article A7 Termination of Agreement

A7.01 City's Right to Terminate

The City Manager has the right to terminate this Agreement for any reason or no reason, upon ten (10) days' written notice. Upon termination of this Agreement, all charts, sketches, studies, drawings, and other documents, including all electronic copies related to Services authorized under this Agreement, whether finished or not, must be turned over to the City. The Consultant will be paid for the Services performed and accepted, provided that said documentation is turned over to City Manager within ten (10) Business days of termination. Failure to timely deliver the documentation will be cause to withhold any payments due without recourse by Consultant until all documentation is delivered to the City Manager or designee.

Consultant will have no recourse or remedy from a termination made by the City except to retain the fees earned as compensation for the Services that was performed in complete compliance with this Agreement, as full and final settlement of any claim, action, demand, cost, charge or entitlement it may

have, or will, have against the City, its officials or employees.

A7.02 Consultant's Right to Terminate

Consultant will have the right to terminate this Agreement, in writing, following breach by the City, if the breach of the Agreement has not been corrected within sixty (60) days from the date of the City's receipt of a written statement from Consultant specifying its breach of its duties under this Agreement.

A7.03 Termination Due to Undisclosed Lobbyist or Agent

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

For the breach or violation of this provision, the City has the right to terminate this Agreement without liability and, at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Article A8 Documents and Records

A8.01 Ownership of Documents

All tracings, drawings, specifications, maps, computer files, reports and any other documents prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived there from, including all electronic digital copies are considered works made for hire and will, based on incremental transfer wherein the above will become the property of the City upon payments made to Consultant or termination of this Agreement, without restriction or limitation on their use, and will be made available, on request, to the City at any time during the performance of the Services or upon completion or termination of this Agreement. Consultant must not copyright any material and products or patent any invention developed under this Agreement. The City has the right to visit the site where the Services are being provided at any time. The Consultant will be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the City's use and occupancy of the Project.

A8.02 Delivery upon Request or Cancellation

Failure of the Consultant to promptly deliver all such documents, both hard copy and digital, to the City Manager within ten (10) days of cancellation, or within ten (10) days of request by the City Manager, will be just cause for the City Manager to withhold payment of any fees due Consultant until Consultant delivers all such documents.

A8.03 Use by the City

It is understood that all Consultant's work, plans and specifications, including construction drawings, at the City's sole option, may be re-used in accordance with this provision without the necessity of further approvals, compensation, fees or documents being required and without recourse for such re-use. The Consultant will not be liable for re-use by the City of plans, documents, studies, or other data for any purpose other than that intended by the terms and conditions of the Work Order.

A8.04 Nondisclosure

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without City Manager's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services rendered by Consultant hereunder, and Consultant will require all of its employees and agents comply with the provisions of this paragraph.

A8.05 Maintenance of Records

Consultant will keep adequate records and supporting documentation, which concern or reflect its

services here under. Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, must be kept in accordance with statute. Otherwise, the records and documentation will be retained by Consultant for a minimum office (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. City, or any duly authorized agents or representatives of City, has the right to audit, inspect, and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however such activity will be conducted only during normal business hours.

Upon completion of or termination of the Agreement the Consultant, as stated in Chapter 199.701 of the Florida Statutes, transfer, at no cost, to the City all public records in possession of the Consultant related to the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

Article A9 Indemnification

The Consultant hereby agrees to hold harmless, indemnify and defend the City, and their officials and employees from any and all claims, losses and causes of actions which may arise out of the performance of this Agreement as a result of any act of negligence or negligent omission, recklessness, or intentionally wrongful conduct of the Consultant, its agents, employees, or sub consultants. The Consultant must pay all claims and losses of any nature whatsoever in connection there with and will defend all project related suits, in the name of the City, when applicable, and must pay all costs, including without limitation, reasonable attorney's and appellate attorney's fees, and judgments which may issue there on. The Consultant's obligation under this paragraph will not be limited in any way by the Consultant's limit of, or lack of, sufficient insurance protection, and will apply to the full extent that it is caused by the negligence, act, omission, recklessness or intentional wrongful conduct of the Consultant, its agents, servants, or representatives.

This indemnification shall survive the termination of this Contract. Consultant acknowledges that 10% of its total compensation is in consideration of this Indemnification. Nothing contained in this paragraph is intended to, nor shall it constitute a waiver of the State of Florida or the City of Pahokee' sovereign immunity.

Article A10 Insurance

The Consultant must not start Services under this Agreement until the Consultant has obtained all insurance required hereunder and the City has approved such insurance.

A10.01 Companies Providing Coverage

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the City Manager. All companies must have a Florida resident agent and be rated at least A(X), as per A.M. Best Company's Key Rating Guide, latest edition.

