

## **GLEN KERNAN PARK COST SHARING AGREEMENT**

**THIS GLEN KERNAN COST SHARING AGREEMENT (“Agreement”)** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023 (the “Effective Date”) between the **CITY OF JACKSONVILLE**, a consolidated political subdivision and municipal corporation existing under the laws of the State of Florida (“**CITY**”) and **HODGES PROPERTIES I, LLC**, a Delaware limited liability company (“**DEVELOPER**”).

### **ARTICLE 1 PRELIMINARY STATEMENTS**

#### **1.1 Background; the Improvements.**

1.1.1 DEVELOPER, along with Glen Kernan Park, LLC, a Florida limited liability company (“**GKP**”), and Gate Petroleum Company, a Florida corporation (“**Gate**”), each own separate portions of an approximately 50 ± acre undeveloped tract of land located at the western corner of the junction of Hodges Boulevard and J. Turner Butler Boulevard in Jacksonville, Florida. Developer, GKP and Gate intend to develop their respective parcels in conjunction with one another. The overall development will include a full-service residential community, retail and commercial uses (the “**Development**”).

1.1.2 The primary entrance into the Development shall be the intersection at the existing median opening opposite Windsor Commons and Hodges Boulevard. Construction and completion of the Development will increase vehicular traffic at this intersection which currently lacks a traffic signal.

1.1.3 To accommodate the increased vehicular traffic resulting from completion of the Development, DEVELOPER has agreed to design, permit, engineer, and construct traffic improvements at the intersection of Glen Kernan Parkway and Hodges Boulevard in substantially the same form as is attached as **Exhibit A** (the “**Intersection Improvements**”). In addition, DEVELOPER has agreed to design, permit, engineer, and construct traffic signal improvements in substantially the same form as is attached as **Exhibit B** (the “**Traffic Signal Improvements**”) to provide a traffic signal to regulate increased vehicular traffic at the intersection. The Intersection Improvements and Traffic Signal Improvements are herein collectively referred to as the “**Improvements**.”

1.1.4 CITY has requested, and DEVELOPER has agreed, that DEVELOPER will design, engineer, permit, construct, and inspect the Intersection Improvements. In consideration for this work to be performed by DEVELOPER, CITY has agreed to reimburse DEVELOPER one hundred percent (100%) of the costs of the design, engineering, permitting, construction and inspection of the Intersection Improvements, based upon the Cost Schedule for the Intersection Improvement Project for Glen Kernan Park, Engineer’s Opinion of Probable Cost (“**EOPC**”) attached hereto as **Exhibit C**.

1.1.5 In addition, CITY has requested, and DEVELOPER has agreed, that DEVELOPER will design, engineer, permit, construct, and inspect the Traffic Signal Improvements. In consideration for this work to be performed by DEVELOPER, CITY has agreed to reimburse DEVELOPER fifty percent (50%) of the costs of the design, engineering, permitting, construction and inspection of the Traffic Signal Improvements, based upon the Cost Schedule for the Traffic Signal Improvement Project for Glen Kernan Park, Engineer's Opinion of Probable Cost ("EOPC") attached hereto as **Exhibit D**.

1.1.6 The cost of the Improvements are the "Improvement Costs," provided, however, that the CITY's contribution to the Improvements Costs shall be the lesser of the Verified Direct Costs or the Maximum Indebtedness, as defined herein.

1.1.7 The parties acknowledge that CITY'S obligation to reimburse DEVELOPER for the design, engineering, permitting, construction and inspection of the Improvements is contingent on DEVELOPER bidding out the design, engineering and construction of the project in accordance with applicable Florida law for public projects, including but not limited to procedures consistent with Section 287.055 and Section 255.20, Florida Statutes, and otherwise generally consistent with Chapter 126 (Procurement Code) of CITY'S Ordinance Code.

1.1.8 Design, Construction Budget. The total estimated design, inspection and construction costs of the Improvements are estimated to be **TWO MILLION EIGHT HUNDRED FORTY FIVE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 37/100 (\$2,854,370.37)** based upon the EOPC for both projects.

1.2 Jacksonville Small and Emerging Businesses. It is important to the economic health of the community that whenever a person/entity receives incentives for construction, that the person/entity and its contractors use good faith efforts to provide contracting opportunities to small and emerging business enterprises in Duval County, pursuant to Section 7.22 of this Agreement.

1.3 Maximum Indebtedness. The total maximum indebtedness of CITY for the Improvements is **TWO MILLION EIGHT HUNDRED FORTY FIVE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 37/100 (\$2,854,370.37)** (the "Maximum Indebtedness").

1.4 Availability of Funds. Notwithstanding anything to the contrary herein, all of CITY's financial obligations under this Agreement are subject to and contingent upon the availability of lawfully appropriated funds for the Improvements and this Agreement.

1.5 Project Commencement. The DEVELOPER, GKP and/or Gate may obtain building permits and commence construction for all projects contained within the development at any time. Additionally, up to 50% of the outparcels within the development may receive certificates of completion prior to final acceptance of the project contained here within. The remainder of the projects within the development may not receive certificates of occupancy without final acceptance of the project contained here within.

**NOW, THEREFORE**, in consideration of the mutual undertakings and agreements herein of CITY and DEVELOPER, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, CITY and DEVELOPER agree that the above preliminary statements are true and correct, and the parties represent, warrant, covenant, and agree as follows:

## **ARTICLE 2 DEFINITIONS**

The foregoing preliminary statements are true and correct and are hereby incorporated herein by this reference. As used in this Agreement, the following terms shall have the following meanings.

2.1 **“Budget”** means the EOPC for the Improvements attached hereto as **Exhibit C & Exhibit D**, as the same may be revised from time to time with the written approval of DEVELOPER and CITY’s Director of Public Works subject to the restrictions and limitations contained herein.

2.2 **“Commence Construction”** The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Improvements or any portion thereof means the date when DEVELOPER (i) has obtained all Federal, State or local permits as required for the construction of the applicable section of the Improvements, and (ii) has begun physical, material construction (e.g., site demolition, land clearing, utility installation, or such other evidence of commencement of construction as may be approved by the CITY in its reasonable discretion) of such section of the Improvements on an ongoing basis without any Impermissible Delays. DEVELOPER shall provide written notice to CITY of the actual Commencement date within three (3) business days thereof.

2.3 **“Completion of Construction”** The terms "Complete Construction" or "Completion of Construction" or "Completion" as used herein when referencing the Improvements means Substantial Completion (as defined below in this Article 2) of such Improvements.

2.4 **“Completion Date”** The term “Completion Date” as used herein means the completion date described in **Exhibit E** (Performance Schedule) as measured from the Effective Date of this Agreement.

2.5 **“Construction Contract”** means any contract between DEVELOPER and a General Contractor for the construction of the Improvements entered into after the Effective Date and in accordance with the terms and conditions of this Agreement, and any amendments or modifications thereto approved by CITY and DEVELOPER.

2.6 **“Construction Documents”** means the Design Professional’s Contract(s), the Construction Contract, all construction, engineering, architectural or other design professional contracts and subcontracts, all change orders, all government approvals, the Plans and

Specifications, and all other drawings, budgets, and agreements relating to the construction of the Improvements.

2.7 **“Construction Inspector”** shall be selected by DEVELOPER, with the concurrence of CITY and shall be the agent of CITY. The term has the meaning ascribed in Section 3.8 of this Agreement.

2.8 **“Construction Management Fees”** has the meaning ascribed in Section 3.5 of this Agreement.

2.9 **“Design Professional”** means engineers, architects, or other professional consultants providing technical advice in accordance with the terms of this Agreement.

2.10 **“Design Professional’s Contract(s)”** means any contracts between DEVELOPER and a Design Professional for the design or construction inspection of any portion of the Improvements, and any amendments or modification thereto.

2.11 **“Direct Costs”** means the direct cost of design, engineering, permitting, construction and inspection of the Improvements, but not including construction management fees or other project management fees.

2.12 **“Disbursement(s)”** means disbursements to DEVELOPER of sums equivalent to DEVELOPER’s Verified Direct Costs of the Improvements as approved by CITY pursuant to this Agreement for the construction and inspection of the Improvements, not to exceed the applicable Maximum Improvements Disbursement Amount. The Disbursements will be made at the times and subject to the conditions set forth in this Agreement. No portion of the amounts allocated for the Improvements shall be disbursed to DEVELOPER unless such improvements comply in all material respects with the Plans and Specifications and description of the Improvements attached hereto as **Exhibit A & Exhibit B** (which may be modified from time to time pursuant to the terms of this Agreement) as reasonably determined by the Director of Public Works or his or her designee.

2.13 **“General Contractor”** means the person or entity licensed as a general contractor under Florida law, providing construction management of any portion of the Improvements.

2.14 **“Impermissible Delay”** means, subject to the Force Majeure provisions of Section 9.2 of this Agreement, failure to proceed with reasonable diligence with the construction of the Improvements in the reasonable judgment of CITY’s Construction Inspector, or if the Construction Inspector is of the reasonable opinion that the Improvements at issue cannot be Completed by the Completion Date for such improvements, or abandonment of or cessation of work on the Improvements at any time prior to the Completion of any Improvements for a period of more than thirty (30) consecutive business days, except in the case of Force Majeure as set forth in Section 11.2, or other casualty which are not the result of DEVELOPER’s negligence, or other causes beyond DEVELOPER’s control, in which case such period shall be the lesser of the actual period of delay or ninety (90) consecutive days.

2.15 **“Improvements”** means any portion of the Improvements as described in **Exhibit A & Exhibit B** or other related improvements described herein as determined by the context of the usage of such term.

2.16 **“Improvements Costs”** means, depending upon the context of the usage of the term, the cost as estimated in the EOPC for the design, engineering, permitting, construction and inspection of the Improvements to be undertaken by DEVELOPER as shown in **Exhibit C & D**.

2.17 **“Improvements Documents”** means this Agreement and any other documents executed in connection herewith between the parties hereto.

2.18 **“Maximum Improvements Disbursement Amount”** means the maximum disbursement to DEVELOPER for the Improvements which shall be the lesser of the Verified Direct Costs for the Improvements or **TWO MILLION EIGHT HUNDRED FORTY FIVE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 37/100 (\$2,854,370.37)** subject to adjustment for any Change Orders approved by CITY.

2.19 **“Mobility Fee”** means the monetary amount calculated by the City of Jacksonville Planning and Development Department, Transportation Division, for the impacts that a certain development will have on the transportation system within the City of Jacksonville.

2.20 **“Mobility Fee Credit”** means the monetary amount, pursuant to Chapter 655, Part 5, *Ordinance Code*, that may offset the amount of Mobility Fee owed based on a specific development.

2.21 **“Payment Bond”** and **“Performance Bond”** have the meanings ascribed in Section 7.21 of this Agreement.

2.22 **“Plans and Specifications”** means the final plans and specifications, including without limitation all maps, sketches, diagrams, surveys, drawings and lists of materials, for the construction of the Improvements or any portion thereof, prepared by the Design Professional and approved by CITY, and any and all modifications thereof made with the written approval of CITY.

2.23 **“Property”** means the approximately 50 ± acre property as defined in PUD “Ordinance 2019-317-E,” and as described and shown in **Exhibit K**.

2.24 **“Substantial Completion”** means the satisfaction of the Improvements Completion Conditions applicable to the Improvements, as described in Section 7.13 of this Agreement. The date of Substantial Completion of the Improvements is the date of a letter from CITY stating that such improvements are substantially complete. Such letter is referred to herein as the **“Substantial Completion Letter”**. The one-year warranty as described herein on the Improvements begins on the Substantial Completion date of the Improvements.

2.25 **“Verified Direct Costs”** means the Direct Costs actually incurred by DEVELOPER for Work in place as part of the Improvements, as certified by the Construction Inspector, not more frequently than monthly, pursuant to the provisions of this Agreement.

2.26 **“Work”** means workmanship, materials and equipment necessary to this Agreement, and any and all obligations, duties and responsibilities necessary to the successful completion of the Improvements undertaken by DEVELOPER under this Agreement, including the furnishing of all labor, materials, and equipment, and any other construction services related thereto.

### **ARTICLE 3 DISBURSEMENT OF FUNDS BY CITY**

3.1 Terms of Disbursement. Subject to an appropriation of funds therefore, CITY agrees to reimburse DEVELOPER in accordance with the Verified Direct Costs incurred and paid, as applicable, for the construction and inspection of the Improvements on the terms and conditions hereinafter set forth, reflecting CITY’s agreement to pay for the costs of such Improvements. However, the total disbursement amount from CITY shall be in the maximum amount of **TWO MILLION EIGHT HUNDRED FORTY FIVE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 37/100 (\$2,854,370.37)** and DEVELOPER shall be responsible for all costs of the Improvements beyond such amount. Disbursements by CITY to DEVELOPER shall be for 100% of the Verified Direct Costs in each Disbursement, up to the Maximum Improvement Disbursement Amount.