A10.02 Verification of Insurance Coverage

The Consultant must furnish certificates of insurance to the City Manager for review and approval prior to the execution of this Agreement. The Certificates must clearly indicate that the Consultant has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims at the time of award to the Consultant. Consultant must maintain coverage with equal or better rating as identified herein for the term of this Agreement. Consultant must provide written notice to the City Manager of any material change, cancellation or notice of non-renewal of the insurance within 30 days of the change. Consultant must furnish a copy of the insurance policy or policies upon request of the City Manager within ten (10) days of written request.

A10.03 Forms of Coverage

A10.03-1 Commercial General Liability and Automobile Liability

Consultant must maintain commercial general liability coverage with limits of at least \$500,000 per occurrence, \$1,000,000 aggregate for bodily injury and property damage. The coverage must include Premises and Operations, Contingent and Contractual Liability, and Products and Completed Operations, with additional endorsements, as applicable. Coverage must be written on a primary, non-contributory basis with the City listed as an additional insured as reflected by endorsement CG 2010 11/85 or its equivalence. Notice of cancellation is read (30) days/ (10) days for nonpayment.

A10.03-2 Business Automobile

The Consultant must provide business automobile liability coverage including coverage for all owned, hired and non-owned autos with a minimal combined single limit of \$1,000,000 naming the City as an additional insured with respect to this coverage. Notice of cancellation should read (30) days/ (10) days for nonpayment.

A10.03-3 Professional Liability Insurance

The Consultant must maintain Professional Liability Insurance including Errors and Omissions coverage in the minimum amount of \$1,000,000 per claim, and \$1,000,000 aggregate providing for all sums which the Consultant will be legally obligated to pay as damages for claims arising out of the Services performed by the Consultant, or any person employed by the Consultant, in connection with this Agreement. This insurance must be maintained for at least one year after completion of the construction and acceptance of the construction and acceptance of any project covered by this Agreement.

A10.03-4 Worker's Compensation Insurance

Consultant must maintain Worker's Compensation Insurance in compliance with Florida Statutes, Chapter 440, as amended, and Employee's Liability with a minimum limit of \$500,000 each occurrence.

Article A11 Miscellaneous

A11.01 Audit Rights

The City reserves the right to audit the Consultant's accounts during the performance of this Agreement and for five (5) years after final payment under this Agreement. The Consultant agrees to furnish copies of any records necessary, in the opinion of the City Manager, to approve any requests for payment by the Consultant.

A11.02 Entire Agreement

This Agreement, as it may be amended from time to time, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed in accordance with the requirements of the Agreement. Waiver by either party of a breach of any provision of this Agreement will not be deemed to be a waiver of any subsequent or other breach of any provision of this Agreement.

A11.03 Successors and Assigns

The performance of this Agreement must not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Consultant without the written consent of the City Commission or City Manager, as applicable. It is understood that a sale of the majority of the stock or partnership shares of the Consultant, a merger or bulk sale, an assignment for the benefit of creditors will each be deemed transactions that would constitute an assignment or sale hereunder requiring prior City approval.

The Consultant’s services are unique in nature and any transference without the prior written approval of the City will be cause for the City to terminate this Agreement. The Consultant will have no recourse from such cancellation. The City may require bonding, other security, certified financial statements and tax returns from any proposed Assignee and the execution of an Assignment/Assumption Agreement in a form satisfactory to the City as a condition precedent to considering approval of an assignment.

The Consultant and the City each binds one another, their partners, successors, legal representatives and authorized assigns to the other party of this Agreement and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Agreement.

A11.04 Truth-In-Negotiation Certification

The Consultant certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of Notice to Proceed. The original Project price and any addition thereto will be adjusted to exclude any significant sums by which the City determines the project price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such price adjustments will be made within 1 year following the end of the Project.

A11.05 Applicable Law and Venue of Litigation

This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any suit or action brought by any party, concerning this Agreement, or arising out of this Agreement, must be brought in Palm Beach County, Florida. Each party will bear its own attorney’s fees except in actions arising out of Consultant's duties to indemnify the City under Article A8, where Consultant must pay the City’s reasonable attorney’s fees.

A11.06 Notices

Whenever either party desires to give written notice to the other relating to the Agreement, such must be addressed to the party for whom it is intended at the place specified below; and the place for giving the notice will remain until it has been changed by written notice in compliance with the provisions of this Article. Notice will be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice will be deemed given on the date sent via e-mail or facsimile. Notice will be deemed given via courier/delivery service upon the initial delivery date by the courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For the City of Pahokee:

City Manager
City of Pahokee
207 Begonia Drive
Pahokee, FL 33476

Copy to:

Gary Brandenburg, City Attorney
Brandenburg & Associates, P.A.
11891 U.S. Highway One, Suite 101
North Palm Beach, FL 33408
gary@brandenburgpa.com

For Consultant:

AE Engineering Inc.
9180 Silver Glen Way
Lake Worth, FL 33467
Rod@aeengineeringinc.com

A11.07 Interpretation

The headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

A11.08 Joint Preparation

Preparation of this Agreement has been a joint effort of the City and Consultant and the resulting document will not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

A11.09 Priority of Provisions

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement will prevail over any document incorporated by reference and be given effect.

A11.10 Waiver of Jury Trial

In an effort to expedite the conclusion of any litigation the parties voluntarily waive their right to jury trial.

A11.11 Time

Time is of the essence in this Agreement.

A11.12 Compliance with Laws

Consultant must comply with all applicable laws, codes, ordinances, rules, regulations and resolutions including, without limitation, the Americans with Disabilities Act ("ADA"), as amended, and all applicable guidelines and standards in performing its duties, responsibilities, and obligations related to this Agreement. The Consultant represents and warrants that there will be no unlawful discrimination as provided by law in connection with the performance of this Agreement.

A11.12-1 Non-Discrimination

City and Consultant separately warrant and represent that they do not engage in discriminatory practices and that there will be no discrimination in connection with Consultant's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Consultant further covenants that no otherwise qualified individual will, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

A11.12-2 OSHA Compliance

The Consultant warrants that it will comply with all OSHA and other safety precautions as required by federal, state or local laws, rules, regulations and ordinances.

A11.13 No Partnership

Consultant is an independent contractor. This Agreement does not create a joint venture, partnership or other business enterprise between the parties. The Consultant has no authority to bind the City to any promise, debt, default, or undertaking of the Consultant.

A11.14 Contingency Clause

Funding for this Agreement is contingent on the availability of funds and continued authorization for activities and the Agreement is subject to amendment or termination due to lack of funds, reduction of funds or change in regulations, upon thirty (30) days' notice.

A11.15 Third Party Beneficiary

Consultant and the City agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

A11.16 No Estoppel

Neither the City's review, approval or acceptance of, or payment for Services performed under this Agreement will be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the Consultant will be and remain liable to the City in accordance with applicable laws for all damages to the City caused by the Consultant's negligent performance of any of the Services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

END OF SECTION

SECTION B - SCOPE OF WORK

Article B1 General

Consultant must provide comprehensive Civil Engineering and related services for Project(s), on an as needed basis, for each Work Order.

B1.01 Scope of Services

Construction Engineering and Inspection Services will include, but are not limited to, public meetings, review of work prepared by Subconsultants, field investigations and observations, construction contract administration, as-built documentation and other related architectural and engineering services as needed to complete the Projects.

Consultant maybe required to perform all or some of the services presented in this Agreement, depending on the needs of the City for project.

B1.02 Work Orders

When the City Manager has determined that a specific phase of a Project or a Project is to proceed, the City Manager will request in writing, a Work Order Proposal from the Consultant based on the proposed Scope of Services provided to the Consultant in writing by the City Manager. The Consultant, the City Manager, and others if appropriate, may have preliminary meetings, if warranted, to further define the Scope of Services and to resolve any questions. The Consultant will then prepare a Work Order Proposal following the format provided by or acceptable to the City, indicating the proposed Scope of Services, total time for performance, time for performance of each task, phase or deliverable, staffing (including proposed hours per individual and/or classification, Subconsultants, and deliverable items and/or documents. The City, at its sole discretion may provide the Consultant with a standardized Work Order Proposal Form to be used for all requests.

The City Manager may accept the Work Order Proposal as submitted, reject the Work Order Proposal, or negotiate revisions to the Work Order Proposal. Upon successful conclusion of negotiations, the Consultant may be required to submit a revised final Work Order Proposal. If negotiations cannot be successfully completed, the City Manager may terminate negotiations and may request a Work Order Proposal from another consultant under contract with the City, or secure such services through other means available to the City. Upon approval of the Work Order Proposal the City Manager will issue a written Work Order assigning the Project to the Consultant.

It is understood that a Work Order or Notice to Proceed may be issued under this Agreement at the sole discretion of the City Manager and that the Consultant has no expectation, entitlement, right to or privilege to receive a Work Order and/or Notice to proceed for any Project or task. The City reserves at all times the right to perform any or all Professional Services in-house, or with other private professional architects or engineers or as provided by Section 287.055, Florida Statutes, as amended, (Consultants' Competitive Negotiation Act) or to discontinue or withdraw any or all Projects or tasks or to exercise any other choice allowed by law.

This Agreement does not confer on the Consultant any particular, exclusive or special rights to any Work required by the City. Outside of this Agreement, the City may submit other proposals for any professional services which the Consultant is qualified to perform in response to any public solicitation issued by City.