3.2 Use of Proceeds. All funding authorized pursuant to this Agreement shall be expended solely for the purpose of reimbursing DEVELOPER based upon the Verified Direct Costs for any portion of the Improvements as authorized by this Agreement and for no other purpose.

3.3 Disbursements Directly to Contractors and Vendors. Notwithstanding anything herein, CITY may at its option upon the occurrence of an Event of Default, which is not cured within the applicable cure period after notice, and in accordance with the disbursement procedures described in this Article 3, and in Article 4 and Article 5, disburse directly to the Design Professionals, General Contractor, subcontractors, suppliers, and vendors whom DEVELOPER has engaged in connection with the Improvements, the reasonable amounts charged by such persons, upon submission to CITY of invoices, receipts or other documents required by CITY showing that the services rendered pertain to the Improvements and are included in the Direct Costs. In the event CITY makes any direct Disbursement as described in this Section 3.3, CITY shall, upon request of DEVELOPER, deliver to DEVELOPER a complete copy of any Disbursement documentation for DEVELOPER’ records.

3.4 Deficiency in Maximum Improvements Disbursement Amount; DEVELOPER Obligation for any Shortfall in the Improvements Budgeted Costs. If, prior to any Disbursement, CITY reasonably determines that the actual cost to complete construction of the Improvements exceeds the aggregate undisbursed balance of the Maximum Improvements Disbursement Amount applicable to the Improvements, DEVELOPER shall be responsible for the payment of any amounts in excess of the undisbursed balance of the Maximum Improvements Disbursement Amount. In no event will CITY be responsible for any shortfall in the amounts necessary to complete construction of the Improvements. If DEVELOPER fails to continue construction at its own cost, or fails to timely complete construction due to a shortfall or for any other reason, CITY

in its sole discretion may choose to terminate CITY's additional obligations hereunder, and/or complete the remaining portion of the Improvements (on its own or through a third party contractor or developer and in compliance with the Plans and Specifications). If CITY completes any portion of the Improvements, DEVELOPER shall be liable to CITY for the costs thereof in excess of the amount allocated for such portion of the Improvements, and such repayment obligation of DEVELOPER shall survive any termination or expiration of CITY's obligations hereunder.

3.5 Project Management Fees/Construction Management Fees. No development fees or project management fees or other fees of DEVELOPER (collectively, the "Project Management Fees") shall be paid to DEVELOPER by CITY under this Agreement.

3.6 Procedures for Payment. All Disbursements shall be made as construction progresses, but no more often than monthly, upon written application of DEVELOPER pursuant to a Disbursement Request in substantially the same form as the sample provided in **Exhibit F** and as defined in Section 4.1 of this Agreement. Subject to Article 5 below and the other terms of this Agreement, DEVELOPER shall file Disbursement Requests with CITY covering Work performed since the prior Disbursement Request. Each Disbursement Request shall constitute a representation by DEVELOPER that the Work done and the materials supplied to the date thereof are in accordance with the Plans and Specifications for the Improvements; that the Work and materials for which payment is requested have been physically incorporated into the Improvements; that such Disbursement Request is consistent with the then current Budget; that the proceeds of the previous Disbursement have been actually paid by DEVELOPER in accordance with the approved Disbursement Request for such previous Disbursement; and that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

3.7 Stored Materials. CITY shall not be required to disburse funds for costs incurred by DEVELOPER with respect to materials stored on or off the site.

3.8 Construction Inspector. The Construction Inspector shall be chosen by DEVELOPER consistent with the requirements outlined in Florida law and the CITY'S Ordinance Code for competitive bidding of public projects. The Construction Inspector shall be the agent of CITY and, it is a condition precedent of DEVELOPER'S selection of the Construction Inspector, that CITY first approve such selection. The Construction Inspector will inspect the construction of the Improvements as provided herein, review and advise DEVELOPER with respect to the Construction Documents, and other matters related to the construction, operation and use of the Improvements, monitor the progress of construction, and review and sign-off on the Disbursement Requests and Change Orders submitted hereunder. DEVELOPER shall make Developer's construction management facilities located on or around the project site available for the Construction Inspector for the inspection of the Improvements, and DEVELOPER shall afford full and free access by the Construction Inspector to all Construction Documents and shall be granted access to the project site at all reasonable times to inspect the Work in progress and upon Substantial Completion.

3.9 No Third Party Beneficiaries. The parties hereto do not intend for the benefits of this Agreement to inure to any third party. Notwithstanding anything contained herein or any conduct or course of conduct by any of the parties hereto, this Agreement shall not be construed



as creating any rights, claims, or causes of action against CITY or any of their respective officers, agents, or employees, in favor of any contractor, subcontractor, supplier of labor, materials or services, or any of their respective creditors, or any other person or entity other than DEVELOPER.

3.10 Performance Schedule. DEVELOPER and CITY shall jointly establish dates for the performance of DEVELOPER'S obligations under this Agreement, which shall generally follow the parameters set forth in Exhibit G attached hereto and incorporated herein by this reference (the "Performance Schedule").

3.11 Progress Reports. During the period of construction of the Improvements, DEVELOPER shall provide to the CITY on a monthly basis (not later than fifteen (15) days after the close of each calendar month) progress reports of the status of construction of the Improvements, which shall include: (i) certification by DEVELOPER's engineer of the percentage of completion of the Improvements; and (ii) evidence of full payment of all invoices or draw requests for payments to the General Contractor, to include copies of checks for payment and invoice draw requests, submitted for payment as to such portion of the Improvements during such monthly reporting period. In addition, on a monthly basis DEVELOPER shall provide to CITY copies of its internally generated monitoring reports and related documentation as to construction of the portion of the Improvements within fifteen (15) days after the close of the month.

3.12 Pre-Construction Meetings; Critical Path Diagram. CITY and DEVELOPER shall meet no later than ten (10) days prior to the Commencement date for construction of the Improvements. At such meeting, DEVELOPER shall provide to CITY a logical network diagram describing all components of the construction of the Improvements to be constructed, in a critical path format (the "Critical Path Diagram"), in accordance with the Performance Schedule. DEVELOPER shall update the Critical Path Diagram monthly and submit the updated Diagram to CITY monthly.

3.13 No Warranty by CITY. Nothing contained in this Agreement or any other Improvements Document shall constitute or create any duty or warranty by CITY regarding (a) the accuracy or reasonableness of the Budget or (b) the competence or qualifications of the General Contractor or Design Professional or any other party furnishing labor or materials in connection with the construction of the Improvements. DEVELOPER acknowledges that DEVELOPER has not relied and will not rely upon any experience, awareness or expertise of CITY regarding the aforesaid matters.

#### **ARTICLE 4 DISBURSEMENT REQUESTS**

4.1 Request for Disbursement; Payment by CITY. For each request, which shall be made no more frequently than monthly, for a Disbursement, DEVELOPER shall submit to CITY, at least thirty (30) calendar days prior to the requested date of disbursement, a completed written disbursement request (each, a "Disbursement Request") in the form as set forth in Exhibit F attached hereto. Disbursements shall be made on Work performed and invoiced basis. Each Disbursement Request shall be accompanied by: (a) the updated Critical Path Diagram as described in Section 3.12; and (b) a satisfactory inspection report with respect to the Improvements



from Construction Inspector (the "Supporting Documentation"). The CITY shall pay to DEVELOPER the amount of each Disbursement Request submitted by DEVELOPER in accordance with the applicable requirements of this Agreement, within thirty (30) calendar days of CITY's receipt of such Disbursement Request, provided, however, that if CITY reasonably disputes any portion of the Disbursement Request, CITY shall provide written notice to DEVELOPER of such dispute within ten (10) business days of CITY's receipt of such Disbursement Request. Thereafter, the parties shall negotiate in good faith to resolve such dispute. Notwithstanding CITY's rights to dispute a Disbursement Request as set forth herein, in the event of such a dispute, CITY shall, within such original fifteen (15) business day period, disburse to DEVELOPER the non-disputed portion of the funds requested pursuant to such Disbursement Request. DEVELOPER shall also promptly furnish to CITY such other information concerning the Improvements as CITY may from time to time reasonably request.

4.2 Inspection. Upon receiving each request from DEVELOPER for an inspection report for a Disbursement Request, Construction Inspector will determine in its reasonable discretion (a) whether the Work completed to the date of such Disbursement Request has been done satisfactorily and in accordance with the Plans and Specifications, (b) the percentage of construction of the Improvements completed as of the date of such Disbursement Request. All inspections by or on behalf of CITY shall be solely for the benefit of CITY and DEVELOPER, but DEVELOPER shall have no right to claim any loss or damage against CITY arising from any alleged (i) negligence in or failure to perform such inspections, or (ii) failure to monitor Disbursements or the progress or quality of construction.

4.3 Disbursements. CITY shall have no obligation after making Disbursements in a particular manner to continue to make Disbursements in that manner, except that CITY shall provide DEVELOPER reasonable advance notice of any change in CITY's disbursement procedures, and any new disbursement procedures shall be commercially reasonable and in conformance with this Agreement. Notwithstanding the foregoing, CITY's records of any Disbursement made pursuant to this Agreement shall, in the absence of manifest error, be deemed correct and acceptable and binding upon DEVELOPER.

4.4 No Warranty by CITY. Nothing contained in this Agreement or any other Construction Document shall constitute or create any duty on or warranty by CITY regarding (a) the accuracy or reasonableness of the Budget, (b) the proper application by DEVELOPER of the Disbursement proceeds, (c) the quality of the Improvements, or (d) the competence or qualifications of the General Contractor, Design Professional, Construction Inspector any other party furnishing labor or materials in connection with the construction of the Improvements. DEVELOPER acknowledges that DEVELOPER has not relied and will not rely upon any experience, awareness or expertise of CITY regarding the aforesaid matters.

## **ARTICLE 5 CONDITIONS TO DISBURSEMENTS**

5.1 General Conditions. Subject to compliance by DEVELOPER with the terms and conditions of this Agreement, CITY shall make Disbursements to DEVELOPER for Direct Costs

of the Improvements, up to the Maximum Improvements Disbursement Amount. CITY will have no obligation to make any Disbursement (a) unless CITY is satisfied, in its reasonable discretion, that the conditions precedent to the making of such Disbursement have been satisfied; or (b) if an Event of Default or an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

**5.2 Conditions to Initial Disbursement.** CITY's obligation hereunder to make the initial Disbursement with respect to the Improvements is conditioned upon CITY's receipt of the following, each in form and substance reasonably satisfactory to CITY:

5.2.1 Each of the Construction Documents duly executed as necessary to be enforceable against the parties thereto, and that no Event of Default or event which, with the giving notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing under any of the Construction Documents.

5.2.2 If improvements have been constructed, a satisfactory inspection report with respect to the Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the Disbursement Request.

5.2.3 The Supporting Documentation described in Section 4.1 above.

**5.3 Conditions to Subsequent Disbursements.** CITY's obligations hereunder to make any subsequent Disbursements with respect to the Improvements are conditioned upon CITY's receipt of the following, each in form and substance reasonably satisfactory to CITY:

5.3.1 Disbursement Request, together with all required Supporting Documentation;

5.3.2 Except for subsequent disbursements for pre-construction costs, evidence that DEVELOPER has obtained all Governmental Approvals (as defined herein) or, after construction has commenced, a satisfactory inspection report with respect to the applicable Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the applicable Disbursement Request; and

5.3.3 An updated Budget, showing any Change Orders.

5.3.4 Additionally, prior to any Disbursement hereunder for the costs of construction of any Improvements, CITY must be satisfied that all necessary approvals from governmental or quasi-governmental authorities (including without limitation the St. Johns River Water Management District and FDEP) having jurisdiction over the Improvements, including but not limited to street openings or closings, zonings and use and occupancy permits, sewer permits, stormwater drainage permits, and environmental permits and approvals (the "Governmental Approvals"), have been obtained for the applicable Improvements under construction, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

5.4 **Conditions to Final Disbursement.** CITY's obligation hereunder to make the final Disbursement with respect to the Improvements is conditioned upon CITY's receipt of all of the following, each in form and substance reasonably satisfactory to CITY:

5.4.1 Disbursement Request, together with all required Supporting Documentation.

5.4.2 CITY must be satisfied that all necessary Governmental Approvals have been obtained or will be obtained in due course for the Improvements, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

5.4.3 A satisfactory inspection report with respect to the Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the Disbursement Request.

5.4.4 An updated Budget, showing all Change Orders.

5.4.5 A final as-built survey showing all of the Improvements and applicable easements in compliance with the requirements of Section \_\_\_ of this Agreement.