Article B2 Basic Services

Consultant agrees to provide complete construction engineering and inspection services as set forth in the Contract, in accordance with the FDOT manuals (latest edition), FDOT/LAP manuals (latest edition), and all federal, state, county and City, laws, codes and ordinances. Consultant must maintain an adequate staff of qualified personnel on the Services at all times to ensure its performance as specified in the Agreement.

The Consultant's Basic Services that may be provided under the Agreement will (at a minimum) consist of, but not be limited to, the following:

1. Administer the Construction Contract and monitor and inspect the work performed by the Construction Contractor ("Contractor") such that the project is constructed in reasonable conformity with the plans, specifications, and special provisions of the Construction Contract.
2. Resident Engineering Services - Coordinate the Construction Contract administration activities of all parties other than the Contractor involved in completing the construction project. Services will include maintaining the required level of surveillance of Contractor activities, interpreting plans, specifications, and special provisions for the Construction Contract. Maintain complete, accurate records of all activities and events relating to the project and properly document all project changes. The following Services must be performed:
 - a. General Coordination: Consultant must communicate daily or periodically with the City, the Engineer of Record ("EOR") and Contractor, as needed. Consultant must report on concerns as it relates to the construction effort and activities. In addition, the Consultant must also coordinate with the City's Project Manager where notifications such as utility outages, road closures, etc. maybe required. The Consultant will monitor and verify that the Contractor has made the required notifications to the utility owners, residents and businesses as may be required.
 - b. Estimating Services: Provide accurate cost estimates and schedules to avoid cost overruns and schedule slips. Prepare cost estimates and schedules by helping manage resources and supporting assessment and decision making. Services may encompass a wide range of cost related aspects of engineering and program management, but in particular cost estimating, cost analysis/cost assessment, design to cost, schedule analysis/planning and risk assessment.
 - c. Value Engineering Meetings: The Consultant will be expected to attend, participate, and provide cost estimating information at value engineering meetings between the City, the Engineer of Record, and the Contractor for the construction project.
 - d. Resident Information Meetings: Consultant will be expected to attend, address resident concerns, participate, produce meeting minutes, and take a lead role in Resident Information Meetings with the City for the Project.
 - e. Pre-Construction Meetings: The Consultant will be expected to attend, participate, produce meeting minutes, and take a lead role in Pre-Construction Meeting with the City, EOR and Contractor for the Project. The Pre-construction Meeting will be scheduled once the City issues the first Notice-to-Proceed to the Contractor.
 - f. Weekly Construction Progress Meetings: The Consultant will attend, participate and take a lead role in weekly construction project meetings with the City's Project Manager, EOR and Contractor on the Project. These meetings will serve as forums to review the status of construction progress, discuss construction issues, discuss schedule and cost concerns, discuss potential changes or conflicts, review the status of shop drawing submittals and Construction Document clarifications and interpretations, and to resolve problems before they become critical. Consultant will prepare weekly meeting minutes and distribute to all

Meeting attendees, review the two week look ahead provided by the Contractor and provide comments or objections to written statements within the specified timeframe. The Consultant will prepare detailed weekly reports that describe the construction activities, progress, incidents and issues that have occurred on the construction site and distribute to the attendees in advance of the weekly construction progress meetings.

- g. Field Observations: The Consultant will conduct field observations on a daily basis throughout the duration of construction. Field observations maybe provided jointly by the City and the Consultant. If and when necessary, the City will provide part-time construction inspectors for the duration of the Project. The role of the City's construction inspectors will be limited. The Consultant will be present at the construction site daily during the construction phase of the Project and will be expected to be available, as needed, throughout the Contractor's work day.
- h. Stormwater Permit - Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the project. For each project that requires the use of the NPDES General Permit, inspector the inspector (at least one) should have successfully completed the "Florida Stormwater, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors". The Consultant's inspector will be familiar with the requirements set forth in the FEDERAL REGISTER, Vol. 57, No. 187, Friday, September 5, 1992, pages 4412 to 4435 "Final NPDES General Permits for Storm Water Discharges from Construction Sites" and the City's guidelines.
- i. Daily Reports: The Consultant will prepare daily reports, on the same date as construction occurs, to record the daily performance of the Contractor as well as other significant construction related matters. Daily reports will be uploaded by the Consultant toe-Builder™, the City's document management system. At the end of each day or the beginning of the following day, the Consultant will forward the original daily reports to the City for review. The Consultant will maintain and file paper copies of the daily reports onsite for reference. The daily reports will include records of when the Contractor is on the job-site, general field observations, weather conditions, change orders, changed conditions, list of job site visitors, daily drilling and testing activities, testing results, testing observations, and records of the outcome of tests and inspections. At a minimum the daily reports will contain the following information:
 - Weather and general site conditions
 - Contractor's work force counts by category and hours worked
 - Description of Work performed including location
 - Equipment utilized
 - Names of visitors to the jobsite and reason for the visit
 - Tests made and results
 - Construction difficulties encountered and remedial measures taken
 - Significant delays encountered and apparent reasons why
 - Description of (potential) disputes between the Contractor and City
 - Description of (potential) disputes between the Contractor and residents
 - Summary of additional directions that may have been given to the Contractor
 - Detailed record of materials, equipment and labor used in connection with extra work, or where there is reason to suspect that a claim or request for Change Order may be submitted by the Contractor

- Summary of any substantive discussions held with the Contractor and/or City
 - Summary of nonconforming work referenced to corresponding Non-Compliance Notice
 - A log of photographs taken
- j. Materials Testing: Consultant will provide sampling and testing of various materials to be used in the course of the Work and report its results and recommendations to the City's Project Manager. Materials to be tested include aggregates; concrete products; cements and additives, including water, epoxies, and curing compounds; bituminous materials, mixtures, additives, and joint fillers; metals; galvanizing, rubber, paints, and other coatings; and soils and limerock.
- k. Photographic Record: Consultant will provide a photographic record of the overall progress of construction, beginning with preconstruction documentation, following with on-going construction documentation, and ending with post-construction documentation. Photographs will be digital snapshot type taken to define the progress of the project and will be provided monthly, labeled by date, time and location. The Consultant will provide digital copies submitted electronically to the City's Project Manager and EOR and printed copies if requested by the City's Project Manager or EOR.
- l. Adherence to Construction Documents: The Consultant will review materials and workmanship of the project and report to the City's Project Manager and EOR any deviations from the Construction Documents that may come to the Consultant's attention. Consultant will determine the acceptability of the work and materials and, in concert with the EOR (as necessary), make recommendations to the City's Project Manager to reject items not meeting the requirements of the Construction Documents.
- m. Delivery of Unaccepted Materials to Jobsite: As new materials are delivered to the jobsite, the Consultant will check the material's certifications and samples and verify that an approved shop drawing was submitted for the material in question. If it is determined that a submittal has not been approved, the Consultant will immediately notify the City's Project Manager and issue a Non-Compliance Notice.
- n. Shop Drawing Submittals: The Consultant will review shop drawing and product approvals throughout the duration of the construction period for familiarity prior to delivery of materials.
- o. Issuance of Non-compliance Notices: The Consultant will be responsible for notifying the City when they become aware of a condition that is believed to be in non-compliance (defective work) with Construction Documents. Anytime the Consultant notices a potential construction problem or a condition that could result in non-complying materials, equipment or workmanship, the Consultant will need to determine whether the condition poses an immediate threat to public health or safety.
- 1) If a condition does not pose a threat to public health or safety, immediate verbal notification or "Pre-Noncompliance Notice" of the potential non-compliance should be made to the Contractor and the City's Project Manager. This verbal notice will be documented in the Consultant's daily report, as well as an e-mail to the Contractor with a copy to the City's Project Manager advising the Contractor of potential construction problems, errors, or deficiencies that can be promptly resolved and do not warrant a Non-compliance Notice. If the Contractor fails to respond to the verbal notification within a reasonable timeframe, the Consultant will notify the City's Project Manager and will issue a written Non-compliance Notice.

2) If a condition poses an immediate threat to public health or safety, the Consultant will notify the Contractor and City's Project Manager immediately and the City's Project Manager will issue a Non-compliance Notice to the Contractor. Non-compliance Notices will include a description of the Work that does not meet the construction contract requirements, along with a required timetable for corrective work to be implemented by the Contractor. Other items that should be included in the Notice include a reference to the provision of the Construction Documents that has been violated.

- p. Damage to Existing Facilities: The Consultant will identify any existing facilities damaged by the Contractor and verify that the Contractor has notified the respective owner(s). The Consultant will include record of such occurrences in the daily reports.
- q. Change Orders: Consultant will perform an independent review of any Change Orders submitted by the Contractor and provide a written statement noting recommendation for approval or denial of the Change Order to the City. If recommended for approval, the Consultant will note if the requested cost and schedule impacts are fair and reasonable. The Consultant will also participate in change request review meetings with City's Project Manager and Contractor.
- r. Requests for Information (RFIs): When RFIs involve design issue interpretations, the Consultant will coordinate with the City's Project Manager to resolve the Contractor's Requests for Information, Field Orders, and other related correspondence. The Consultant will also be responsible for verifying that the City's Project Manager or EOR is providing a written response to RFIs in a timely manner and for processing, logging, and distributing all RFIs
- s. Schedule: Analyze the Contractor's schedule(s) (i.e. baseline(s), revised baseline(s), updates, as-built, etc.) for compliance with the contract documents. Elements including, but not limited to, completeness, logic, durations, activity, flow, milestone dates, concurrency, resource allotment, and delays will be reviewed. Verify the schedule conforms with the construction phasing and MOT sequences, including all contract modifications. Provide a written review of the schedule identifying significant omissions, improbable or unreasonable activity durations, errors in logic, and any other concerns as detailed in the contract documents.
- t. Pay Requisitions: Consultant will verify Contractor's pay requisition quantities and sign-off on all pay requisition quantities in the field. Consultant will be responsible for reviewing with the Contractor the monthly payment requisition to confirm the status of completed and uncompleted work and stored materials. The Consultant will advise the City's Project Manager of quantities being approved for subsequent concurrence for payment purposes. Payment Requisitions will only be approved by the City after review by the Consultant.