5.4.6 Evidence satisfactory to CITY that DEVELOPER has completed construction of the Improvements, and each of the items set forth in the Improvements Completion Conditions set forth in Section 7.13 below.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

DEVELOPER represents and warrants to CITY that, to its knowledge:

6.1 **Authority; Enforceability.** (a) The execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents of DEVELOPER; (b) this Agreement and any documents executed in connection herewith do not violate any of the terms or conditions of such governing documents and this Agreement is binding upon DEVELOPER and enforceable against it in accordance with its terms; (c) the person(s) executing this Agreement on behalf of DEVELOPER is (are) duly authorized and fully empowered to execute the same for and on behalf of DEVELOPER; and (d) DEVELOPER is duly authorized to transact business in the State of Florida and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida.

6.2 **Survival.** All of the representations and warranties of DEVELOPER, as set forth in this Agreement, shall survive the making of this Agreement and shall be continuing for a period of one year after the Completion Date as set forth herein.

## **ARTICLE 7 COVENANTS**

7.1 Construction of the Improvements. Subject to the provisions of Section 10.2 (Hazardous Materials) and unless otherwise agreed in writing by CITY, ongoing physical construction of the Improvements shall commence by the Commencement date as established pursuant to Section 2.2 (“Commence Construction”) and shall be carried on diligently without delay or interruption for more than thirty (30) consecutive business days.

7.2 Manner of Construction of the Improvements. The Improvements shall be constructed in a good and workmanlike manner, in substantial accordance with the applicable Plans and Specifications and in compliance with all state, federal and local laws.

7.3 Plans and Specifications for the Improvements. Prior to the Commencement of Construction of the Improvements and prior to entering into any construction contracts for the same, CITY shall have received and approved in its reasonable discretion the Plans and Specifications and Budget (for the purposes of this Article 7, collectively, the “Plans”) prepared by DEVELOPER’s design team for the Improvements as described in **Exhibit A & Exhibit B**. The Plans (i) will comply with all applicable City/state/federal standards, and with provisions of this Agreement, (ii) shall be reviewed by CITY within thirty (30) days of submission in form acceptable to CITY, and (iii) shall be subject to CITY’s approval. DEVELOPER shall use the approved Plans and Specifications to solicit bids and/or proposals for the construction of such Improvements. CITY shall be given the opportunity to review all bids for informational purposes. CITY representatives shall have access to any portion of the Improvements during construction to confirm such Improvements are constructed consistent with the approved Plans.

7.4 Pre-Construction Surveys and Proof of Ownership. On or before the Commencement date, DEVELOPER shall deliver to CITY surveys (meeting Florida minimum technical standards) and legal descriptions, which will cover the Improvements as well as the location of utility and drainage easements and utility sites. The form and content of the surveys and legal descriptions shall be reasonably satisfactory to CITY which shall indicate their approval in writing after approving of such form and content in accordance with their respective standard practices.

7.5 DEVELOPER Responsibilities; Improvements and Conveyances. Developer and CITY, and GKP and Gate as necessary, hereby agree to execute any and all easements, conveyances and dedication documents necessary to effectuate the easement rights, conveyances and dedications referenced in this Agreement.

7.5.1 Improvements. After the Effective Date, DEVELOPER shall be responsible for overseeing the design, engineering, permitting and construction of the Improvements under the terms and conditions of this Agreement.

7.6 Award of Design Professional’s Contract(s) and Construction Contract(s).

7.6.1 DEVELOPER shall be responsible for competitively and publicly soliciting professional services, including design and engineering professionals and to conduct the Work in compliance with Section 287.055, Florida Statutes, and otherwise in compliance with

applicable State of Florida law and this Agreement, and in consultation with the City of Jacksonville Procurement Department. Competitive solicitation of all professional services, construction services, and/or other equipment and materials for the construction of the Improvements and any portion thereof shall be in compliance with Section 287.055, and Section 255.20, Florida Statutes. All planning, design and construction services shall be conducted by design professionals, construction companies and/or equipment and material suppliers licensed or certified to conduct business in the State of Florida and the City of Jacksonville. Nothing herein shall be deemed to (1) confer any rights on third parties, including any bidders, prospective bidders, contractors or subcontractors, or (2) impose any obligations or liability on CITY. Notwithstanding anything to the contrary herein, the bidding and contract award procedures must comply with the procurement requirements of Florida law for public construction projects, including but not limited to Section 287.055, Florida Statutes and Section 255.20, Florida Statutes.

The DEVELOPER has incurred and continues to incur the cost of professional consultants to perform necessary work for the projects within this Cost Sharing Agreement. This work includes data gathering and explorations, engineering, and obtaining of all appropriate approvals. The soft costs are contained within Exhibit C and Exhibit D.

7.6.2 After awarding the Construction Contract for any portion of the Improvements, DEVELOPER shall in a timely manner notify the General Contractor to proceed with the Work of constructing such portion of the Improvements. No notice to proceed shall be given until, and the parties' obligations hereunder shall be conditioned upon, satisfaction of the following conditions:

(a) CITY shall have received evidence reasonably satisfactory to it that the Improvements will be completed by the Completion Date;

(b) DEVELOPER shall provide to CITY payment and performance bonds in form and content acceptable to CITY in accordance with this Agreement as set forth in Section 7.21 below and Exhibit G (Insurance and Bond Requirements) attached hereto;

(c) CITY shall have received such assurances as may reasonably be required that all necessary permits and other governmental requirements for construction of the Improvements have been received and satisfied or can be received and satisfied in due course;

(d) The parties have complied with the Pre-Construction Meeting requirements of Section 3.12 of this Agreement.

7.6.3 DEVELOPER, the Design Professionals and General Contractor, in consideration of the fees set forth in the Budget, shall perform construction contract management, including obtaining of required testing, inspecting the Work and rendering periodic reports to CITY on the progress of the Improvements in compliance with procedures reasonably satisfactory to CITY. CITY shall be entitled to review and approve the General Contractor's (or construction manager's) draw requests (to be submitted in a CITY approved format).

7.7 Prosecution of Work. DEVELOPER, the Design Professionals and General Contractor, in consideration of the fees set forth in the Budget, shall perform construction contract management, including obtaining of required testing, inspecting the Work and rendering monthly reports to CITY on the progress of the Improvements if requested by CITY. DEVELOPER shall work diligently to complete construction of the Improvements in a timely and reasonable manner.

7.8 Liens and Lien Waivers. DEVELOPER shall take all action necessary to have any mechanic's and materialmen's liens, judgment liens or other liens or encumbrances related to the Improvements released or transferred to bond within ten business (10) days of the date DEVELOPER receives notice of the filing of such liens or encumbrances. CITY shall not be responsible for any lien or encumbrance related to the Improvements but CITY shall work cooperatively with DEVELOPER for DEVELOPER to bond over or remove any such lien or encumbrance. DEVELOPER shall be responsible for assuring compliance in all respects whatsoever with the applicable mechanic's and materialmen's lien laws.

7.9 As-Built and Other Surveys. DEVELOPER shall deliver to CITY, in compliance with CITY's survey requirements, an as-built survey of the Improvements within sixty (60) after Substantial Completion of construction thereof.

7.10 Compliance with Laws and Restrictions. All construction of any portion of the Improvements shall be performed in accordance with all applicable statutes, ordinances, codes, regulations and restrictions. All contractors, subcontractors, mechanics or laborers or other persons providing labor or material in construction of any portion of the Improvements shall have or be covered by worker's compensation insurance, if required by applicable law.

7.11 Ownership of Construction Documents. As security for the obligations of DEVELOPER under this Agreement, DEVELOPER hereby grants, transfers and assigns to CITY all of DEVELOPER'S right, title, interest (free of any security interests of third parties) and benefits in or under the Construction Documents, including any copyrights thereto. DEVELOPER represents and warrants that is has permission and authority to convey ownership of the Construction Documents as set forth herein.

7.12 Authority of CITY to Monitor Compliance. During all periods of design and construction, DEVELOPER shall permit CITY's Director of Public Works or his respective designated personnel, to monitor compliance by DEVELOPER with the provisions of this Agreement, the Construction Documents and the Improvements Documents. During the period of construction and with prior notice to DEVELOPER, representatives of CITY shall have the right of access to DEVELOPER' records and employees, as they relate to Improvements, during normal business hours, provided, however, that DEVELOPER shall have the right to have a representative of DEVELOPER present during any such inspection.

7.13 Completion of the Improvements. Subject to the terms of this Agreement and to the Force Majeure provisions of Section 11.2, DEVELOPER shall Complete Construction of the Improvements by no later than the Completion Date. For purposes of this Agreement, completion of the Improvements shall be deemed to have occurred only when the following conditions (the "Improvements Completion Conditions") shall have been satisfied:

7.13.1 DEVELOPER shall furnish to CITY the completed acceptance package as required by the Development Services Division of the City of Jacksonville, which shall include the information and documentation as set forth on **Exhibit H** (Acceptance Package Checklist) attached hereto, and such other information as CITY may reasonably request.

7.13.2 Upon Completion of the Improvements, DEVELOPER shall submit to CITY a proper contractor's final affidavit and releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to CITY, confirming that payment has been made for all materials supplied and labor furnished in connection with such Improvements through the date of Substantial Completion reflected in the Disbursement Request;

7.13.3 The Improvements shall have been finally completed in all material respects in substantial accordance with the applicable Plans and Specifications, as verified by a final inspection report satisfactory to CITY from DEVELOPER'S Construction Inspector, certifying that the Improvements have been constructed in a good and workmanlike manner and are in satisfactory condition and are ready for immediate use;

7.13.4 The CITY shall have issued the Substantial Completion Letter as to the Improvements stating that the Improvements are Substantially Complete and may be used for their intended purpose; and

7.13.5 DEVELOPER shall cause the General Contractor to provide a one-year warranty on the Improvements, with said warranty commencing on Substantial Completion and acceptance by the CITY of the Improvements.

7.14 **Change Orders.** In connection with any portion of the Improvements, no material amendment shall be made to the Plans and Specifications, the Design Professional's Contract(s) or the Construction Contract, nor shall any Change Orders be made thereunder, without the prior written consent of CITY in its reasonable discretion. DEVELOPER shall notify CITY in writing of any requested or necessary delay in the Completion Date ("Developer Change Order Request"). Within five (5) business days after receipt of a DEVELOPER Change Order Request, the CITY will determine if the DEVELOPER Change Order Request is justified and will respond to DEVELOPER in writing as to whether or not CITY approves the DEVELOPER Change Order Request and whether CITY is willing to authorize any associated delay in the Completion Date set forth therein. If CITY does not approve the DEVELOPER Change Order Request, CITY will have an additional ten (10) business days to evaluate and respond to DEVELOPER in writing. Once a DEVELOPER Change Order Request has been agreed upon by DEVELOPER and CITY, a formal Change Order, describing the agreed scope of work, and applicable extension of the Completion Date, will be executed by both parties within ten (10) business days ("Approved Change Order"). The parties acknowledge that the Work that is the subject of a DEVELOPER Change Order Request will not proceed during the CITY change order response period, but other Work that will not affect or be affected by the Work that is the subject of a DEVELOPER Change Order Request will not be stopped during CITY change order response period. Notwithstanding anything herein, any increased costs in excess of the Maximum Disbursement Amount for the Improvements resulting from any and all Approved Change Orders during the construction of the Improvements shall be the responsibility of DEVELOPER. For the purposes of this Section 7.14, "material" amendment to the Plans and Specifications, the Design Professional's Contract(s) or



the Construction Contract is defined as an amendment with related costs in excess of \$10,000 and/or that change the scope of the Improvements or associated delays in the Completion Date.

7.15 Subcontractors. DEVELOPER agrees that it will not engage or permit the General Contractor to engage or continue to employ any contractor, subcontractor or materialman who may be reasonably objectionable to CITY. If requested by CITY, DEVELOPER shall deliver to CITY a fully executed copy of each of the agreements between DEVELOPER and such contractors and between the General Contractor and its subcontractors, each of which shall be in form and substance reasonably satisfactory to CITY. CITY's approval of a construction contract is specifically conditioned upon the following: (a) the total contract price thereof does not exceed the fair and reasonable cost of the Work to be performed thereunder, (b) the contractor or subcontractor is of recognized standing in the trade, and is otherwise reasonably acceptable to CITY, and (c) approval of the CITY's Procurement Department provided such contractors or subcontractors are determined by DEVELOPER to be qualified and experienced in the design and construction of the Improvements.

7.16 Discrimination. DEVELOPER shall not discriminate against any person, or group of persons on account of race, color, creed, sex, age, religion, national origin, marital status, handicap, having children or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of all or any part of the Improvements nor shall DEVELOPER or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with the reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees or vendees thereof.