If a situation presents itself the following procedures should be followed:

- Immediately direct personnel to remove themselves from the apparent danger.
- Notify the Contractor's superintendent of the apparent condition that caused the concern and that the affected personnel were directed to remove themselves accordingly.
- Notify the Contractor of the situation that arises concern, both in writing and verbally.
- Issue a written Notice of Noncompliance stating that the Contractor should take immediate action as it deems necessary to correct the deficiency /condition.
- Write a full report in the Daily Report on the condition found to be unsafe, all actions taken, and correspondence written, including times and names.
- Take photographs, of the concern.

- If the Contractor does not make corrections, the Consultant should notify the City.
 - The Consultant will review the situation with the City for further direction.
 - The condition, as well as all conversations and correspondence, will be recorded in the Consultant's Daily Report.
 - In the case of a construction-related accident, Consultant will notify the City of the accident. Consultant will direct the Contractor to prepare an accident report with a copy forwarded to the City.
- u. Equipment Tests and Systems Start-up: Consultant will be responsible for coordinating various tests for quality control on the projects; verifying that equipment tests and systems start-up are conducted in the presence of appropriate personnel; and that the Contractor is maintaining adequate records thereof. Consultant will observe, record, and report appropriate details relative to the test procedures and start-up.
 - v. Record Drawings: Consultant will monitor that record drawing mark-ups are properly maintained by the Contractor. The Consultant will review the record drawing mark-ups as deemed necessary by the City's Project Manager. Contractor's failure to maintain the record drawings in up-to-date condition may be deemed grounds for withholding Contractor's monthly payment requisitions until such time as there cord drawings are brought up-to-date. The Consultant will notify the City if it considers the mark-up documents insufficient. The City's Project Manager will make final determination of payment withholding.
 - w. Safety: Consultants will be expected to recognize a hazard that any reasonable non-safety professional might be expected to recognize. In addition, those safety obligations extend only to recognizable hazards that the Consultant may note while in the normal conduct of onsite business.
 - x. Quality Control: Quality control during construction will be the responsibility of the Contractor; however, oversight and ensuring the Contractor complies with applicable jurisdictional construction standards will be enforced on the City's behalf by the Consultant. The Consultant will review and monitor the Contractor's quality control procedures and process and where the Consultant determines that the Contractor is not maintaining acceptable levels of quality control the Consultant will notify the City's Project Manager.
 - y. Proceeding with Disputed Work: In the event that an agreement cannot be reached on a Change Order, the Contractor must carry on the work and adhere to the project schedule in accordance with the construction contract. The Consultant will log all forced work efforts related to disputed change order on a Forced Work Daily Log Reports which will be signed and dated by the Consultant and the Contractor's representative at the completion of each workday. The Consultant will forward copies of this form to the City's Project Manager for record purposes.
 - z. Maintenance of Traffic (MOT): The Contractor will provide the Consultant, City's Project Manager and EOR with approved copies of its MOT at the Pre-Construction Meeting for general information purposes. It will be the Consultant's responsibility to verify compliance with the MOT in the field.
 - aa. Contractor Request for Services: When the Contractor requires services from the City's Project Manager for issues such as water main shutdowns, tie-ins to existing water mains, special regulatory inspections, etc., a request will be made in writing by the Contractor, and forwarded by the Consultant to the City, a minimum of three working days prior to when required.

- bb. Substantial Completion: When the Contractor considers that the Work has reached Substantial Completion, the Contractor will notify the Consultant. The Consultant will schedule a meeting to verify that the work has progressed to the substantial completion point in accordance with the Construction Documents. If the Consultant is in agreement, the Consultant will contact the City's Project Manager and EOR to agree on a schedule for conducting a substantial completion "walk-through" inspection of the Work. Consultant will attend and participate in the substantial completion "walk-through", perform a substantial completion inspection with the Contractor, EOR and the City, and prepare a punch list that describes items remaining to be complete during the City's standard Substantial Completion Inspection and Punch List form.
- cc. Final Completion and Project Closeout: When the Contractor considers that the Work has reached Final Completion, the Contractor will notify the Consultant who will verify that the work has progressed to the Final Completion point in accordance the Construction Documents. If the Consultant is in agreement, the Consultant will contact the City's Project Manager and EOR to agree on a schedule for conducting a Final Completion "walk-through" inspection of the Work. Consultant will attend and participate in the Final Completion "walk-through" and perform a Final Completion inspection with the Contractor, EOR and the City. If the work is determined to be incomplete, Consultant and other attendees will each develop a punch list of items requiring completion or correction prior to consideration of final acceptance of each project which will be forwarded to the Contractor by the Consultant for the Project. Consultant will complete all necessary close-out and construction completion forms and documentation in coordination with the City for the Project. The Consultant will work with the EOR and the Contractor, as necessary to ascertain materials required for the closeout binder, as required by the City, and review the Operation and Maintenance manuals for each project for completeness prior to forwarding documentation to the City. Once all parties determine the work is complete and the Contractor has delivered all close-out documentation to the City, the Consultant will prepare a Final Certificate for Payment. The Consultant will be responsible for providing final certifications based on the entire scope of work for the Project.

Provide services determined necessary for the successful completion and closure of the Construction Contract.

- dd. Consultant and EOR Relationship: These services outlined herein are intended to provide support to both the City and the EOR during the construction phase of the Project. The Consultant will perform the services outlined in this Agreement under the supervision and contractual directives of the Project Coordinator, and will refer all matters pertaining to this Agreement to the City. In matters relating to the design concept and constructability thereof, the Consultant will conduct this scope of services under the technical directives issued by the EOR such that the EOR's EOR can provide final certification of the design components at Project Closeout.

Article B3 Additional Services

Provide assistance in claims, dispute resolution, or litigation that may result from the Construction Contract. Upon the request of the City the Consultant will analyze any claim or dispute, assisting the negotiations leading to any settlement or resolution of the claim or dispute and process the required documentation to close-out the claim or dispute. For litigation, the Consultant will perform the services determined necessary by the City Attorney.

Article B4 Reimbursable Expenses

B4.01 General

Reimbursable Expenses cover those services and items authorized by City in addition to the Basic and Additional Services and consist of actual, direct expenditures made by Consultant the purposes listed below. Any and all transportation, travel and per diem expenses within Dade, or Broward Counties will not be considered as reimbursable expenses under this Agreement.

Additional Reimbursable Expenses include, but are not limited to:

- a. Communications Expenses: Unless authorized in advance communication fees are not a reimbursable expense.
- b. Reproduction, Photography: Cost of printing, reproduction or photography, beyond that which is required by or of Consultant's part of the work, set forth in this Agreement.
- c. Surveys: Any special purpose surveys costs authorized by the City.

END OF SECTION

SECTION C - COMPENSATION AND PAYMENTS

Article C1 Method of Compensation

Contractor's fees for Professional Services on any projects will be paid using the specific rate of compensation payment method set forth in the Work Order.

C1.01 Consultant Not to Exceed

Absent an amendment to any specific Work Order, any maximum dollar or percentage amounts stated for compensation must not be exceeded. In the event they are so exceeded, the City will have no liability or responsibility for paying any amount of such excess, which will be at Consultant's own cost and expense.

C2.01 Payment Exclusions

Consultant must not be compensated by City for revisions and/or modifications to drawings and specifications, for extended construction administration, or for other work when such work is due to errors or omissions of Consultant as determined by City.

Article C3 Payments to the Consultant

C3.01 Payments Generally

Payments for Basic Services may be requested monthly in proportion to Services performed. Reimbursable Expenses must be billed to the City in the actual amount paid by Consultant. Consultant must utilize the City standard Consultant Invoice Form that will be provided to the Consultant.

C3.02 Billing – Hourly Rate

Invoices submitted by Consultant must be sufficiently detailed and accompanied by supporting documentation to allow for proper audit of expenditures. When Services are authorized on an Hourly Rate basis, the Consultant must submit for approval by the City Manager, a duly certified invoice, giving names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a Project, phase or task. Reimbursable Services Cost should then be added to the sum for the total charges for the personnel. The Consultant must attach to the invoice all supporting data for payments made to and incurred by Sub consultants engaged on the Project. In addition to the invoice, the Consultant must, for Hourly Rate authorizations, submit a progress report giving an update on the completion of the Project and/or the applicable phase or task.

Article C4 Reimbursable Expenses

C4.01 General

Reimbursable Expenses are those items authorized by the City outside of or in addition to the Scope of Work as identified in the Work Order.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

WITNESS/ATTEST

AE Engineering Inc.