7.17 Indemnification. DEVELOPER shall indemnify CITY and its respective employees, agents, representatives, successors, assigns, contractors and subcontractors (collectively "Indemnified Parties") against and from all liabilities, damages, losses, costs, and expenses of whatsoever kind or nature, including, but not limited to, reasonable attorney's fees, reasonable expert witness fees and court costs (all of which are collectively referred to as "Damages"), arising out of or in connection with any negligent act or omission or willful misconduct of DEVELOPER, the General Contractor or any of their respective employees, contractors, agents or representatives (collectively, the "Developer Parties") in connection with the DEVELOPER Parties' construction of the Improvements, which Damages are not paid or reimbursed by or through the Payment and Performance Bond or Insurance as required under this Agreement. This indemnification shall survive the expiration or termination of this Agreement. The term "Indemnified Parties" as used in this Section shall include CITY, and all officers, board members, City Council members, employees, representatives, agents, successors and assigns of CITY. This Section 7.17 shall survive the expiration, earlier termination or completion of this Agreement for a period of five (5) years.

7.18 Insurance and Bond Requirements. See Exhibit I attached hereto and incorporated herein by this reference for the insurance and bond requirements of the General Contractor.

7.19 Materials and Workmanship. All workmanship, equipment, materials and articles incorporated in the Work are to be new and in accordance with the City of Jacksonville's Standards, Specification and Details to be provided by CITY. DEVELOPER shall furnish Construction Inspector certified copies of test results made of the materials or articles which are

to be incorporated in the Work for approval. When so directed, samples of materials shall be submitted for approval. Machinery, equipment, materials and articles installed or used without such approval shall be at the risk of subsequent rejection, removal and replacement at DEVELOPER's expense. If not otherwise provided, material or Work called for in this Agreement shall be furnished and performed in accordance with the manufacturer's instructions and established practice and standards recognized by architects, engineers and the trade.

7.20 Warranty and Guarantee of Work.

7.20.1 DEVELOPER warrants to CITY that all Work will be of good quality, and substantially in compliance with this Agreement and in accordance with the provisions of Section 7.19. All Work not in conformance to the requirements of this Agreement, including substitutions not properly approved and authorized, may be considered defective. If required by CITY, DEVELOPER shall provide satisfactory evidence as to the quality, type and kind of equipment and materials furnished. This warranty is not limited by, nor limits any other warranty-related provision in this Agreement.

7.20.2 If, within one year of acceptance of the Improvements by CITY, or within such longer period of time prescribed by law or by the terms of any special warranty provision of this Agreement, any of the Work is found to be defective or not in conformance with this Agreement, DEVELOPER shall cause the General Contractor to correct it promptly after notice of such defect or nonconformance. Corrective Work during the warranty period shall also be warranted for a period of one year, with each corrective effort in turn being warranted for a period of one year of satisfactory performance. This obligation shall survive termination, expiration or completion of the Agreement. CITY shall give notice to DEVELOPER promptly after discovery of the condition.

7.20.3 DEVELOPER shall bear the cost of correcting or removing all defective or nonconforming Work, including the cost for correcting any damage caused to equipment, materials or other Work by such defect or the correcting thereof.

7.20.4 DEVELOPER shall correct any defective or nonconforming Work to the reasonable satisfaction of CITY, and any of the Work, equipment or materials damaged as a result of such condition or the correcting of such condition, within thirty (30) calendar days of notice of such condition. Should DEVELOPER fail to timely correct defective or non-conforming Work under warranty, CITY, or a third party contractor on behalf of CITY, may correct such Work itself and DEVELOPER shall reimburse CITY for the costs of such corrective Work promptly and no later than 30 days after receipt of an invoice from CITY pertaining to such corrective Work undertaken by CITY. If DEVELOPER fails to correct the nonconforming or defective Work, DEVELOPER will be in default hereunder.

7.20.5 Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which DEVELOPER may have under this Agreement. The establishment of the time period of one year after the date of Substantial Completion, or such longer period of time as may be prescribed by law or by the items of any warranty required by this Agreement, relates only to the specific obligation of DEVELOPER to correct the Work and has no relationship to the time within which its obligation to comply with

this Agreement may be sought to be enforced, nor the time within which proceedings may be commenced to establish DEVELOPER'S liability with respect to its obligations other than specifically to correct the Work.

#### 7.21 Payment and Performance Bonds.

7.21.1 DEVELOPER shall cause the General Contractor to furnish Payment and Performance Bonds consistent with the requirements of Section 255.05, Florida Statutes, as security for its faithful performance under this Agreement. The Bonds shall be in an amount at least equal to the amount of the total cost for design and construction as shown on **Exhibit G**, plus any applicable Change Orders. The Bonds shall be in a form acceptable to CITY, and with a surety that is acceptable to CITY's Division of Insurance and Risk Management. The cost thereof deemed to be included in the applicable Budget.

7.21.2 The Payment and Performance Bonds for the Improvements shall accompany the Budget and Plans and Specifications submitted to CITY for approval. The Payment and Performance Bonds shall be delivered prior to commencement of the Improvements.

7.21.3 If any surety upon any bond furnished in connection with this Agreement becomes unacceptable to CITY, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by CITY, DEVELOPER shall, at its own expense, promptly furnish such additional security as may be required from time to time to protect the interests of CITY and of persons supplying labor or materials in the prosecution of the Work contemplated by this Agreement and as permitted in the Budget.

#### 7.22 Jacksonville Small and Emerging Businesses (JSEB) Program.

DEVELOPER, in further recognition of and consideration for the public funds provided to assist DEVELOPER pursuant to this Agreement, hereby acknowledges the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services ("Opportunity"). Therefore, DEVELOPER hereby agrees as follows:

7.22.1 DEVELOPER shall obtain from CITY's Procurement Division the list of certified Jacksonville Small and Emerging Businesses ("JSEB"), and shall, in accordance with the Jacksonville Ordinance Code ("Code") Sections 126.601 et seq., use good faith efforts to enter into contracts with City of Jacksonville certified JSEBs to provide materials or services in an aggregate amount of twenty percent (20%) of the total cost of the construction of the Improvements or CITY's maximum contribution to the Improvements, whichever is less, provided such JSEBs are determined by DEVELOPER to be qualified and experienced in the design and construction of the Improvements.

7.22.2 DEVELOPER shall submit a JSEB report regarding DEVELOPER's actual use of City of Jacksonville certified JSEBs for design, engineering, permitting, construction and inspection of the Improvements. A JSEB report shall be submitted on a quarterly basis until Substantial Completion of Construction of the Improvements. The form of the report to be used for the purposes of this Section is attached hereto as **Exhibit I** (the "JSEB Reporting Form").

7.23 Indemnification by Contractors.

DEVELOPER agrees to include the indemnification provisions set forth in Exhibit J, attached hereto and incorporated herein, in all contracts with contractors, subcontractors, consultants, and subconsultants who perform work in connection with this Agreement.

**ARTICLE 8  
NO ASSIGNMENT OR CONVEYANCE;  
RESTRICTIONS ON ENCUMBRANCE**

8.1 Assignment; Limitation on Conveyance. DEVELOPER agrees that it shall not, without the prior written consent of CITY (except for assignment to affiliates of DEVELOPER of which DEVELOPER has a managing interest) assign, transfer or convey this Agreement or the Improvements Documents or any provision hereof. Any such sale, assignment or conveyance in violation of this section shall constitute a default hereunder, and CITY may continue to look to DEVELOPER to enforce all of the terms and conditions of this Agreement as if such purported sale, assignment or conveyance had not occurred. Any authorized assignment hereunder shall be pursuant to an assignment and assumption agreement in form and content acceptable to CITY in its reasonable discretion.

**ARTICLE 9  
EVENTS OF DEFAULT AND REMEDIES**

9.1 Event of Default. The following shall constitute an event of default (each, an "Event of Default") hereunder:

9.1.1 A breach by any party of any term, covenant, condition, obligation or agreement under this Agreement, and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to such party, provided, however, that if such breach is not reasonably susceptible to cure within thirty (30) days, then the time to cure such breach shall be extended to ninety (90) days so long as the defaulting party is diligently and in good faith pursuing such cure;

9.1.2 Any representation or warranty made by any party in this Agreement or the Improvements Documents shall prove to be false, incorrect or misleading in any material respect as of the Effective Date, which is not cured as provided in Section 9.1.1;

9.1.3 A continuing default after any applicable cure period under this Agreement or the Improvements Documents;

9.1.4 The termination of, or default under, the Construction Contract by DEVELOPER or the General Contractor, provided, however, that in the event the Construction Contract is terminated, DEVELOPER shall have up to ninety (90) days in which to enter into a replacement Construction Contract, on such terms and with such other General Contractor as shall be reasonably acceptable to CITY;

9.1.5 Failure of DEVELOPER to complete the Improvements in accordance with the Plans and Specifications which, in the reasonable judgment of the CITY's Director of Public Works, results in Improvements which will not adequately serve CITY;

9.1.6 Failure of DEVELOPER to Complete Construction of the Improvements, or abandonment of or cessation of Work on any portion of the Improvements at any time prior to completion for a period of more than thirty (30) consecutive business days, except on account of Force Majeure, in which case such period shall be the lesser of the actual period of delay or ninety (90) consecutive days;

9.1.7 The entry of a decree or order by a court having jurisdiction in the premises adjudging the defaulting party bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the such party under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of such party or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuation of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

9.1.8 The institution by any party of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of such party of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

9.2 Disbursements. Upon or at any time after the occurrence of an Event of Default, subject to the notice and cure requirements set forth in Section 9.1, CITY may refuse to make the Disbursement and terminate CITY's commitment to make any portion of the Disbursement hereunder, except for Verified Direct Costs for work actually performed prior to the date giving rise to the Event of Default.

9.2.1 In the event DEVELOPER's action giving rise to an Event of Default pertains to any failure by DEVELOPER to commence with or complete construction of the Improvements within the time periods required herein, CITY shall be entitled (but not obligated) to (i) complete the applicable Improvements, and (ii) terminate CITY's obligation to pay for any other Improvements Costs hereunder. DEVELOPER shall remain obligated to CITY for any amounts owed by DEVELOPER hereunder as a result of such default.

(a) Provided however, if the Event of Default and failure of DEVELOPER to cure described above is caused by unforeseen events, Force Majeure (as set forth in Section 11.2) or third party actions which are outside the control of DEVELOPER, then in such event CITY shall meet with DEVELOPER to consider alternative resolutions and shall use reasonable efforts and reasonably

cooperate with DEVELOPER to reach a mutually acceptable amendment to this Agreement.

(b) In the event that the Event of Default and failure of DEVELOPER to cure is caused by DEVELOPER' acts or omissions, then upon termination CITY may use an alternative general contractor or development manager selected in its sole discretion provided however such general contractor or development manager shall complete the Improvements in accordance with the terms and conditions of this Agreement and all Exhibits hereto.

9.2.2 DEVELOPER agrees that an Event of Default under this Agreement shall constitute a default under the Construction Documents as to which no additional notice or right to cure shall apply.

9.2.3 Notwithstanding anything herein, upon any breach by CITY hereunder, DEVELOPER's maximum damages hereunder (including prejudgment interest) shall be limited to the undisbursed Verified Direct Costs required for the completion of the construction of the Improvements previously Commenced and then under construction in accordance with this Agreement. Any such damages amount will be used by DEVELOPER only for the construction of the Improvements then under construction in accordance with the costs in the Budget and pursuant to the Plans and Specifications, and shall be disbursed periodically in partial amounts by CITY pursuant to the Disbursement terms and conditions of this Agreement so that a particular Disbursement will only be made after receipt by CITY of a Disbursement Request and the completion by DEVELOPER of the portion of Improvements to which such Disbursement Request applies.

## **ARTICLE 10 ENVIRONMENTAL MATTERS**

10.1 Environmental Laws. "Environmental Laws" or "Environmental Law" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, retention ponds, storm water systems, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, regulations, orders, decrees, permits, licenses and deed restrictions, now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendments and Reauthorization Act (42 U.S.C. Section

11001 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); (xv) Chapter 62-780, Florida Administrative Code (FAC) Contaminated Site Cleanup Criteria; and (xvi) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.).

10.2 Hazardous Materials. "Hazardous Materials" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include: (a) "Hazardous Substance(s)" as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendments and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes; (b) any petroleum or petroleum-derived waste or product or related materials, and any items defined as hazardous, special or toxic materials, substances or waste; (c) "Hazardous Waste" as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder; (d) "Materials" as defined as "Hazardous Materials" in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder; (e) "Chemical Substance" or "Mixture" as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder; and (f) mold, microbial growth, moisture impacted building material, lead-based paint or lead-containing coatings, components, materials, or debris, and self-illuminated tritium containing structures, including but not limited to tritium containing exit signs.

10.3 Release of Liability. In the event that Hazardous Materials are discovered within the Improvements Area that affect the construction of the Improvements, any increased cost for such work shall be the responsibility of the DEVELOPER.

10.4 DEVELOPER Release of Hazardous Materials. DEVELOPER shall be responsible for any release of Hazardous Materials within the Improvements Area directly caused by the actions of DEVELOPER occurring after the Effective Date of this Agreement ("Release"). DEVELOPER shall indemnify and hold CITY and its members, officials, officers, employees, and agents harmless from and against any and all claims, costs, damages, or other liability, incurred by CITY in connection with Releases or the spreading, worsening, or exacerbation of a Release directly caused by the DEVELOPER to the extent of and due to DEVELOPER's negligence, recklessness, or intentional wrongful misconduct.

## **ARTICLE 11 GENERAL PROVISIONS**

11.1 Non-Liability. No member, official or employee of CITY shall be personally liable to DEVELOPER or to any person with whom DEVELOPER shall have entered into any contract,



or to any other person in the event of any default or breach of CITY or for any amount which may become due to DEVELOPER or any other person under the terms of this Agreement.

No director, officer or employee of DEVELOPER shall be personally liable to CITY or to any person with whom CITY shall have entered into any contract, or to any other person in the event of any default or breach of DEVELOPER, or for any amount which may become due to CITY or any other person under the terms of this Agreement.

11.2 Force Majeure. No party to this Agreement shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualty, declared state of emergency, acts of God, acts of public enemy, epidemic, pandemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the control or without the control of any party (collectively, a “Force Majeure Event”); provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay. A party affected by a Force Majeure Event (the “Affected Party”) shall immediately notify the other party (“Non-Affected Party”) in writing of the event, giving sufficient details thereof and the likely duration of the delay. The Affected Party shall use all commercially reasonable efforts to recommence performance of its obligations under this Agreement as soon as reasonably possible. In no event shall any of the foregoing excuse any financial liability of a party.

11.3 Notices. All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by a courier service utilizing return receipts, to the party at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notice shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or courier service, except that notice of a change in address shall be effective only upon receipt.

11.3.1 CITY:

City of Jacksonville:  
Department of Public Works  
214 N. Hogan Street, 10<sup>th</sup> Floor  
Jacksonville, FL 32202  
Attn: Steve Long

With a copy to:

General Counsel  
Office of the General Counsel  
Attn: Corporation Secretary

City Hall – St. James Building  
117 West Duval Street, Suite 480  
Jacksonville, FL 32202

11.3.2 DEVELOPER:

Hodges Properties I, LLC  
19 N. Patterson Street  
Valdosta, Georgia 31601  
Attn: R. Gregory Hunter

With a copy to:

Harden Law Offices  
1431 Riverplace Blvd., Suite 901  
Jacksonville, FL 32207  
Attn: Paul M. Harden. Esq.

11.4 Time is of the Essence. Time is of the essence in the performance by any party of its obligations hereunder.

11.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

11.6 Amendment. No amendment or modification of this Agreement shall be effective or binding upon any party hereto unless such amendment or modification is in writing, signed by an authorized officer of the party claimed to be bound and delivered to the other party.

11.7 Waivers. All waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, or any other rights or remedies for the same default or any other default by the other party.

11.8 Severability. The invalidity, illegality or inability to enforce any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11.9 Independent Contractor. In the performance of this Agreement, DEVELOPER will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or association of CITY. DEVELOPER and its employees or agents or contractors shall

be solely responsible for the means, method, technique, sequences and procedures utilized by DEVELOPER in performance of this Agreement.

11.10 Exemption of CITY. Neither this Agreement nor the obligations imposed upon CITY hereunder shall be or constitute an indebtedness of CITY within the meaning of any constitutional, statutory or charter provisions requiring CITY to levy ad valorem taxes nor a lien upon any properties of CITY.

11.11 Parties to Agreement. This is an agreement solely between CITY and DEVELOPER. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto other than the permitted successors or assigns of CITY and DEVELOPER. This Agreement shall be binding upon DEVELOPER, and DEVELOPER' successors and assigns, and shall inure to the benefit of CITY, and its successors and assigns; provided, however, DEVELOPER shall not assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith, except in accordance with the terms and conditions of Section 8.1 above.

11.12 Venue: Applicable Law; Attorneys' Fees. Venue for the purposes of any and all legal actions arising out of or related to this Agreement shall lie solely and exclusively in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for its own attorneys' fees and costs related to this Agreement and the Improvements Documents.

11.13 Contract Administration. CITY's Director of Public Works, or his respective designees, shall act as the designated representatives of CITY to coordinate communications between CITY and DEVELOPER regarding the administration of this Agreement and to otherwise coordinate and facilitate the performance of the obligations of CITY under this Agreement.

11.14 Further Authorizations. The Mayor, or his designee, and the Corporation Secretary, are authorized to execute any and all contracts and documents and otherwise take all necessary or appropriate actions in connection with this Agreement, and to negotiate and execute all necessary and appropriate changes and amendments and supplements to this Agreement and other contracts and documents in furtherance of the Improvements, without further City Council action, provided any such changes and amendments are limited to "technical amendments" and do not change the total financial commitments or the performance schedule, and further provided that all such amendments and changes shall be subject to legal review by the Office of General Counsel and by all other appropriate official action required by law. The term "technical amendments" as used herein includes, without limitation, changes in legal descriptions and surveys, description of infrastructure improvements and/or Improvements, ingress and egress and utility easements and rights of way, design standards, vehicle access and site plans, to the extent the same have no material financial impact, and to the extent that the Office of General Counsel concurs that no further City Council action would be required to effect such technical amendment.

11.15 Civil Rights. DEVELOPER agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the Code, and further

agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

11.16 Further Assurances. DEVELOPER will, upon CITY's request: (a) promptly correct any defect, error or omission in this Agreement or any of the Improvements Documents; (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts deemed necessary, desirable or proper by CITY to carry out the purposes of such Improvements Documents and to identify (subject to the liens of the Improvements Documents) any property intended to be covered thereby, including any renewals, additions, substitutions, replacements, or appurtenances to the subject property; (c) execute, acknowledge, deliver, procure, file or record any documents or instruments deemed necessary, desirable or proper by CITY to protect the liens or the security interest under the Improvements Documents against the right or interests of third persons; and (d) provide such certificates, documents, reports, information, affidavits or other instruments and do such further acts deemed necessary, desirable or proper by CITY to carry out the purposes of the Improvements Documents.

11.17 Exhibits. In the event of a conflict between any provisions of this Agreement and any exhibit attached to or referenced in this Agreement, the provisions of this Agreement shall govern.

11.18 Construction. All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. DEVELOPER further acknowledges that it has had ample time to review this Agreement and related documents with counsel of choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted this Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

11.19 Counterparts. This Agreement may be executed in counterparts, which when later combined shall constitute one and the same document as if originally executed together. Scanned or faxed signatures shall suffice as original signatures, and the parties may exchange executed counterparts by fax or email.

11.20 Limitations on Governmental Liability. Nothing in this Agreement shall be deemed as a waiver of CITY's sovereign immunity or the limits of liability as set forth in Section 768.28, Florida Statutes or other law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

**{Signatures on Following Page}**

**IN WITNESS WHEREOF**, the parties have executed and delivered this Agreement, to be effective on the Effective Date.

ATTEST:

**CITY OF JACKSONVILLE**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

\_\_\_\_\_  
Office of General Counsel

IN COMPLIANCE WITH the Ordinance Code of the City of Jacksonville, I do hereby certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement in accordance with the terms and conditions thereof and that provision has been made for the payment of monies provided therein to be paid.

\_\_\_\_\_  
Director of Finance

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

**HODGES PROPERTIES I, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

## **LIST OF EXHIBITS**

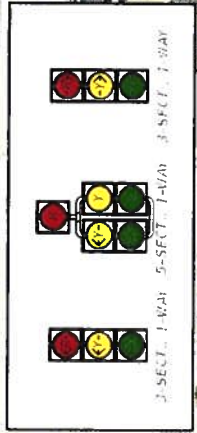
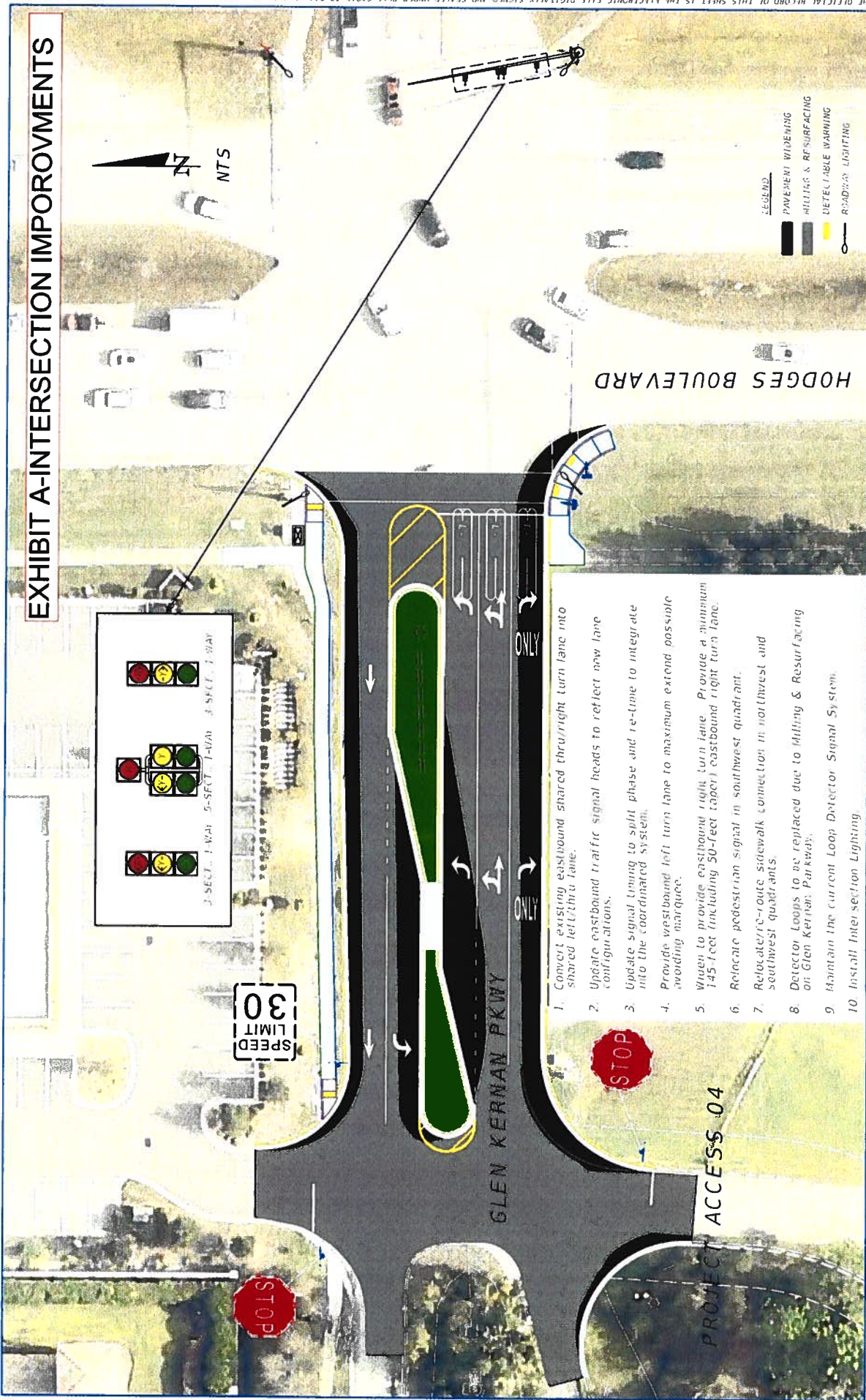
- EXHIBIT A The Intersection Improvements
- EXHIBIT B The Traffic Signal Improvements
- EXHIBIT C EOPC (Intersection Improvements)
- EXHIBIT D EOPC (Traffic Signal Improvements)
- EXHIBIT E Performance Schedule
- EXHIBIT F Disbursement Request
- EXHIBIT G Insurance and Bond Requirements
- EXHIBIT H Acceptance Package Checklist
- EXHIBIT I JSEB Report
- EXHIBIT J Indemnity
- EXHIBIT K The Property



**EXHIBIT A**

**The Intersection Improvements**

# EXHIBIT A-INTERSECTION IMPROVEMENTS



SPEED LIMIT 30

GLEN KERNAN PKWY

HODGES BOULEVARD

1. Convert existing eastbound shared thru/right turn lane into shared left thru lane.
2. Update eastbound traffic signal heads to reflect new lane configurations.
3. Update signal timing to split phase and re-time to integrate into the coordinated system.
4. Provide westbound left turn lane to maximum extend possible avoiding any queues.
5. Widen to provide eastbound right turn lane. Provide a minimum 145-foot (including 50-foot taper) eastbound right turn lane.
6. Reallocate pedestrian signal in southwest quadrant.
7. Reallocate route sidewalk connection in northwest and southwest quadrants.
8. Detector loops to be replaced due to Milling & Resurfacing on Glen Kernan Parkway.
9. Maintain the current Loop Detector Signal System.
10. Install Intersection Lighting.