Signature

Signature

Print Name, Title

Roderick Myrick, P.E., President
Print Name, Title of Authorized Officer or Official

ATTEST:

(Corporate Seal)

Consultant Secretary
(Affirm Consultant Seal, if available)

City of Pahokee, a municipal corporation of the
State of Florida

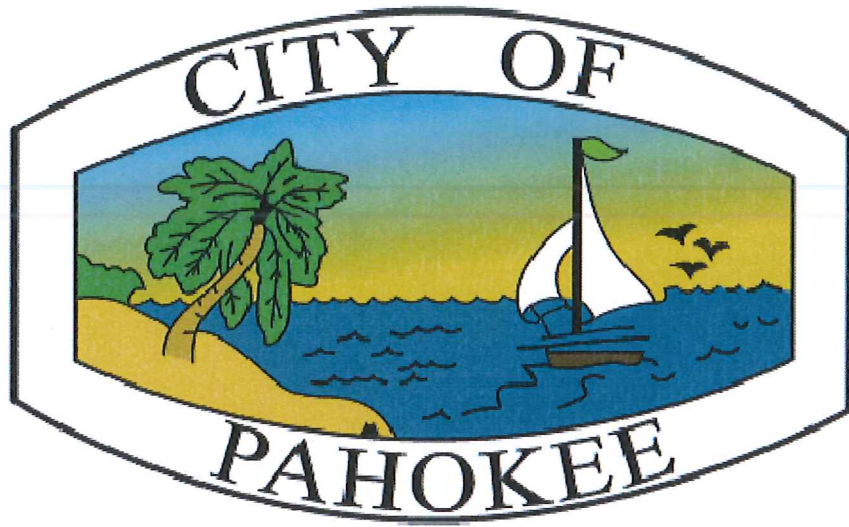
ATTEST:

Tijauna Warner, City Clerk

Keith W. Babb, Mayor

APPROVED AS TO LEGAL SUFFICIENCY:

Gary Brandenburg, City Attorney



**PUBLIC
HEARINGS**

ORDINANCE NO. 2017-09

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, PROPOSING A CHARTER AMENDMENT REGARDING SELECTION OF A VICE MAYOR; PROVIDING FOR EFFECTIVE DATE OF AMENDMENT, REPEAL OF LAWS IN CONFLICT, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.

WHEREAS, Article V, Section 5.101 of the Charter of the City of Pahokee requires that a Charter Review Board meet at least once every five years to review the City's Charter; and

WHEREAS, the Charter Review Board met on October 10, 2017, and recommended that at the first Regular Meeting in April each year, the City Commission shall elect from the sitting commissioners a Vice Mayor; and

WHEREAS, the City Commission met on October 24, 2017, and voted to accept this recommendation for submission as a Charter Amendment for the March 13, 2018, ballot.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE THAT:

Section 1. Charter Amendment. Section 2.04(b) Selection of Vice Mayor, shall be amended as follows, if approved by the majority of electors voting in the General Election to be held on March 13, 2018.

(b) *Selection of vice-mayor.* At the first regular meeting in April each year following the ~~annual election in each year beginning in 1988~~ the city commission shall appoint from the sitting commissioners a vice-mayor.

Section 2. Ballot Language. The ballot language shall read as follows:

Charter Amendment # _____

ELECTION OF VICE MAYOR. Shall the City Charter be amended to change the date the vice-mayor is selected requiring the vice mayor to be appointed by the sitting commissioners at the first regular meeting in April each year?

_____ For Amendment

_____ Against Amendment

Section 3. Effective date of amendment. This Charter Amendment shall take effect on March 20, 2018, if approved by the majority of electors voting in the City of Pahokee General Election to be held on March 13, 2018.

Section 4. Repeal of Laws in Conflict. All other ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed to the extent of the conflict.

Section 5. Severability. If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

Section 6. Codification. The provisions of this ordinance shall be made a part of the Charter of the City of Pahokee, Florida. The sections of the ordinance may be renumbered or relettered to accomplish same, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

PASSED on first reading this 28th day of November, 2017.

PASSED AND ADOPTED in second reading this 12th day of December, 2017.

Keith W. Babb, Jr., MAYOR

Attest: _____
Tijauna Warner, CITY CLERK

	First Reading	Second and Final Reading
MAYOR BABB	<u>Yes</u>	_____
VICE MAYOR HOLMES	<u>Yes</u>	_____
COMMISSIONER HILL	<u>Yes</u>	_____
COMMISSIONER MURVIN	<u>Yes</u>	_____
COMMISSIONER WALKER	<u>Yes</u>	_____

APPROVED AS TO LEGAL SUFFICIENCY

Gary M. Brandenburg, CITY ATTORNEY