- LEGEND
- PAVEMENT WIDENING
  - MILLING & RESURFACING
  - DETECTABLE WARNING
  - ROADWAY LIGHTING

CONCEPT PLAN GLEN KERNAN PARKWAY		SHEET NO. 1
		ONE CITY ONE JACKSONVILLE
REVISIONS DATE DRAWN BY CHECKED BY	PROJECT NO. 2018-04 PROJECT NAME: GLEN KERNAN PARKWAY PROJECT LOCATION: GLEN KERNAN PARKWAY, JACKSONVILLE, FLORIDA 32206 PROJECT DESCRIPTION: INTERSECTION IMPROVEMENTS	SHEET NO. 1 TOTAL SHEETS 1

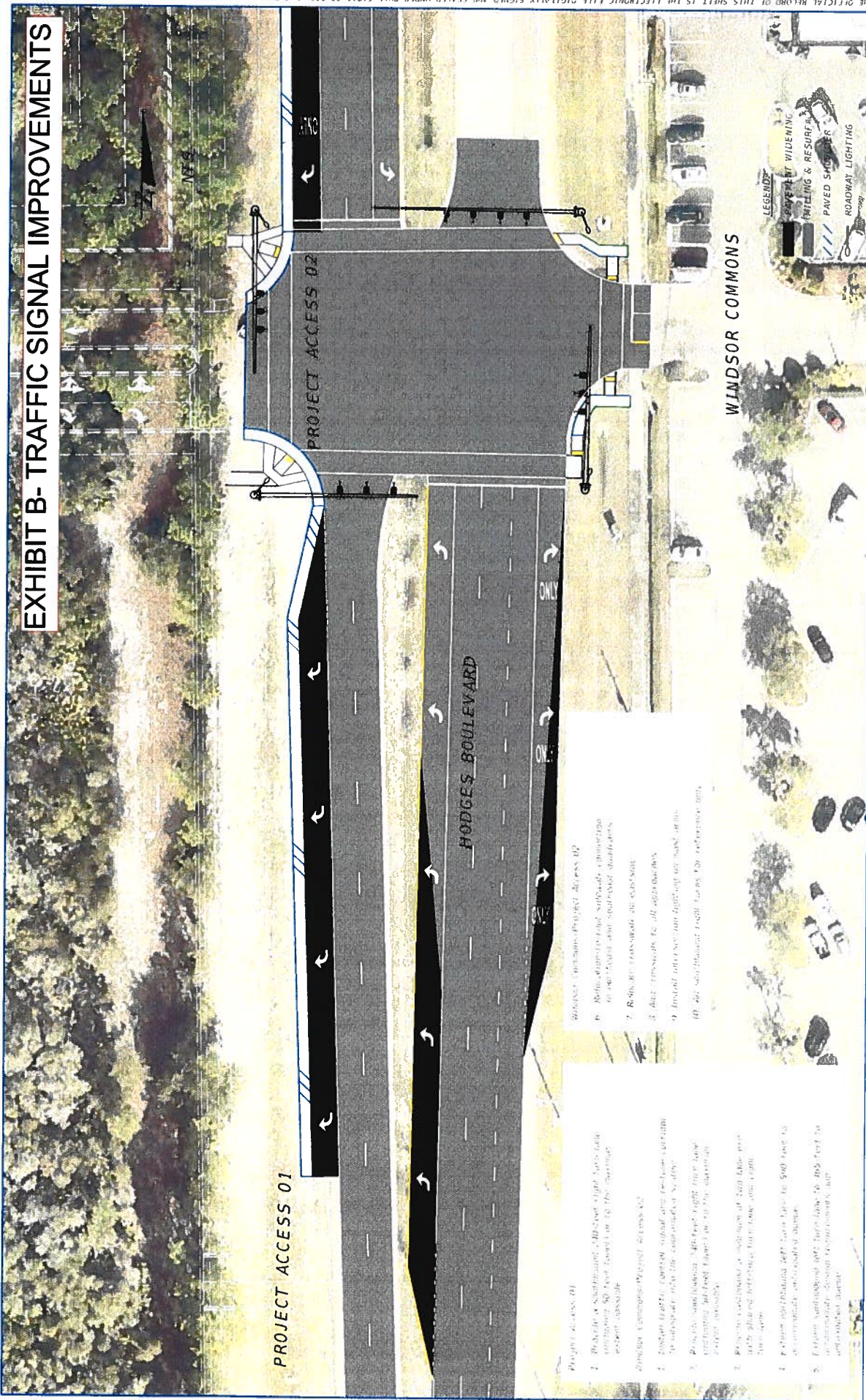
THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G13-23.004, F.A.C.

**EXHIBIT B**

**The Traffic Signal Improvements**



# EXHIBIT B- TRAFFIC SIGNAL IMPROVEMENTS



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15.23 004, F.A.C.

Windsor Commons-Project Access 02

1. Refer to existing site plan for all utility and structural conditions.
2. Refer to existing site plan for all utilities.
3. Refer to existing site plan for all utilities.
4. Refer to existing site plan for all utilities.
5. Refer to existing site plan for all utilities.
6. Refer to existing site plan for all utilities.

Project Access 01

1. Refer to existing site plan for all utility and structural conditions.
2. Refer to existing site plan for all utilities.
3. Refer to existing site plan for all utilities.
4. Refer to existing site plan for all utilities.
5. Refer to existing site plan for all utilities.
6. Refer to existing site plan for all utilities.

NO.	DATE	DESCRIPTION	REVISIONS

H. J. WALKER, P.E. NO. 60822  
 CHANDLER TRAFFIC SOLUTIONS, INC.  
 8873 BEUGLER PARK BLVD., STE. 103  
 JACKSONVILLE, FLORIDA 32216  
 CERTIFICATE OF AUTHORIZATION NO. J0800

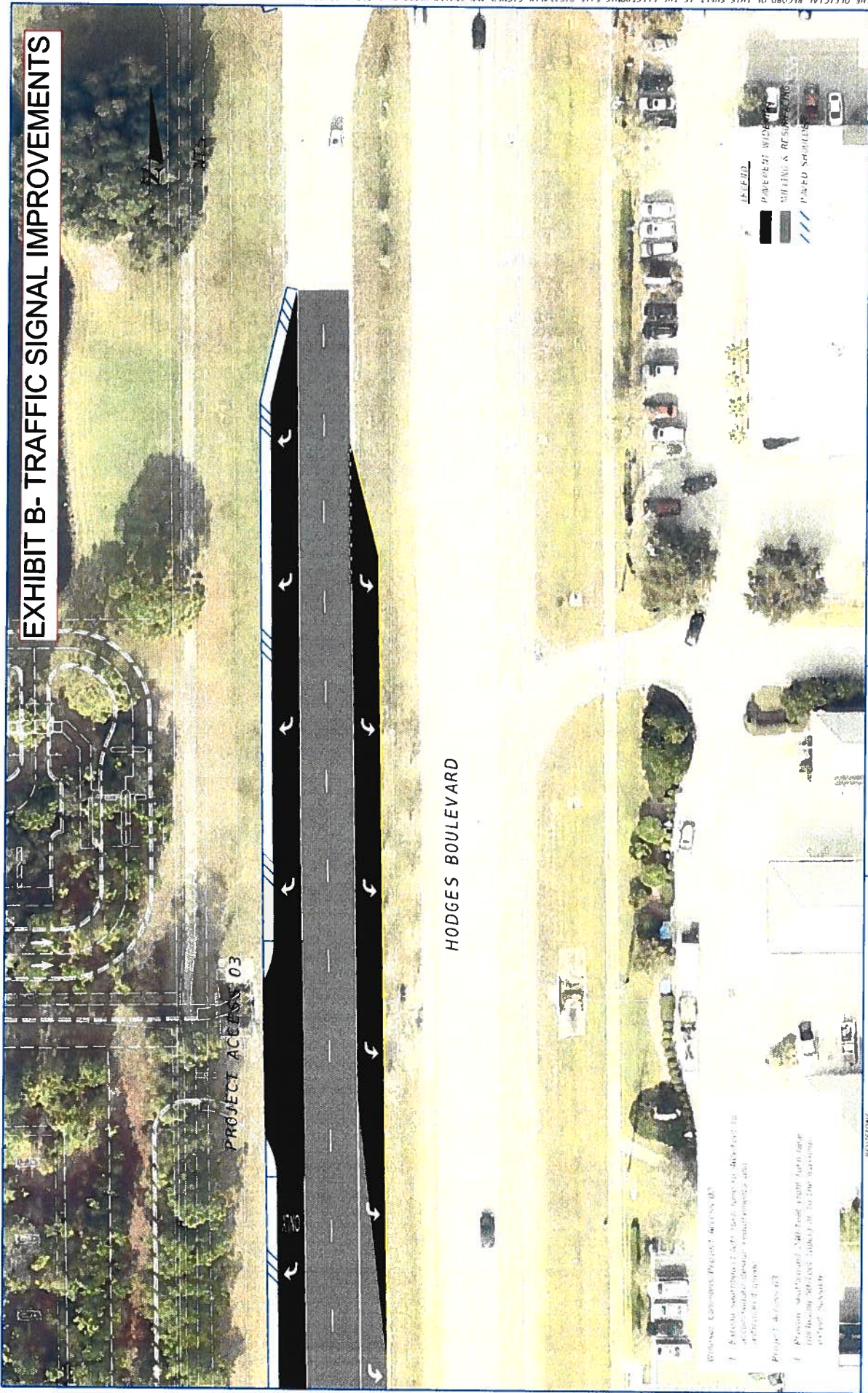


CONCEPT PLAN  
 HODGES BOULEVARD

SHEET NO. 2



# EXHIBIT B- TRAFFIC SIGNAL IMPROVEMENTS



HODGES BOULEVARD

- LEGEND**
- ▬ PROJECT WIDTH
  - ▬ MILLING & RESURFACING
  - /// PAVED SHOULDER

Project: Hodges Boulevard Access 03

1. Review and approve the traffic signal improvement plan for the proposed intersection of Hodges Boulevard and Project Access 03.

2. Review and approve the traffic signal improvement plan for the proposed intersection of Hodges Boulevard and Project Access 03.

3. Review and approve the traffic signal improvement plan for the proposed intersection of Hodges Boulevard and Project Access 03.

NO.	DATE	DESCRIPTION



## CONCEPT PLAN HODGES BOULEVARD

SHEET NO. 3

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

**EXHIBIT C**  
EOPC (Intersection Improvements)

**EXHIBIT C-INTERSECTION IMPROVEMENTS  
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST**

PROJECT: 210-045 GLEN KERNAN PARKWAY  
DESCRIPTION: Glen Kernan Parkway Concept Cost Estimate

ROADWAY COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0104 10 3	SEDIMENT BARRIER	LF	655.00	\$ 2 10	\$ 1,376.00
0104 18	INLET PROTECTION SYSTEM	EA	2.00	\$ 200.00	\$ 400.00
0107 1	LITTER REMOVAL	AC	1.00	\$ 500.00	\$ 500.00
0107 2	MOWING	AC	1.00	\$ 500.00	\$ 500.00
0110 1 1	CLEARING & GRUBBING	AC	0.20	\$ 34,000.71	\$ 6,800.00
0110 4 10	REMOVAL OF EXISTING CONCRETE	SY	220.00	\$ 33.00	\$ 7,260.00
0160 4	TYPE B STABILIZATION	SY	645.00	\$ 7 31	\$ 4,715.00
0285709	OPTIONAL BASE, BASE GROUP 09	SY	825.00	\$ 40.00	\$ 33,000.00
0327 70 6	MILLING EXISTING ASPHALT PAVEMENT, 1 1/2" AVG DEPTH	SY	1,550.00	\$ 6.00	\$ 9,300.00
0334 1 53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG76-22	TN	63.00	\$ 134.83	\$ 8,494.00
0337 7 83	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22	TN	175.00	\$ 152.09	\$ 26,616.00
0425 1351	INLETS, CURB, TYPE P-5, <10'	EA	2.00	\$ 7,581.36	\$ 15,163.00
0425 2 41	MANHOLES, P-7, <10'	EA	2.00	\$ 7,945.27	\$ 15,891.00
430175215	PIPE CULVERT, OPTIONAL MATERIAL, OTHER-ELIP/ARCH, 15"S/CD	EA	20.00	\$ 376.96	\$ 7,539.00
0520 1 7	CONCRETE CURB & GUTTER, TYPE E	LF	340.00	\$ 34.51	\$ 11,733.00
0520 1 10	CONCRETE CURB & GUTTER, TYPE F	LF	570.00	\$ 34.06	\$ 19,414.00
0522 1	CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK	SY	122.00	\$ 59.15	\$ 7,216.00
0522 2	CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK	SY	47.00	\$ 65.53	\$ 3,080.00
0527 2	DETECTABLE WARNINGS	SF	530.00	\$ 35.19	\$ 18,651.00
0570 1 2	PERFORMANCE TURF, SOD	SY	185.00	\$ 2 53	\$ 468.00
<b>ROADWAY COMPONENT TOTAL:</b>					<b>\$ 198,116.00</b>

SIGNING AND MARKINGS COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0700 1 11	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF	AS	3.00	\$ 463.63	\$ 1,391.00
0706 1 1	RAISED PAVEMENT MARKER, TYPE B WITHOUT FINAL SURFACE MARKINGS	EA	25.00	\$ 3 92	\$ 98.00
0711 11141	THERMOPLASTIC, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/ 6-10 GAP EXTENSION, 6"	GM	0.05	\$ 2,246.37	\$ 112.00
0711 11224	THERMOPLASTIC, STANDARD, YELLOW, SOLID, 18" FOR DIAGONAL OR CHEVRON	LF	60.00	\$ 4 80	\$ 288.00
0711 11160	THERMOPLASTIC, STANDARD, WHITE, MESSAGE OR SYMBOL	EA	2.00	\$ 173.94	\$ 348.00
0711 11170	THERMOPLASTIC, STANDARD, WHITE, ARROW	EA	9.00	\$ 76.78	\$ 691.00
0711 14123	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 12" FOR CROSSWALK	LF	200.00	\$ 8 65	\$ 1,730.00
0711 14125	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK	LF	100.00	\$ 16.61	\$ 1,661.00
0711 16101	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	GM	0.20	\$ 4,930.42	\$ 986.00
0711 16201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	GM	0.10	\$ 8,800.34	\$ 880.00
<b>SIGNING COMPONENT TOTAL:</b>					<b>\$ 8,185.00</b>

SIGNALIZATIONS COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0630 2 11	CONDUIT, FURNISH & INSTALL, OPEN TRENCH	LF	200.00	\$ 15 57	\$ 3,114.00
0630 2 12	CONDUIT, FURNISH & INSTALL, DIRECTIONAL BORE	LF	500.00	\$ 32 23	\$ 16,115.00
0635 2 11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	EA	10.00	\$ 1,060.46	\$ 10,605.00
0649 21 15	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 70'	EA	1.00	\$ 100,000.00	\$ 100,000.00
0649 26 5	STEEL MAST ARM ASSEMBLY, REMOVE, DEEP FOUNDATION- BOLT ON ATTACHMENT	EA	1.00	\$ 10,000.00	\$ 10,000.00
0650 1 14	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 3 SECTION, 1 WAY	AS	2.00	\$ 1,458.71	\$ 2,917.00
0650 1 19	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 5 SECTION CLUSTER, 1 WAY	AS	1.00	\$ 2,036.33	\$ 2,036.00
0653 1 11	PEDESTRIAN SIGNAL, FURNISH & INSTALL LED COUNTDOWN, 1 WAY	AS	1.00	\$ 849.02	\$ 849.00
0660 2106	LOOP ASSEMBLY, F&I, TYPE F	AS	3.00	\$ 2,000.00	\$ 6,000.00
0670 5400	TRAFFIC CONTROLLER ASSEMBLY, MODIFY	AS	1.00	\$ 3,075.42	\$ 3,075.00
0715 4 11	LIGHT POLE COMPLETE, FURNISH & INSTALL STANDARD POLE STANDARD FOUNDATION, 30" MOUNTING HEIGHT	EA	3.00	\$ 25,000.00	\$ 75,000.00
0715 5 32	LUMINAIRE & BRACKET ARM- GALV STEEL, FURNISH & INSTALL NEW LUMINAIRE AND ARM ON NEW/EXISTING POLE	EA	1.00	\$ 3,180.82	\$ 3,181.00
<b>SIGNALIZATIONS COMPONENT TOTAL:</b>					<b>\$ 232,892.00</b>

Utility Adjustments					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0000 0000	Utility Relocation and Adjustments	LS	1.00	\$ 250,000.00	\$ 250,000.00
<b>UTILITY ADJUSTMENTS COMPONENT TOTAL:</b>					<b>\$ 250,000.00</b>

SUB-COMPONENT SUBTOTAL: \$ 689,193.00

102-1	MAINTENANCE OF TRAFFIC	15.00%	\$ 103,379.00
101-1	MOBILIZATION	10.00%	\$ 68,919.00
	INITIAL CONTINGENCY (DO NOT BID)	15.00%	\$ 103,379.00
	ESCALATION	30.00%	\$ 206,758.00
	PERFORMANCE BOND	1.50%	\$ 10,337.90
	SOFT COSTS	LS	\$ 187,517.50
<b>TOTAL:</b>			<b>\$ 680,290.40</b>

PROJECT GRAND TOTAL: \$ 1,369,483.40  
CITY \$ 1,369,483.40  
DEVELOPER \$ -

**Disclaimer:** This construction cost estimate is based on concept and preliminary project site plan. This may vary with final design and bids.  
Unit prices based on the Florida Department of Transportation Current 12 Month Moving Statewide Averages for 08/01/2021 - 1/31/2022 and recent bids for other projects in the area.



**EXHIBIT D**  
**EOPC (Traffic Signal Improvements)**

**EXHIBIT D-TRAFFIC SIGNAL IMPROVEMENTS  
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST**

PROJECT: 210-045 GLEN KERNAN PARKWAY  
DESCRIPTION: Hodges Boulevard (including Windsor Commons) Concept Cost Estimate

ROADWAY COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0110 1 1	CLEARING & GRUBBING	AC	0.30	\$ 34,000.71	\$ 10,200.00
0160 4	TYPE B STABILIZATION	SY	700.00	\$ 7.31	\$ 5,117.00
0285709	OPTIONAL BASE, BASE GROUP 09	SY	1,500.00	\$ 40.00	\$ 60,000.00
0327 70 6	MILLING EXISTING ASPHALT PAVEMENT, 1 1/2" AVG DEPTH	SY	7,600.00	\$ 6.00	\$ 45,600.00
0334 1 53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG76-22	TN	50.00	\$ 134.83	\$ 6,742.00
0337 7 83	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22	TN	700.00	\$ 152.09	\$ 106,463.00
0522 1	CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK	SY	135.00	\$ 59.15	\$ 7,985.00
0527 2	DETECTABLE WARNINGS	SF	75.00	\$ 35.19	\$ 2,639.00
<b>ROADWAY COMPONENT TOTAL:</b>					<b>\$ 244,746.00</b>

SIGNING AND MARKINGS COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
0700 1 11	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF	AS	3.00	\$ 463.63	\$ 1,391.00
0706 1 1	RAISED PAVEMENT MARKER, TYPE B WITHOUT FINAL SURFACE MARKINGS	EA	30.00	\$ 3.92	\$ 118.00
0711 11123	THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK AND ROUNDABOUT	LF	1,000.00	\$ 3.31	\$ 3,310.00
0711 11141	THERMOPLASTIC, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/ 6-10 GAP EXTENSION, 6"	GM	0.20	\$ 2,246.37	\$ 449.27
0711 11160	THERMOPLASTIC, STANDARD, WHITE, MESSAGE OR SYMBOL	EA	3.00	\$ 173.94	\$ 522.00
0711 11170	THERMOPLASTIC, STANDARD, WHITE, ARROW	EA	15.00	\$ 76.78	\$ 1,152.00
0711 14125	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK	LF	300.00	\$ 16.61	\$ 4,983.00
0711 14160	THERMOPLASTIC, PREFORMED, WHITE, MESSAGE	EA	2.00	\$ 254.29	\$ 509.00
0711 16101	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	GM	0.35	\$ 4,930.42	\$ 1,726.00
0711 16201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	GM	0.40	\$ 4,952.16	\$ 1,981.00
0711 16131	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SKIP, 6", 10-30 SKIP OR 3-9 LANE DROP	GM	0.50	\$ 1,847.40	\$ 924.00
<b>SIGNING COMPONENT TOTAL:</b>					<b>\$ 17,065.27</b>

SIGNALIZATIONS COMPONENT					
PAY ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
	Traffic Signal (with 4 Mast-Arms and Luminaries)	1	1.00	\$ 1,350,000.00	\$ 1,350,000.00
<b>SIGNALIZATIONS COMPONENT TOTAL:</b>					<b>\$ 1,350,000.00</b>

		<b>SUB-COMPONENT SUBTOTAL:</b>	\$	<b>1,611,811.27</b>
102-1	MAINTENANCE OF TRAFFIC		15.00%	\$ 241,772.00
101-1	MOBILIZATION		10.00%	\$ 161,181.00
	INITIAL CONTINGENCY (DO NOT BID)		15.00%	\$ 241,772.00
	ESCALATION		30.00%	\$ 483,543.00
	PERFORMANCE BOND		1.50%	\$ 24,177.17
	SOFT COST		LS	\$ 187,517.50
		<b>TOTAL:</b>	\$	<b>1,339,962.67</b>
		<b>PROJECT GRAND TOTAL:</b>	\$	<b>2,951,773.94</b>
			CITY	\$ 1,475,886.97
			DEVELOPER	\$ 1,475,886.97

**ASSUMPTION:**

Disclaimer: This construction cost estimate is based concept and preliminary project site plan. This may vary with final design and bids.  
Unit prices based on the Florida Department of Transportation Current 12 Month Moving Statewide Averages for 08/01/2021 - 1/31/2022  
and some recent bids for other projects in the area

**EXHIBIT E**  
Performance Schedule

**EXHIBIT E  
PERFORMANCE SCHEDULE**

	<b>Duration</b>
<b>City Council Approval</b>	<b>Initiate Projects</b>
<b>Bid Advertisement</b>	<b>1 Month</b>
<b>Bid Award</b>	<b>1 Months</b>
<b>Notice of Commencement/Bond</b>	<b>1 Month</b>
<b>Substantial Completion</b>	<b>14 Months</b>
<b>Final Acceptance</b>	<b><u>1 Months</u></b>
<b>Total Duration</b>	<b>18 Months</b>

**Notes:**

- 1. The project will commence construction at the time of Notice of Commencement, Performance Bond Issuance and when all necessary permit approvals are in place.**
- 2. The performance schedule may be delayed based on to the availability of materials. The DEVELOPER will update the CITY on availability in monthly reports.**
- 3. The performance schedule may be reconciled from time to time to account for construction contracts, material availability, Force Majeure etc.. The DEVELOPER shall not be held liable for delays.**

**EXHIBIT F**

**Disbursement Request**

**EXHIBIT F**

**Disbursement Request Forms  
DISBURSEMENT REQUEST**

**PROJECT:** Improvements

For Work accomplished through the date of: \_\_\_\_\_

**Contract Amount and Change Orders**

1.	Original Contract Amount	\$	
2.	Executed Change Orders	\$	
3.	Total Revised Contract Amount (1) + (2)	\$	

**Work Accomplished and Amounts Due**

		COST
4.	Work Performed on Contract Amount (1)	\$
5.	Work Performed on Change Orders (2)	\$
6.	Retainage (if applicable)	\$
7.	Less Previous Payments Made	\$
8.	Payment Amount Due this Application	\$

Developer shall be solely responsible for any and all costs incurred after the City has paid \$2,854,370.37 (Maximum Indebtedness), subject to approved Change Orders.

**DEVELOPER'S CERTIFICATION**

The undersigned Developer certifies that: (1) all items and amounts shown above are correct; (2) all work performed materially complies with the Plans and Specifications; (3) all previous progress payments received from CITY based on Work done have been applied by Developer's General Contractor to discharge in full all obligations of the General Contractor incurred in connection with Work covered by prior Disbursement Requests; (4) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Disbursement Request will pass to CITY at time of payment free and clear of all liens, claims, security interests and encumbrances; and (5) if applicable, the Developer has complied with all provisions of Part 6 of the Purchasing Code including the payment of a pro-rata share to Minority Business Enterprises of all payments previously received by the Developer.

**DEVELOPER:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**DATE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPROVALS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONSTRUCTION INSPECTOR  
PROJECT ENGINEER  
P. E., CONTRACT SECTION**

## EXHIBIT G

### Insurance and Bond Requirements

#### Insurance Requirements

Without limiting its liability under this **Agreement**, **Contractor** and its subcontractors shall always during the term of this **Agreement** procure prior to commencement of work to maintain coverages for the life of this **Agreement** and shall be endorsed to name the City of Jacksonville and their respective members, officers, officials, employees, and agents as additional insured as indicated in the insurance provisions.

#### INSURANCE COVERAGES

Schedule	Limits
<b>Worker's Compensation Employer's Liability</b>	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease
<b>Commercial General Liability</b>	\$2,000,000 General Aggregate \$2,000,000 Products & Comp. Ops. Agg. \$1,000,000 Personal/Advertising Injury \$1,000,000 Each Occurrence \$ 50,000 Damage to Rented Premises \$ 5,000 Medical Expenses



Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

**Automobile Liability** \$1,000,000  
Combined Single Limit  
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Contract)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Pollution Liability** \$1,000,000 per Loss  
(Including asbestos and transportation) \$2,000,000 Aggregate

Any entity hired to perform services as part of this **Contract** for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation. Such coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this **Contract** and such claims-made coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

**Pollution Legal Liability** \$1,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this **Contract** that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the

waste under this **Contract**. Such coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this **Contract** and such claims-made coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

**Builders Risk/Installation Floater  
Project**

**%100 Completed Value of the**

To the extent construction services above \$10,000 will occur, a Builder's Risk policy shall be required. Such insurance shall be on a form acceptable to the City's Office of Risk Management. The Builder's Risk policy shall include All Risk Coverages on a form no more restrictive than the ISO "Special" Causes of Loss form and shall include coverage for Wind and Hail and Earth Movement. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$10,000 deductible for other than windstorm and hail. For windstorm and hail coverage, the maximum deductible applicable shall be 2% of the completed value of the project. Named insureds shall be: the Design-Builder, the City, and the City's members, officials, officers, employees and agents, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville and the City's members, officials, officers, employees and agents are to be named as a loss payee.

**Additional Insurance Provisions**

- A. Certificates of Insurance. **Contractor** shall deliver to the City of Jacksonville Certificates of Insurance that shows the corresponding City Contract , Bid Number or PO if applicable in the Description, Additional Insured, Waivers of Subrogation and s t a t e m e n t as provided below. The certificates of insurance shall be insurance certificate shall be made available upon request of the City of Jacksonville.
  
- B. Additional Insured: All insurance except Worker's Compensation, shall be endorsed to name the City of Jacksonville and their respective members, officers, officials, employees, and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and, if products and completed operations is required, CG2037, Automobile Liability in a form no more restrictive than CA2048.
  
- C. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a

waiver of underwriter's rights of subrogation in favor of the City of Jacksonville its respective members, officers, officials, employees and agents

- D. **Carrier Qualifications.** The above insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- E. **Contractor Insurance Primary.** The insurance provided by **Contractor** shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City of Jacksonville and their respective members, officers, officials, employees and agents
- F. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this **Agreement** shall remain the sole and exclusive responsibility of the named insured **Contractor**. Under no circumstances will the City of Jacksonville its respective members, officers, officials, employees and agents be responsible for paying any deductible or self-insured retention related to this Contract.
- G. **Agreement Insurance Additional Remedy.** Compliance with the insurance requirements of this **Agreement** shall not limit the liability of the **Contractor** or its subcontractors, employees or agents to the City of Jacksonville its respective members, officers, officials, employees and agents and shall be in addition to and not in lieu of any other remedy available under this **Agreement** or otherwise.
- H. **Waiver/Estoppel.** Neither approval by City of Jacksonville nor its failure to disapprove the insurance furnished by **Contractor** shall relieve **Contractor** of **Contractor's** full responsibility to provide insurance as required under t h i s Contract.
- I. **Notice.** The **Contractor** shall provide an endorsement issued by the insurer to provide the City of Jacksonville thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including through expiration or non-renewal. If such endorsement is not provided, the **Contractor**, shall provide said thirty (30) days written notice of any change in the above coverages or limits, or of coverages being suspended, voided, cancelled, including through expiration or non-renewal.
- J. **Survival.** Anything to the contrary notwithstanding, the liabilities of the **Contractor** under this **Agreement** shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City of Jacksonville may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City of Jacksonville and its respective members, officers, officials, employees and agents also be named as an additional insured.
- L. Special Provision: Prior to executing this Agreement, **Contractor** shall present this **Agreement** and insurance requirements to its Insurance Agent Affirming: 1) that the agent has personally reviewed the insurance requirements of the **Agreement** Documents, and (2) that the agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Contract.

**EXHIBIT H**

Acceptance Package Checklist

## EXHIBIT H

<b>SUBDIVISION AND DEDICATION ACCEPTANCE</b>		
Date:	CMI Plan CDN:	Plat CDN:
Project Name (as it appears on the plat):		
City Engineering Tech:	Project Type: <input type="checkbox"/> Public / <input type="checkbox"/> Private <input type="checkbox"/> Roadway / <input type="checkbox"/> Subdivision	Inspection Type: <input type="checkbox"/> City Inspection <input type="checkbox"/> Private Inspection

1. **Confirmation of Plat Recording:**  
Plat Book \_\_\_\_\_, Page \_\_\_\_\_, Date Recorded \_\_\_\_\_
2. **Developer's Warranty:** Letter from Developer Covering- Indemnification, City of Jacksonville Acceptance Agreement, and the sections of Attachment No. 12 designated by city's Project Engineer (Attachment No. 12).
3. **Engineer's Certificate of Compliance:** The Registered Professional shall submit a Certificate in accordance with paragraph 654.136(c) Subdivision Regulations (Attachment No. 9).
4. **Surveyor Certificate:** The Registered Land Surveyor shall submit a Certificate in accordance with paragraph 654.110 Subdivision Regulations (Attachment No. 10).
5. **Owners Affidavit:** The Certificate of construction completion shall be submitted by the owner or developer. The original will be forwarded by Development Services to JEA and a copy retained in the project file (Attachment No. 11).
6. **Record of Completion of final inspection punch list items:** The city's Project Manager shall certify, by signature and date on the report, when the punch list items are completed. On privately inspected, private subdivision the final punch list and a sealed letter must come from the private inspection company's licensed Professional Engineer.
7. **As-Built/Acceptance Letter:** signed and sealed prints of as-builts for the paving and drainage OR Disc shall be submitted to City's Project Manager for approval to receive the letter. On a private subdivision a sealed letter must come from a licensed Professional Engineer.
8. **Traffic Sign Installation:** The Developer shall provide written notification from traffic that all signs have been completed, if sign where a part of the project. On a private subdivision a sealed letter must come from a licensed Professional Engineer.
9. **JEA Acceptance Letter:** As-builts for potable water mains, reclaimed water mains, sewage collection systems, force mains, and sewage lift stations, Pressure test results for both water and sewer force shall be submitted to JEA in accordance with JEA standards.
10. **A copy of the St. Johns Water Management Permit:** and a copy of the written notification to the District that project is complete and ready for inspection. (This notification can be the "Statement of Compliance" to the St. Johns River Water Management District.)
11. **Department of Environmental Protection Certification:** of construction completion and approved, if DEP is involved with the project.
12. **Soil and Concrete Testing:** Developer is to submit copies of soil and concrete testing performed during construction of subdivisions and other permitted work.
13. **Bill of Sale:** Improvements other than subdivisions. This applies to dedications of water and sewer to the City. (Sample Attachment No. 17). (Rarely needed)
14. **Post-Construction Warranty:** Residential developments? Y/N (Post 5/1/19) Y/N Date \_\_\_\_\_  
Schedule: Lift 1: \_\_\_\_\_ Date \_\_\_\_\_ Bond \$ \_\_\_\_\_ / Lift 2: \_\_\_\_\_ Date \_\_\_\_\_ Bond \$ \_\_\_\_\_
15. **Return of Bond:** Plat Bond Surety \_\_\_\_\_ LDC \_\_\_\_\_ or Cash \_\_\_\_\_ Project not bonded \_\_\_\_\_

**EXHIBIT I**

**JSEB Report**

# EXHIBIT I

## CITY OF JACKSONVILLE EQUAL BUSINESS OPPORTUNITY PROGRAM CONSULTANT AND CONTRACTOR'S MONTHLY REPORT

PRIME CONTRACTOR NAME: \_\_\_\_\_ PROJECT TITLE: \_\_\_\_\_  
 PROFESSIONAL SERVICES NO. \_\_\_\_\_ - OR - CITY BID NO.: \_\_\_\_\_  
 TOTAL PURCHASE ORDER AMOUNT \$ \_\_\_\_\_ CITY CONTRACT NO. \_\_\_\_\_

INVOICE NO.: _____	CURRENT INVOICE \$: _____
FOR PERIOD ENDING DATE: _____	CUMULATIVE INVOICED \$: _____
	CONTRACT % COMPLETE: _____

JSEB/MBE GOAL \$: _____	JSEB/MBE GOAL %: _____
PRIOR MONTH CUMULATIVE JSEB/MBE \$: _____	
PRIOR MONTH CUMULATIVE NON-JSEB/MBE \$: _____	FORMULA FOR CUMULATIVE MONTH %: CUMULATIVE \$ / CUMULATIVE \$ INVOICED
CUMULATIVE JSEB/MBE \$: _____	CUMULATIVE JSEB/MBE %: _____
CUMULATIVE NON-JSEB/MBE \$: _____	CUMULATIVE NON-JSEB/MBE %: _____

JSEB/MBE SUBCONTRACTORS/SUPPLIERS TO BE PAID FROM THIS INVOICE					
COMPANY NAME	FEDERAL I.D. NO.	ZIP CODE	JSEB TYPE <sup>1</sup>	TYPE OF WORK <sup>2</sup>	\$ THIS PAYMENT
Use Sheet 2 if additional lines are needed.					TOTAL

NON-JSEB/MBE SUBCONTRACTORS/SUPPLIERS TO BE PAID FROM THIS INVOICE					
COMPANY NAME	FEDERAL I.D. NO.	ZIP CODE		TYPE OF WORK <sup>2</sup>	\$ THIS PAYMENT
Use Sheet 3 if additional lines are needed.					TOTAL

JSEB (Small Disadvantaged Business Enterprise) / MBE (Small Business Enterprise) TYPES:  
 AA: African American; WBE: Woman; HANA: Hispanic, Asian, Native American; OTHER: Economically or Socially; MBE: Small Business  
 \*TYPE OF WORK: Examples: Catering, Clerical, Consulting, Engineering, Hauling, Janitorial, Masonry, Site Clearing, Technical Support

FOR CITY OF JACKSONVILLE USE ONLY			
DATE PROCESSED	DOCUMENT NO.	INDEX CODE - SUBJECT - PROJECT NO. - DETAIL	\$ THIS PAYMENT

- Notes:
- THIS MONTHLY FORM MUST BE COMPLETED AND SUBMITTED WITH ALL REQUESTS FOR PAYMENT AND FINAL PAYMENT.
  - Contractor shall attach to this form a typewritten explanation of any differences in JSEB/MBE participation from original contract commitment.



## EXHIBIT J

### Indemnity

**Contractor** and its subcontractors (the “Indemnifying Party”) shall hold harmless, indemnify, and defend the City of Jacksonville and their respective members, officers, officials, employees and agents (collectively the “**Indemnified Parties**”) from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness, or intentionally wrongful conduct on the part of the Indemnifying Party that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Party’s performance of the **Agreement**, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this **Agreement** contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the **Agreement**; and

3. Intellectual Property Liability, to the extent this **Agreement** contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services provided under this **Agreement** (the “**Service(s)**”), any product generated by the Services, or any part of the Services as contemplated in this **Agreement**, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Party shall, immediately, make every reasonable effort to secure within sixty (60) days, for the Indemnified Parties, a license, authorizing the continued use of the Service or product. If the Indemnifying Party fails to secure such a license for the Indemnified Parties, then the Indemnifying Party shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to the City, so that the Service or product is non-infringing.

If an Indemnified Party exercises its right under this **Agreement**, the Indemnified Party will (1) provide reasonable notice to the Indemnifying Party of the applicable claim or liability, and (2) allow Indemnifying Party, at its own expense, to participate in the litigation of such claim or liability to protect its interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by, any insurance provided pursuant to the Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of the Agreement.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full

force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

**EXHIBIT K**

**The Property**

